## Union County Board of Commissioners May 18, 2009 Regular Meeting

The Union County Board of Commissioners met in a regular meeting on Monday, May 18, 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, Lynn G. West, Clerk to the Board, Jeff Crook, Senior Staff Attorney, Kai Nelson,

Finance Director, members of the press, and interested citizens

### **OPENING OF MEETING:**

**INVOCATION:** The Chairman convened the meeting and recognized Commissioner Baucom to present the invocation. After the prayer, the Chairman recognized Bill Howie to lead the body in reciting the Pledge of Allegiance.

**PLEDGE OF ALLEGIANCE:** Bill Howie, recipient of the Honor Air Program trip to Washington, DC, introduced his grandson Matthew Howie, who led the Commissioners and audience in reciting the Pledge of Allegiance.

<u>COMMENTS BY BILL HOWIE REGARDING HONOR AIR PROGRAM TRIP TO WORLD WAR II MEMORIAL IN</u> WASHINGTON, DC:

Mr. Howie stated that he grew up in what has been termed the greatest generation. He said this term came from the fact that his generation grew up during the Great Depression, which is far greater than what is taking place now, and also World War II, which was the war that encompassed a larger geographic area and numbers of people than has ever been.

Mr. Howie explained that he participated in a wonderful day when the Rotary Clubs of this area of North Carolina sponsored a way to honor World War II veterans by organizing and paying for a trip to allow the veterans to go to Washington, DC, for a twelve-hour day to see the WWII monument. He described the event, the travel to Washington, the welcoming ceremony of the plane, and police escort of the travel buses to the WWII memorial. Mr. Howie said that the participants also got a complete tour of DC and listed the other memorials and areas visited.

He said it was a comprehensive trip with many of the participants in wheelchairs, using canes or walkers, but assured it was a wonderful day and a great, well planned event sponsored by the Rotary clubs. He publicly thanked them for this day.

#### **INFORMAL COMMENTS:**

The Chairman explained the Rules of Procedure and the time allotment of no more than three minutes per speaker. He first recognized Reid Phifer who registered to speak about educating taxpayers.

Mr. Phifer explained that Thomas Marsh is not feeling well tonight and had asked that he read a letter from him to the Commissioners.

Mr. Phifer said that Mr. Marsh's letter states that he prefers to stand up for the truth and have people think of him as a school-yard bully.

Mr. Phifer noted that the taxpayers only need to look as far as its nation, states, counties, and cities to see the lies and corruptions brought about by politicians.

Mr. Phifer read statements from Mr. Marsh's letter concerning comments that Mr. Marsh had said had been made to him by Board members.

The Chairman noted that Mr. Phifer is over the three-minutes allotted.

The Chairman next recognized Werner Thomisser of 2008 Kings Manor Drive, Weddington. Mr. Thomisser said he came tonight in response to a newspaper article in *The Charlotte Observer*. He briefly read a couple of paragraphs from the news article this morning about Mecklenburg County's Manager Harry Jones presenting the 2009-2010 budget that would keep the tax rate flat for most residents but would require deep cuts to services, education, and other agencies that receive county funding. He said that Mecklenburg County had estimated, because of the recession which has caused a decline in sales tax and other revenue sources for the county, a revenue shortfall of \$78.9 million in its budget.

He said he did a double-take because he thought he was reading about Union County and noted the similarity of problems and made comparisons of the budgetary problems of both counties. He explained that where there is a will there is a way to maintain the tax rate during these economic hard times and noted that apparently Mecklenburg County is willing to make the tough, painful cuts. He stressed that it takes political courage and leadership to do so. Mr. Thomisser said that the big question is: Does the Union County Board of Commissioners have the political courage and leadership to do likewise.

The next speaker was Walter Staton who stated that he lives in Weddington. Mr. Staton asked the Board of County Commissioners to not raise the property taxes of Union County's citizens. He pointed out that the property tax was raised 11 percent in 2007 and 22 percent in 2008. He also noted that Union County is in the worst economic decline since The Great Depression. He reported that many of Union County's citizens have lost their jobs and their homes and stressed that raising taxes at this time is simply not the right thing to do with Union County's families struggling to meet financial ends. He encouraged the Commissioners to reduce spending just as families, corporations and small business owners are currently doing. He said he too read in the paper that Mecklenburg County was making painful cuts and agreed that Union County should also take this action. Mr. Staton said that the department receiving the most of the taxpayers' money should receive the deepest cuts in order for the County to balance its budget.

The Chairman recognized Louis Philippi who registered to speak about the Board of Adjustments. He gave his address as 2026 Coachdale Lane, Stallings. Mr. Phillipi said on April 7, 2008, that the previous Board of Commissioners appointed him to the Board of Adjustments and reported that since that time he had never failed to properly and completely prepare himself for each case brought before that board. He said as he received notice of each case to be heard that he, at his own time and expense, made a personal visit to the site to insure that he had personal knowledge and understanding of the issue. Mr. Philippi said that at his home he would look up every pertinent Statute as well as any exception to the County's Ordinances. He assured that the decision he rendered was based on fact and law as he understood it. He said the purpose of his serving on that Board was to gain government experience; it was then and presently, his intention to run for the office of the Mayor of Stallings. He said that any government service is an asset to

his campaign and to the citizens of Stallings. Additionally, he said he had always taught his children and grandchildren the importance and duty to perform public service.

Mr. Philippi said that he recognizes that the current Board of County Commissioners has an unquestioned right to appoint anyone they wished without giving any reason.

The Chairman next recognized Rick Alexander who gave his address as 2811 Arrowhead Court, Monroe. He explained he was before the Board to talk about the hospital and recognized that this issue is a divided one among the Commissioners and thought that it should not be so. He asked that the Commissioners look at the growth of the hospital over the last several years. Mr. Alexander said he could agree that the County needs to find money and everyone thinks that the \$200 million or \$300 million that might be obtained from the sale of the hospital might offset the debt service for the schools, but asked that they look at his research of the hospital. He reminded that Union County pays zero for building the buildings, zero for indigent care, and over the last several years, the hospital has paid Union County between \$1 million and \$2.5 million annually. He said it was his understanding that the debt service payment is about \$54 million a year and pointed out that if the County sold the hospital for between \$200 and \$300 million that it would be great now, but then there would be people who would say that Union County has a billion dollars more to spend and debt service would again be built back up. He said that last year, the hospital did \$36 million in indigent care and noted that if Union County has to pay \$36 million a year for indigent care, he would question how much the County would save. He pointed out that not only is the population growing but so is the population of indigent care. Mr. Alexander said the County would still be spending approximately the same amount of money. He asked the Board to consider making sure that Union County does not sell the hospital. He said it is an asset and the money received now would not be as much as it is worth due to the economic climate. He stressed that it is an asset to the County and one that is not costing the County any money. He urged the Board to look at cuts to the budget and not selling its asset.

Mr. Gerald Cox, President and owner of Autumn Corporation, stated that information was sent to the Board outlining his project in Waxhaw. He said he was not here to make an impact on schools but was here to put people to work. He said from what he heard tonight, it seems that having people going to work is important to Union County. He said he was also the owner and operator of Autumn Care in Marshville with 120 employees. Mr. Cox said that he had serviced the eastern part of Union County appropriately in meeting its needs for the elderly since 1986. He said that it is also his desire to be a good steward in the western section of this County and meet the needs of the elderly there as well. Mr. Cox said that to date he has spent \$2.3 million on this project. He pointed out that when this facility is completed and in operation that it would provide an additional \$100,000 in tax revenue to Union County.

Mr. Cox asked for assistance in acquiring the water permit needed for the facility. He said he had a building permit from Waxhaw and had received today approval of a sewer permit. Mr. Cox said he was not asking Union County to spend any money to deliver water to his site, because it is located on both entrance ways and sides of the property; he stressed it would not cost Union County anything to deliver the water to the site. He urged the Commissioners to help him acquire the water permit to enable him to meet the needs of the elderly in this county. Mr. Cox asked that he be included on the agenda tonight.

Doug Suddreth, Vice President of Development of Autumn Corporation, also encouraged the Commissioners to assist this development. He said that his firm has wastewater approval for 15,000 gallons a day. Mr. Suddreth said that the wastewater was calculated by the County's engineer based on the use of municipal water. He said he did not understand how there could be wastewater approval without water. He said he had asked that question several times but has not received an answer. He said this is a unique project, a Certificate of Need project, which was approved for this part of the County by the State of North Carolina after a very competitive review based on two basic things – the location and the need for a nursing home in that area of the County. He said the approval was based on a letter from the County at the time based on the availability of water and sewer. Mr. Suddreth said that when a Certificate of Need is given, there is time-line development or the certificate could be withdrawn. He further explained that because this project has a building permit, it is under construction as shown by the photographs and millions of dollars have been committed to this project. He said if the project has to be closed down; he did not know the financial impact on the Autumn Corporation or on the contractors and their employees. Mr. Suddreth stressed that it is a project, which serves the elderly in an area that is underserved. He said he did not believe that it was the Board's intent in making its tough decision to stop such a project as this one. He offered to answer any questions.

The Chairman next recognized Judy Hill to discuss the Carolinas Thread Trail. Ms. Hill said that before a resolution of support is approved by the Union County Board of Commissioners she thought the taxpayers should be told what it is and a public hearing should be held. She said that after reading the resolution and its statements about linking hiking trails of 15 counties together, she had to consider the reality. She pointed out that this would be a land grab; private land in its path will be taken from private property owners and given to special interest groups such as hikers and bikers, all in the name of the public good. She stated that private land could be taken by eminent domain if the landowner resists the idea of a public trail running through his back yard. She encouraged the Board to ask the people of Huntersville how they feel about not having public hearings. Mrs. Hill said the residents there had this plan forced upon them in 2007. She asked the Board to imagine looking outside and seeing people hanging out in their backyards observing nature or committing crime. She asked how safe would the homeowner's kids be. Mrs. Hill asked the Board to ask Pam Hester or the people of the Hampton's neighborhood or the Cedarfield residents of Huntersville about how they feel about the

assault on their private property's rights. She said that using local government power to award control of private property to a regional player is an abuse of government power.

Brian Rogers stated that he lived at 2011 Triple Crown Drive in Indian Trail. Mr. Rogers said that although he was not here to speak to the Carolinas Thread Trail that he agrees with Mrs. Hill's comments. He said that he had worked for a legal non-profit that defends property rights and could tell the Board that this action is not only in Huntersville, but is all across this country. He agreed that it is a land grab through eminent domain and asked the Board to do on-line research and notice the organizations formed against that process.

He said his purpose is to speak to the subject of appointments to the newly constituted Board of Adjustments. He reminded that in December he had addressed the Board in principal against the conflict of interest form. However, Mr. Rogers said that he did reapply and abided by the rules and completed the form and had it notarized for the entire world to see. He explained that since the Board had indicated that it was not seeking to throw anyone off the Board, he had applied and was disappointed that with his years of service and experience he was not reappointed. He said that not once during that time had anyone challenged its decision and won, the Superior Court judges agreed with the Board of Adjustments' actions.

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

Chairman Openshaw reported that the staff is requesting that Item 5 – Extension of Charlotte Area Transit Agreement – be removed from the Consent Agenda and transferred to the Regular Agenda.

Commissioner Kuehler asked to remove Item 2 and Item 4 from the Consent Agenda and added as one item to the Regular Agenda. She asked to add discussion of existing County policies and processes for processing permits for municipalities that process their own building permits as well as discussion of the CIP Resolution.

Chairman Openshaw stated that the Vice Chairman had requested that the placement of Items 17 and 18 be switched.

Commissioner Mills asked that Mr. Cox's request for water be added to the agenda and also asked to add brief discussion to outline a policy for the County Attorney and the Board of County Commissioners. He said that it could be briefly discussed and the staff could be instructed to bring something back at a later date.

Vice Chair Rogers asked Commissioner Mills to briefly explain his request without going into actual discussion of the Autumn Corporation project.

Commissioner Mills stated that Mr. Cox is here from out of town and his request is for water for his \$10 million facility. He said he thought the County could meet that water need in that this is a business that is greatly needed in this County. He said he would prefer to hear the request and information while they are present tonight.

Vice Chair Rogers stated that she did not receive a package from Mr. Cox and that her preference would be to allow the staff to look at this issue and have additional information prior to discussion.

The Chairman asked what other requests would be heard tonight that had not been already stated. He questioned if this is an appeal for water and asked if Commissioner Mills is requesting that the Board take action on the appeal tonight.

Commissioner Mills said that he would prefer to do so in that he would hate to see the Certificate of Need jeopardized or lost and emphasized that this is a decision the Board would have to make on whether water could be allocated to the project.

The Chairman stated that this would require a closed session. Commissioner Mills agreed that would be satisfactory with him.

The Vice Chair stated that it was her understanding that the Board does not determine the water allocation on a project by project basis; that is something the Public Works Department does.

The County Manager stated that the staff has always recommended that the Board not get into weighing the merits of specific projects in allocation of water.

The Vice Chair said that is why she thought that previous boards got into trouble and had visits from the FBI. She said she would prefer to keep it above board and is not prepared to discuss it tonight.

Commissioner Kuehler said that her biggest concern is if the staff is prepared to discuss it tonight.

Mr. Greene said he had discussed it with the Staff Attorney and the staff would recommend that if there is going to be discussion that there be a closed session.

Commissioner Kuehler asked if the staff has the necessary information to make a recommendation.

The County Manager agreed that the staff has the information and hopefully it will be all that is needed.

The Chairman stated that having been in a situation of having things dropped on him suddenly, and he had deeply resented it and also regretted some votes he had made in those situations, that he is torn on this item. He agreed that this issue needs to be discussed promptly but explained that he is not sure that the presence of Mr. Cox and company would be relevant to the discussion.

Commissioner Baucom said that from what he understood from Mr. Cox there are timeline issues including the Certificate of Need and project funding. He said he would appreciate it if the Board would consider the request tonight.

Mr. Cox said there was a package delivered about noon Wednesday to the Assistant Manager and if he did not give it to the full board, he apologized, but it was not his fault. He said the need for water is a main issue. Mr. Cox said that he does not want to follow another option but that he has \$2.3 million already invested. He said he needs a bank loan and needs a letter saying that Union County will supply water at the appropriate time.

Commissioner Baucom again stressed that this was a time sensitive issue, and he would be disappointed if it is not considered.

The Chairman stated that he agreed that it was a time sensitive issue, and it is certainly a great project and one that he is delighted to have in Union County. He said he saw nothing but pluses for Union County, but Vice Chair Rogers has raised an important issue. He said he received the information around 4 p.m. Friday afternoon and that he has a problem with the delivery issue, but noted delivery is another subject. The Chairman said that this could potentially be discussed on Wednesday during the work session.

Commissioner Baucom asked to add Lake Tonawanda to the agenda. He also requested that Items 17, 18, and 19 brought by Vice Chair Rogers that hit the agenda on Thursday afternoon without support documentation or background information be deleted since there was no information provided on these. Commissioner Baucom said that he is not prepared to speak to any of this because he does not know what it is about and requested information prior to discussion. He said this is the same rationale used by the Board in not adding Mr. Cox to the agenda.

The Chairman stated that the items will be acted upon individually and said the first one to be considered is Mrs. Kuehler's request to transfer from the Consent Agenda Items 2 and 4. The motion passed unanimously.

The Chairman also asked that Item 5 be pulled from the consent agenda and added to the regular agenda as recommended by the staff. The motion passed unanimously.

The Chairman called for a vote on Commissioner Mills' request to act upon the request of Mr. Cox tonight on the allocation of water. Commissioner Kuehler questioned if the issue could be considered at the work session on Wednesday. The Staff Attorney stated that the Board would have to recess this meeting since the notice for the special meeting does not include that item.

County Attorney Merritt interjected that his opposition to recessing to reconvene on Wednesday is that there are some bond issues on this agenda tonight, and he would not want to create problems with that by having the meeting continued beyond tonight. He said it would leave this meeting open and might create some timing issues on some of the bonds. In response to a question, he said that the item could be reconsidered during the continued meeting, and it would not be considered a final vote until the meeting is closed.

At approximately 8:05 p.m., the Chairman called for a five-minute recess.

At the conclusion of the recess, at approximately 8:14 p.m., the Chairman reconvened the meeting and asked for information on the request to add the Cox issue to the agenda. Commissioner Mills said that he wanted to hear from Mr. Cox about anything else needed on his project and he wanted to see if the Board could resolve this situation or determine what steps are needed in order to resolve the situation. The motion passed unanimously.

Commissioner Baucom withdrew his request to add Lake Tonawanda to tonight's agenda and moved that it be scheduled for the next meeting.

Chairman Openshaw said the next issue would be policy between County and municipalities regarding building permits. The motion passed by a vote of four to one. Commissioner Baucom said he didn't know what the item is about so he would oppose adding it to the agenda.

Chairman Openshaw said the next item is an old issue, the CIP Resolution. The motion passed by a vote of four to one. Commissioner Baucom voted against adding the item.

Commissioner Mills withdrew his request to discuss a proposed policy between the Board and County Attorney and asked that it be included on the next regular agenda.

Commissioner Baucom withdrew his requests to remove Items 17, 18, and 19 from the agenda.

Chairman Openshaw recapped by saying that Commissioner Kuehler had requested to move Items 2 and 4 from the Consent Agenda to the regular agenda. He said these will become 7A on the regular agenda; consent agenda 5 will become 10A on the regular agenda.

Commissioner Mills questioned if Consent Agenda Item 5 is time sensitive. The County Manager stated it is an annual agreement that will expire June 30. Commissioner Mills recommended that it be delayed until the next meeting. The County Manager agreed that it could be but would have to be considered on or before June 1.

Chairman stated that Mr. Cox's request for water for White Oaks in Waxhaw will become 11A. He further said that Commissioner Kuehler's request for policy about building permits for municipalities will be 20A and the CIP will go at 7B.

The Chairman reported that the Vice Chair had asked if action would need to be taken to remove the CATS item from the agenda. The Staff Attorney agreed that a vote would be needed to remove it from tonight's agenda. The Chairman moved to carry forward to the regular meeting agenda of June 1 the CATS agreement. The motion passed unanimously.

The Chairman announced that placement of 17 and 18 would be switched. Commissioner Mills asked if Item 15 on the regular agenda could be moved to earlier in the meeting. The Chairman agreed.

Chairman Openshaw called for a motion to adopt the agenda with changes. Commissioner Mills moved to adopt the agenda with the changes discussed. The motion passed unanimously.

### **CONSENT AGENDA:**

Motion was made by Commissioner Mills to approve the amended Consent Agenda. The motion passed unanimously.

*Minutes*: Approved the minutes of the regular meeting of April 20, 2009

*Contracts/Purchase Orders Over \$20,000:* a) Computronix USA, Inc. - Software Agreement Renewal for Inspections Department's POSSE Software – Moved to Regular Agenda at the request of Commissioner Kuehler.

*Tax Administrator:* a.) Eleventh Motor Vehicle Billing Motor Vehicle Valuation in the amount of \$1,140,141.87

b.) Tenth Motor Vehicle Release Register in the amount of \$8,936.90-

c.) Tenth Motor Vehicle Refund Register in the amount of \$2,219.66-

Interlocal Agreement with Town of Hemby Bridge - Moved to Regular Agenda at the request of Commissioner Kuehler.

Extension of Charlotte Area Transit System (CATS) Agreement - Postponed until the first meeting in June

*Motor Vehicle Tax Refund Overpayments for April 2009*: Approved refund of overpayments for April 2009 in the amount of \$5,127.23

*Union County Public Schools*: Sun Valley Middle School Renovations - Approved Capital Project Ordinance Amendment – #117 as follows:

CAPITAL PROJECT ORDINANCE AMENDMENT							
BUDGET	School Bor	nd Fund - 55		REQUESTED B	SY Kai Nelson		
505021	00.11001 201			11240201252	Ttal I tologi		
FISCAL YEAR	FY 200	08-2009		DAT	E May 18, 2009		I
PROJECT SOURCES				PROJECT USES			
	<b>.</b>		<b>5</b>		<u> </u>		<b>.</b>
Source	Project	Requested	Revised	Project	Project	Requested	Revised

Description and Code	To Date	Amendment	Project	Description and Code	To Date	Amendment	Project
G.O. Bond Proceeds	481,749,46 2	2,173,155	483,922,61 7	Sun Valley MS A&R (115C-429b project allocation)	291,845	2,173,155	2,465,000
All Other Revenue	1,363,308	-	1,363,308	All Other School Projects	482,820,92	-	482,820,92 5
						-	-
					-	-	-
	483,112,77 0	2,173,155	485,285,92 5		483,112,77 0	2,173,155	485,285,92 5
EXPLANATION:	Funding regu	lests submitted	d by UCPS fo	r Sun Valley MS Additions	& Renovation	s pursuant to 1	15C-429b
27(1 27(17(1101))	r arraing roqu		2 5 7 5 6 7 6 16	Team valley Me Maariene	- Cartonovanon	parodant to 1	100 1200.
DATE:				APPROVED BY:			
					Bd of Comm/County Manager Lynn West/Clerk to the Board		
					Lyiiii West C	licit to the Boo	ii Q
FOR FINANCE POST	ING PURPOS	SES ONLY					
PROJECT SOURCES			PROJECT USES				
Source Description and Code	Project To Date	Requested Amendment	Revised	Project  Description and Code	Project To Date	Requested Amendment	Revised
Description and Code	TO Date	Amendment	Project	Description and Code	TO Date	Amendment	Project

G.O. Bond Proceeds	481,749,46 2	2,173,155	483,922,61 7	Sun Valley MS A&R (115C-429b project allocation)	291,845	2,173,155	2,465,000
55491100-4710-530				55559200-5586-569			
							-
	481,749,46	2,173,155	483,922,61		291,845	2,173,155	2,465,000
	2		/				
Prepared By	Dhc						
Posted By	2110						
Date						Number	CPO - 117

*Crisis Intervention Program* – Approved Budget Amendment #31 to increase the expenditures in 10-553160-6399-1509 and the revenues in 10453160-4340-1509 by \$25,000 from federal funds received.

BUDGET	AMENDMENT		
BUDGET	DSS	REQUESTED BY	Dontae Latson
FISCAL YEAR	FY2009	DATE	M

				a
				V
				1
				8
				,
				0
				0
				9
INCREASE			DECREASE	
IITOICE/IOE			DEGREAGE	
Description			Description	
Description			Description	
Operating Expenses				
Operating Expenses		25,000		
		23,000		
Federal Revenue				
rederal Revenue		25,000		
		23,000		
Explanation:	Appropriate Authorizati	on # 7 for additional t	unding in Crisis Inter	vention Program funded with federal money
DATE			APPROVED BY	
				Bd of Comm/County Manager
				Lynn West/Clerk to the Board
FOR POSTING	PURPOSES ONLY		1	
DEBIT			CREDIT	
<u> </u>			<u>UKEDII</u>	
Code	Account	Amount	<u>Code</u>	Account
Coue	ACCOUNT	Amount	Code	Account

10553160-5399-1509	Public Assistance	25,000	10453160-4340-1509	Federal Funding	25,000
	Total			Total	
		25,000			25,000
	Prepared By Posted By	JLL			
	Posted By				
	Date			Number	
					31

*NC Department of Juvenile Justice and Delinquency Prevention*: Approved Juvenile Crime Prevention Council Certification and Report which details the qualifications of the JCPC and the County to receive funds from the North Carolina Department of Juvenile Justice Delinquency Prevention (DJJDP) and for the JCPC to receive administrative funds.

Information Only: Union County Personnel Report for month of April; Department of Inspections' Report for month of April

## **PUBLIC INFORMATION OFFICER:**

The Public Information Officer announced that the last rabies clinic is this Saturday, May 23, and announced its locations.

Brent Vines, PIO, stated that the North Carolina Turnpike Authority is holding a Highway By-Pass meeting beginning tomorrow at Matthews Community Center, Wednesday at the Ag Center in Union County, and Thursday at Wingate University. He said these are informal meetings and the official Public Hearings will be May 19 in Matthews and May 21 at 7:00 p.m. at Wingate University.

He stated that last Friday a Police Week Ceremony was held in front of the Judicial and Government Centers and announced that ceremony will be aired tomorrow on the local channel station.

Mr. Vines said that at the Chairman's request the Conservation Brochure that was sent in the mail has been added to the County's Public Works' web site.

The Public Information Officer further announced that the government offices will be closed on Monday, May 25, in remembrance of Memorial Day.

#### JESSE HELMS PARK BRIDGE:

The County Manager explained that the construction of a bridge at Jesse Helms Park to link the Agricultural Center and the passive area of the park is the next step in the development of the Jesse Helms Park. He reported that in December 2007, the Board approved an agreement with Stewart Engineering for the design, bidding, and construction administration services associated with the bridge. Mr. Greene reported that while there are no grant funds associated with the construction of the bridge itself, the County was awarded a Parks and Recreation grant for \$500,000 in the spring of 2008 to begin the construction of the passive area. He said the

County set aside \$611,000 for the matching portion of the grant. Mr. Greene explained the life of the grant is three years and one year of that has passed. He stressed that the bridge completion is critical in terms of timing so that the passive area can be accessed and the improvements for which the County has been awarded the grant completed. He explained that the passive area has not been designed yet and the design, bid and construction of the passive area must be completed as well as the bridge. He pointed out that it is important for the county not to lose the \$500,000 grant. Mr. Greene explained that in December 2007, the Commission approved the bridge design along with bidding, construction and administrative services to Stewart Engineering and in September of 2008, Stewart presented its completed work. After questions were asked of Stewart Engineering regarding the bridge design, which the representative was unable to answer, the Board referred it back to the staff. He said that after additional work, the staff recognized that it was important to employ a firm to assist with the design of the bridge since it is very specialized work. Mr. Greene said that although the County has engineers on staff, their expertise is water and sewer and could not review the bridge work that Stewart had completed. He said that the County staff employed the firm of CM&E, Capital Management and Engineering, to perform a peer review of the work. He said that CM&E has worked hard to make sure the design has been done properly and all the deliverables have been provided to the County and all the necessary calculations regarding the bridge have been provided. Mr. Greene said that after this lengthy process, he and the staff are comfortable that the County has the final design nearly completed and the final revised cost estimate for the bridge. He said that, unfortunately, while the staff is comfortable with the design of the bridge and that the work has been performed properly, the cost has unfortunately gone up. Mr. Greene said the engineers' estimate in September for the bridge construction was \$474,000 but now the estimate is approximately \$520,000. He noted that this estimate is for construction only and not for engineering.

Mr. Greene explained that the Commission had previously budgeted approximately \$500,000 for design and construction of the bridge – both elements combined. He pointed out that based on the latest construction estimate that it is believed that the total cost is likely to be around \$633,000, which would leave a shortfall of about \$134,000. Mr. Greene explained, however, that the County will not know the construction costs of the bridge until it is bid. He noted that this is a very favorable environment for construction and, therefore, the staff is recommending that the Board authorize it to bid the project before the County deals with the shortfall. He said this would allow the County to deal with the actual shortfall amount. Mr. Greene said the only cost to bidding the project will be the administration of the bidding process. Mr. Greene reported there are several staff recommendations: The first one is that the Board approve bidding the bridge project at Jesse Helms Park for consideration of award by the Board of Commissioners upon receipt of bids; (2) that the Board authorize the staff to terminate the agreement with Stewart Engineering—the design services are complete—so the termination would only affect bidding services and construction administration; (3) that the Board authorize the hiring of Capital Management & Engineering to complete the bidding services and construction administration. He said the firm had offered a proposal to do that work in the amount of \$32,700. Mr. Greene said the North Carolina General Statutes require that the

Board go through a RFQ process for architectural and engineering services unless the County adopts a resolution exempting a project or class of project from the process. He said that Union County has a standing resolution in place for all projects valued at \$30,000 or less and the staff recommends that the Board adopt a resolution exempting this specific project, bidding, construction and administrative, and engineering services from the RFQ requirement and accepts the proposal of Capital Management & Engineering. He said that recommendation is primarily to save time and to make sure the County can get through the process in a timely manner. Mr. Greene explained that if the County is going to build a bridge that it should be built and the passive area designed and constructed so the County does not lose the \$500,000 grant. He said that he and the Parks and Recreation staff are willing to answer any questions.

Motion was made by Commissioner Baucom that the recommendations of the staff be approved as listed:

- 1.) Approve the bidding of the bridge project at the Jesse Helms Park for consideration of award by the Board of County Commissioners upon receipt of the bids;
- 2.) Authorized termination of the agreement with Stewart Engineering for bidding services and construction administration;
- 3.) Authorized the County Manager to approve an agreement with Capital Management and Engineering (CME) for bidding services and construction administration (if bids are awarded), at a price not to exceed \$32,700, contingent upon legal review;
- 4.) Adopted a resolution in accordance with North Carolina General Statutes to exempt this project from the RFQ process.

## RESOLUTION TO EXEMPT A PARTICULAR CONTRACT FROM THE COMPETITIVE PROPOSAL ENGINEERING PROVISIONS OF G.S. §143-64.31

WHEREAS, pursuant to G.S. § 143-64.31, it is general public policy to procure professional engineering services through public announcement of the service requirements and selection of an engineer on the basis of qualifications; and

WHEREAS, pursuant to G.S. § 143-64.32, the Board of Commissioners may exempt projects from this procedure upon stating the reasons for exemption and the circumstances attendant thereto; and

WHEREAS, it has become necessary to change engineers for services relative to construction of a bridge at Jesse Helms Park (the "Project"); and

WHEREAS, Capital Management and Engineering, P.C. ("CME") has provided limited oversight of the Project at the request of County staff, though not the current design professional; and

WHEREAS, CME is thus familiar with the Project and best positioned to assume engineering responsibilities upon change from the current engineer; and

WHEREAS, CME's familiarity with the Project may result in reduced cost for engineering services when compared with the expense necessary to educate a new engineer unfamiliar with the Project; and

WHEREAS, the Project must be completed in a timely manner to allow other work to proceed that is the subject of a grant in the amount of \$500,000, pursuant to which work must be completed within an established period of time; and

WHEREAS, engagement of CME for the final phases of the Project would reduce the time that would be necessary to engage an engineer through the RFQ process.

NOW, THEREFORE BE IT RESOLVED that pursuant to G.S. § 143-64.32(a) the Union County Board of Commissioners does hereby exempt the agreement with CME for services relative to the Project from the competitive proposal provisions of G.S. § 143-64.31, for the reasons stated above.

This resolution is adopted this the 18<sup>th</sup> day of May, 2009.

ATTEST:	
Lynn G. West, Clerk to the Board	Lanny Openshaw, Chairman

Commissioner Baucom stressed that his motion was not to approve the contract but to allow bids to be received so the project could be properly analyzed and studied.

Commissioner Kuehler asked if the County is sure that the grant money that was awarded for the passive area of the park can be applied to the bridge.

Mr. Greene responded that the grant money cannot be applied toward the construction of the bridge. He said the only way to access the passive area of the park would be over a bridge so the bridge has to be constructed before the grant money can be spent.

Commissioner Kuehler said that she did not understand using CM&E for the actual bidding services. Mr. Greene said that is a minor part of the proposal, most of the cost is for construction administration. He said the bidding service is to assist the staff to assure that the bidding documents have been prepared properly, and to make sure the bids are sent out properly to qualified contractors. He said that when the bids are received, the engineering firm would review the bids to make sure that prior to project award that there are no addition errors, deletions, or omissions from the bids prior to award. The firm would certify the bids to the Board.

Commissioner Kuehler asked that if the bids are received and the Board decides that the County does not need to build the bridge, what would that cost the county.

Mr. Greene said the bidding process is based on an hourly basis. A representative of CM&E explained that his firm would take an advisory role in the bidding process and the cost would be approximately \$700.

Chairman Openshaw reiterated Commissioner Baucom's comment clarifying that the bidding of the bridge is for consideration of the award by the Board of Commissioners upon the receipt of bids. He said he remembered that when this project was first discussed that Commissioner Pressley had concerns about the cost of the bridge and there had been lengthy discussions surrounding that project. He asked if there had not been any other options or designs to reduce those costs.

Mr. Greene replied that there had not been any options. He said the initial design was very similar to what is being proposed now, except it is more expensive because of calculations that CM&E or the staff were not comfortable with.

After the discussion, the motion passed unanimously.

## **CONTRACTS/PURCHASE ORDERS OVER \$20,000:**

Commissioner Kuehler stated that she had requested that Items 2 (Computronix USA, Inc. - Software Agreement Renewal) and 4 (Interlocal Agreement with Town of Hemby Bridge) from the Consent Agenda be moved to the Regular Agenda. She said had originally included Item 5 (Extension of Charlotte Area Transit System (CATS) Agreement) in her request because all of these items have a common denominator that all of these were asking for an approval of an agreement or contract pending legal review. She expressed her concern of approval of agreements, contracts or memorandums under this procedure. She said by this procedure the Board of County Commissioners is agreeing to approve something without knowing what the attorney's final wording may be. She

said she appreciated the philosophy and logistics of the staff seeking approval of something before committing the time and energy to the legal review; however, she said she believed the final product; the actual contract or agreement should come before this board. Commissioner Kuehler requested the Board to implement a procedure whereby the board could grant positive direction to the staff or could agree to the concept and direct that legal review; but, ultimately, the document comes to the Board for the approval once it is in its final form. She said she thought this would help the Board in the future to be aware fully of the provisions of the contract and/or agreement.

Commissioner Kuehler moved that contracts, agreements, and memorandums that need to undergo legal review be given consent to proceed by the Board of Commissioners but that after legal review the documents would ultimately come back to the Board for approval.

Jeff Crook, Staff Attorney, agreed the staff would do whatever the Board wants to be done on this issue; however, he said the Hemby Bridge agreement that was pulled from the consent agenda is an approval of that agreement, and the interlocal agreement is included in the agenda packet. He said that what he and his staff have done for the last several years, because the Board had lowered the dollar amount for approval of agreements by the County Manager, is not to bring the agreement to the Board for approval but to bring a synopsis or a sketch overview of the document to let the Commissioners know the purpose and the amount. He said in that way if the Board had any concerns about a particular contract, a Commissioner could request that it be pulled and brought back to the Board. He said his office processes several hundred contracts a year and many of those are over \$20,000, which is the current limit for approval by the County Manager. Mr. Crook, again, stressed he would do whatever the board wished but that some of the contracts, particularly the construction documents, are several inches thick. But, again, the process for the last several years when the contracting limit was reduced to \$5,000 by the former board and \$20,000 by the current board was to provide the Board with an overview. He suggested that if the Board is going to ask to see the agreement that it not be brought to the Board twice because there is no need for that, and it would only add to the processing time. He explained that he was also particularly concerned about the potential for delay in processing agreements if they all have to be in final form. Mr. Crook said this report was more of a tool to facilitate his office because there is a lot going on and the agreements can be brought to the Board after they have been finalized, but stressed it is a simpler matter, if the Board feels trusting of the staff, to allow the Manager to approve agreements, contracts, and leases after legal review.

Mr. Greene agreed with the staff attorney's comments and explained that the process is to facilitate Board approval. He assured that Mr. Crook and Ms. Ritchi do an extremely thorough job of reviewing every contract and agreement that is executed in Union County. He, too, agreed that final documents will be brought to the Board, if that is the Board's desire, but stated that he

believed that it will require more time by his staff and increase the Commissioners' schedule in that it could require a special meeting to approve agreements in final form.

Chairman Openshaw said that he for one is not interested in reviewing hundreds of contracts a year but agreed there is some room for movement. He said using the Hemby Bridge agreement as an example that he would be curious to see what the final changes would be. The Chairman said there are certain issues that resonate with different members of the Board so the question is what is the most efficient way to go through a lot of this material? He said he understood Commissioner Kuehler's point in that the Board does not want to vote for something before the changes are made and that is no discredit to staff, the Board might have a different perspective on that. He asked Commissioner Kuehler how this could be done. Commissioner Openshaw asked if it should be placed on the Consent Agenda with the idea that it will be pulled off or that these are the types of issues that the Commissioners flag to come back to the Board.

Commissioner Kuehler responded that one document that she remembers well is the lease with the hospital that apparently ran into problems and was brought back. She said the staff would not have had to bring it back to the Board based on the current process.

Staff Attorney Crook emphasized that the hospital lease was always coming back to the Board, regardless of what the motion would have been.

Commissioner Kuehler said the Board could act to direct on a case-by-case basis that all contracts that the Commissioners were particularly interested in or that had provisions within them that could be controversial be returned to the Board of Commissioners for final approval.

The Staff Attorney agreed that contacts, leases or agreements that the Board had a particular interest could be brought back to the Board upon the Board's request prior to execution.

Commissioner Baucom said he thought this was the same process that has been followed in the past.

Vice Chairman Rogers commented that the Board could pull the contract or agreement from the agenda and ask for it to be approved by the Board of Commissioners after legal review but if the Board does not see the agreement, it does not know that it needs to be pulled. She said she understood Commissioner Kuehler's viewpoint and had a similar feel. She said that she did not like approving something that she had not read or studied. She said she thought that the compromise suggestion would be a good one.

Commissioner Kuehler withdrew her recommendation.

Commissioner Baucom read excerpts from the Hemby Bridge Interlocal Agreement that had been referred to previously as to the floodplain regulation enforcement.

Mr. Crook stated that this contract is in final form, and he did not anticipate any changes to the agreement that was included in the Board's packet. He said that he and his staff like to preserve a little wiggle room for any minute changes that might be required.

Commissioner Keuhler explained that she did not pull these items from the consent agenda because she had a problem with them, but because they contained the language that she had been concerned about as to legal review.

After this discussion, Commissioner Mills made a substitute motion that the contract between Union County and Computronix USA, Inc. for the Inspection Department's POSSE Software be approved and the Interlocal Agreement between Union County and the Town of Hemby Bridge be approved. [These items transferred from Consent Agenda.] The motion passed unanimously.

#### **CIP RESOLUTION:**

Chairman Openshaw recognized Commissioner Kuehler who had requested this item be removed from the consent agenda. Commissioner Kuehler stated that on April 28<sup>th</sup>, a CIP Resolution was discussed in which she recalled that the direction of the Board was to move forward with the resolution basically to assure that organizations depending on financial assistance from the County get approval from the County prior to committing to debt that would require taxpayer money. She said she understood that resolution required legal review to assure that the resolution was consistent with current county policy. She reported that she had confirmed her understanding with the County Attorney that it was the Board's direction that the resolution be processed through a legal review. Commissioner Keuhler said that apparently the Board's direction was taken instead to be a request to incorporate it into the fiscal policy. She said that while she agreed that it was desirable to ultimately incorporate the resolution into the County's policy, the action of the Board was to insert or amend any necessary legal language to insure the compatibility of the resolution with any existing fiscal policy in existence. She said it was her understanding that all monies given to independent organizations by the County do require Board approval, either by individual approval of expenditures or through the budget process, so the intent of the resolution was to publicly state that the County should be engaged to approve prior to organizations or agencies making monetary commitments especially in these economic difficult times. She stressed the County should be notified and contacted ahead of any expenditure and

that failure to inform the County that they were entering into these commitments would basically mean that the organization would be encumbering a debt at their own risk. She said that it seemed like a "no brainer" but she wanted to make sure that everybody understands that this is the policy of the Board of County Commissioners. She said that what the Board directed was a legal review of the proposed resolution that was to come back to the Board for final adoption; that does not seem to be what happened.

Commissioner Mills agreed that he thought the Board was waiting on a resolution to be returned to the Board for review. Commissioner Kuehler said she had too but when she asked about its status she was informed that it was not being prepared because apparently there was a misunderstanding. She said staff was not going to prepare a separate resolution but the proposal was going to be worked into a financial policy.

County Manager Greene apologized if there was any misunderstanding but explained it had been staff's thought that the way it was left was the staff would go back and draft a proposed section of the County's fiscal policies that would incorporate capital planning for all the third-party agencies. He acknowledged that staff had not been looking at the resolution but had been planning to sit down and draft an amendment to the Board's fiscal policy that would require a capital planning process on the part of the third-party agencies, and Mr. Greene apologized if he misunderstood the direction.

Mr. Merritt, County Attorney, stated that he thought what had added to the confusion is that when the changes are made to the County's fiscal policy, the amendments to that policy would have to come back to the Board in the format of a resolution for approval once the policies were drafted by staff. He said he thought this to be the point where the confusion developed. He said the Board is looking for a resolution that simply sets forth the single policy but the staff interpreted the action to make the necessary changes in the fiscal policy and then put that in the form of a final resolution. The County Attorney said he thought both parties were talking about the same conclusion but in slightly different terms.

Motion was made by Commissioner Kuehler that the resolution, as proposed, go through the legal review as directed so that the Board can vote on that resolution and then the resolution, if adopted, can be integrated into the fiscal policy.

Vice Chair Rogers said that her recollection is that there was a resolution, and it was directed that it go through legal review and there was no discussion of policies that she can recall. She said this brings up what she had been thinking about. She said the Board has long meetings and during these meetings direction is given. She explained that there has to be some way that the direction can be tracked because she thought there are some things that are falling through the cracks. Vice Chair Rogers stressed that it is not acceptable to her to have direction given by the Board and it not be carried through.

Chairman Openshaw agreed and explained that is why it was suggested earlier that there be a summary provided within a couple days of the meeting so that the Commissioners can look and see if they have the same understanding and everyone is on the same page. He said he would like to see the summary re-implemented.

The Staff Attorney said that it is important to the staff that it does as the Board directed since that is the staff's goal and what it wants to do. He said he went back and checked the minutes and there was an original motion to approve the resolution but immediately afterwards there was a motion for the staff to come back with a recommendation. He said there was a lot of discussion after that so he thought that everyone's individual recollections pertain to the discussion, but the motion was to come back with a recommendation. Again, he said the staff wanted to do whatever the Board wanted but reiterated the motion was for the staff to come back with a recommendation.

Chairman Openshaw said he understood that part of the resolution existed in current policy but what he understood Commissioner Kuehler to say is that she wants to inform the third-party agencies and the public that this is the Board's policy. He asked if that understanding is not correct.

Mr. Greene responded that the resolution is much deeper than anything existing in the County's fiscal policies as relating to third-parties coming to the Board for approval of expenditures over \$10,000 for the acquisition of property.

Chairman Openshaw said that if he remembered correctly, and admitted that he could be wrong, the intent had been to air this issue and to get the word out that if the third-party agency wanted to encumber funds, the Board wanted to hear about it first.

Mr. Greene interjected that he thought everyone was in agreement as stated by the attorneys but the bottom line is that the staff has not had time to make the recommendation or write the resolution. He said the staff has been working on a budget.

The Chairman agreed that he thought the status is that the Board is waiting on a recommendation/resolution to the Board but the bottom line is the word is now out that the Board does not want information presented to them with an expectation of getting an automatic pass without any look at the impact of the action on the citizens.

Commissioner Baucom stated that the subject is a delicate matter because irrespective of what anybody has said this action goes primarily to the volunteer fire departments and they have really taken offense to the proposal. He said he believes the staff has

an onerous task for staff to bring back a recommendation that does not offend the county's 700 volunteer firemen in Union County. He said that he for one does not want to see it brought back haphazardly or too quickly. He said that for those who do not know, Union County owns one fire truck and owns no facilities and noted that the one truck is not the best because it does not carry any water. He said this resolution has to have much thought and holds a lot of potential risks.

At the request of the Vice Chairman, the Clerk read the motion which directed that the resolution as proposed go through legal review so the Board can vote on the resolution and it be written in to the fiscal policy.

The Vice Chairman asked if this legal review is to be performed by Mr. Merritt or Mr. Crook.

The County Manager interjected that the review would require both legal and financial review.

Commissioner Kuehler stated that she is sensitive to the fact that there is a budget process but the reason she brought this item up tonight is that it was apparent to her that it was going in a direction other than what she thought was the Board's action. She said she thought it was common knowledge that the county sets the tax rate or the fees so if a fire department spends lots of money and wants a tax increase that the Board of Commissioners could say no. She said what she was wanting to do was to let everybody know that all departments and agencies needed to work together during these financial times. Commissioner Kuehler said it was a much better policy to ask for permission rather than forgiveness. She said she thought she had made that point and it is not necessary to insert a completion date but would request it be completed sometime soon after the budget is adopted.

The County Manager assured that he understood its importance and what the Board is trying to accomplish. He promised that it would not fall through the cracks and as soon as Mr. Nelson can get time, they will sit down and work on the resolution.

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

## **RENEWAL AND AMENDMENT OF UNION EMS AGREEMENT:**

The County Manager reported that since 1997, Union County has contracted with Union EMS to provide personnel, equipment, facilities and services for the emergency medical services in the county; and, additionally, all management, financial coordination, billing and collections are provided by EMS. He said the revenue of the program is applied to the expenses that the

County is responsible for under the contract. The fees are set by Union EMS at approximately 110 percent of what other County EMS systems in this region charge and that generates about \$3 million dollars. He further explained that currently operating expenses and capital are about \$7 million so the difference, which is borne by Union County, is approximately \$4 million. Mr. Greene said that since 1997, the agreement has been amended several times primarily to extend the effective date of the agreement. He said the last amendment occurred in 2007 and was an extension of the agreement until June 30, 2009. The Manager recommended that the agreement be amended to reflect another two years' extension until 2011.

Motion was made by Commissioner Baucom moved that the contract between Union County and Union EMS be extended for two years expiring June 30, 2011.

Commissioner Kuehler expressed appreciation for having received the contract. She said she was sure that it was legally sound but it comes down to some of the provisions, one of which is that it calls for a six-month notice of renewal, and questioned if the County notified Union EMS that it would be seeking renewal of the contract.

Mr. Greene said that the County did not contact them six-months prior but did provide notice. He said direction was given and the ball was dropped by a staff member.

She next pointed out the issue of user fees and asked when was the last time the user fees were reviewed and changed in any way.

Mr. Nelson, Finance Director, responded that the user fees are reviewed and adjusted annually.

Commissioner Kuehler next asked if Union County knows what the rates are in Union County as opposed to the surrounding counties.

Mr. Nelson explained that Union EMS provides a detailed budget every year and had done so again this year. He said that within their budget EMS proposed rate adjustments will not exceed 110 percent and believes that rates up to 110 percent can be imposed unilaterally by Union EMS. He noted that any fee adjustment above 110 percent would have to be approved by the Board of County Commissioners. Therefore, every year Union EMS does an analysis and makes rate adjustments accordingly.

She next asked if the staff knows whether or not Union EMS is at or above 110 percent on any given cost. She next asked if the fees were below 110 percent and, if so, does the staff know how far below it is.

Mr. Nelson responded that Union EMS determines those numbers.

Commissioner Kuehler asked who the County's contact person is at this time.

Mr. Crook stated that most recently it had been the Homeland Security Director.

She again asked who has the responsibility at this time. Mr. Greene replied that this would be the responsibility of the County Manager.

Commissioner Kuehler asked in what fiscal year Union EMS operates. Mr. Nelson answered that it operates within the same fiscal year as does the County. She said that her concern is that the financial information and statistics are actually due 45 days after the County adopts its budget.

Mr. Nelson replied that there is at least one meeting with them annually in February or March wherein EMS reviews its current year's financial performance as well as the new year's proposal. He said among other things it shares are response rates and a whole host of business functions such as collection rates, financial performance, and the next year's budget request.

She said her next comment and question were going to sound insensitive but they relate to the financial. She pointed out that the fees and services are going to be paid either by the people who ride in the ambulances or the County. She next asked what the incentive would be to the corporation to cut costs. She emphasized again that the fees were going to be paid.

Commissioner Kuehler asked the statistics on the collection rates of Union EMS. Mr. Nelson responded that he did not recall the current collection rates.

Commissioner Kuehler next stated that the contract has the standard indemnification clauses and it addresses required insurance coverage. She reported that the contract stated that the deductibles are the sole responsibility and risk of the corporation but yet in Section 5K the contract addressed that all deductibles paid by Union EMS will be reimbursed by the County.

Mr. Crook responded that he was not familiar with the provision but would be glad to check into the wording. He further explained that as the Finance Director indicated the intent of the contract is for the County to subsidize any deficit. He pointed out that was the way it was negotiated; that was the only way that it could be negotiated at that time.

She said the amendments that she mainly studied were time amendments, extension amendments, nuts and bolts of the agreement, which have not be changed since it was first entered into in 1997. Commissioner Kuehler said that was her issue with renewable contracts.

Vice Chair Rogers said that she had talked with Mr. Greene prior to the meeting and had told him that she had several questions stemming from the fact that there are operating expenses of \$7 million, and it is operating at a \$4 million deficit. She said that was her reason for the close scrutiny. She asked what the County is statutorily required to provide as far as EMS.

Mr. Crook stated that he was not prepared to answer the question but assured that he would look into it. He said that at the time the County negotiated this contract, it was operating its own internal department and the agreement with the subsidiary of the corporation – Carolinas Union Healthcare – was to outsource because it supposedly knew the business and could run it more efficiently. Mr. Crook said that as far as any statutory responsibility for providing ambulance service, he would need to research it.

Vice Chair Rogers asked if the responsibility would be due to the fact that the County owns the hospital, and it must provide the service. She said that the answers may not be available tonight for many of the questions and she had spoken with Mr. Greene about this and suggested that it might be better in the future to submit some of these questions in advance rather than having to ask the questions now. She said she would not go through all her questions, but will provide a list of the questions to the staff after the meeting.

She asked the following questions during the meeting:

- (1) Are there any mutual aid agreements as referenced in the agreement. She said she had not found the answer to that in the information provided.
- (2) What does the term "annual un-audited revenues" mean and asked for an example.

The Chairman suggested that in lieu of asking all the questions tonight that the item to extend the EMS lease agreement be tabled and the questions be submitted to allow staff an opportunity to prepare the answers.

After brief discussion, Vice Chair Rogers submitted an amended motion that consideration be deferred until such time as the questions can be submitted to staff and the staff has the opportunity to respond.

Mr. Nelson stated that as the County continues this discussion, the contract has two partners in the transaction and the other being the non-profit corporation.

Commissioner Baucom asked if the staff could comply with the timeline. The County Manager replied that the staff will have to review the questions and answer them promptly in order to get the Board's action by June 30<sup>th</sup>.

Commissioner Mills asked if the Commissioners are seeking to gain information or attempting to ask questions in order to change the contract. He said if the purpose is to gain information, the agreement should be approved and then get the questions answered.

The Chairman replied that he thought the questions were being asked in an effort to improve the contract which essentially only has been extended except in 2000, when there was a slight change. He said he thought the fact that the County Manager and Finance Director did not have the answers off-hand validated his belief.

Commissioner Baucom asked if it would be appropriate to approve the extension for one-year and that would give time for the questions to be answered or considerations to be made.

Chairman Openshaw said he thought that would be a good idea. He said his question would be about the fee structure and the 110 percent. The Chairman said that was his sole concern. He said he would prefer to have some of the questions answered and brought back by June 1, which is still 30 days before the deadline.

Commissioner Baucom said his concern was the upcoming budget. The Chairman stated he would like to have some information on the \$4 million deficit.

Commissioner Baucom asked the Vice Chair if she wanted to withdraw her motion and he would amend his to grant approval for only one year.

The Vice Chair responded that might be the end result, but that she would prefer to have her motion stand as made.

The County Manager agreed that the staff would have the answers back to the Board by June 1 and an amendment in a form that would allow the Commissioners to approve a one-year extension.

The Chairman called for a vote on the Vice Chair's motion to defer consideration. The motion passed by a vote of three to two. Chairman Openshaw, Vice Chair Rogers, and Commissioner Kuehler voted for the motion and Commissioners Baucom and Mills voted against the motion.

# <u>LETTER OF UNDERSTANDING - CLERK OF SUPERIOR COURT FOR THE DESTRUCTINO/DISPOSAL OF NON-CONFIDENTIAL COURT RECORDS, AS DESIGNATED BY THE CLERK OF SUPERIOR COURT:</u>

The County Manager stated that the Clerk of Superior Court is requesting that in accordance with the North Carolina Administrative Code whereby through a Letter of Understanding the County can agree to dispose of non-confidential public records of the Clerk of Superior Court that it agree to do so. He said that such a Letter of Understanding has been drafted and that it is still the responsibility of the Clerk of Superior Court to insure that the records are non-confidential and that the destruction or disposition of those records meets the appropriate records retention schedules and guidelines.

Motion was made by Commissioner Mills that the County Manager be authorized to approve the Letter of Understanding pending legal review.

After brief discussion, the motion passed unanimously.

## <u>INSTALLMENT FINANCING CONTRACT – EMERGENCY RADIO COMMUNICATION:</u>

The Finance Director reported that as the Board is aware this project has a very long history dating back to 2007. He said since 2007, the Board had taken a number of actions relating to this project including awarding a contract in the amount of almost \$7 million to Motorola and recently taking action to approve a \$2 million contract for the construction of the communication towers. He explained that this particular action secures the financing of these expenditures. He said the Local Government Commission which must approve the financing has only one meeting a month, and its next meeting is scheduled June 2. He said he had distributed the results for Requests for Financing proposals. He reviewed that four bids were received. He said that Bank of America is the low

bidder; therefore, the recommendation is that the Board adopts a resolution approving the Installment Financing Contract with Bank of America to Provide for the Acquisition and Construction of Certain Equipment and Related Facilities Set Forth Therein.

Commissioner Mills moved that the following resolution (the "*Resolution*"), a copy of which was available with the Board and which was read by title, be adopted:

RESOLUTION OF THE COUNTY OF UNION, NORTH CAROLINA APPROVING AN INSTALLMENT FINANCING CONTRACT TO PROVIDE FOR THE ACQUISITION AND CONSTRUCTION OF CERTAIN EQUIPMENT AND RELATED FACILITIES SET FORTH THEREIN

WHEREAS, the County of Union, North Carolina (the "County") is a validly existing political subdivision of the State of North Carolina, existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina (the "State");

WHEREAS, the County has the power, pursuant to the General Statutes of North Carolina, to (1) purchase real and personal property, (2) enter into installment financing contracts to finance the purchase or improvement of real and personal property used, or to be used, for public purposes, and (3) grant a security interest in some or all of the property purchased or improved to secure repayment of the purchase price;

WHEREAS, the Board of Commissioners of the County (the "Board of Commissioners") hereby determines that it is in the best interest of the County to enter into an installment financing contract (the "Contract") with Bank of America, N.A., a national banking association (the "Bank"), in order to provide financing for the County's acquisition of emergency communication equipment and the acquisition and construction of related towers and appurtenant facilities (collectively, the "Equipment and Facilities");

WHEREAS, the County hereby determines that the acquisition and construction of the Equipment and Facilities is essential to the County's proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the Equipment and Facilities will provide an essential use and will permit the County to carry out public functions that it is authorized by law to perform; and that entering into the Contract is necessary and expedient for the County by virtue of the findings presented herein;

WHEREAS, the County hereby determines that the Contract allows the County to acquire and construct the Equipment and Facilities at a favorable interest rate currently available in the financial marketplace and upon terms advantageous to the County;

WHEREAS, the County hereby determines that the estimated cost of the acquisition and construction of the Equipment and Facilities is an amount not to exceed \$9,500,000 and that such cost of the acquisition and construction of the Equipment and Facilities exceeds the amount that can be prudently raised from currently available appropriations, unappropriated fund balances and non-voted bonds that could be issued by the County in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State;

WHEREAS, although the cost of the acquisition and construction of the Equipment and Facilities pursuant to the Contract is expected to exceed the cost of the acquisition and construction of the Equipment and Facilities pursuant to a bond financing for the same undertaking, the County hereby determines that the cost of the acquisition and construction of the Equipment and Facilities pursuant to the Contract and the obligations of the County thereunder are preferable to a general obligation bond financing or revenue bond financing for several reasons, including but not limited to the following: (1) the cost of a special election necessary to approve a general obligation bond financing, as required by the laws of the State, would result in the expenditure of significant funds; (2) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of acquiring and constructing the Equipment and Facilities; and (3) no revenues are produced by the Equipment and Facilities so as to permit a revenue bond financing;

WHEREAS, the County hereby determines that the estimated cost of the acquisition and construction of the Equipment and Facilities pursuant to the Contract reasonably compares with an estimate of similar costs under a bond financing for the same undertaking as a result of the findings delineated in the above preambles;

WHEREAS, the County previously implemented a tax increase in anticipation of entering into the Contract and therefore does not anticipate future property tax increases solely to pay installment payments falling due under the Contract;

WHEREAS, Parker Poe Adams & Bernstein LLP will act as special counsel ("Special Counsel"), and will render an opinion, if required, to the effect that entering into the Contract and the transactions contemplated thereby are authorized by law;

WHEREAS, no deficiency judgment may be rendered against the County in any action for its breach of the Contract, and the taxing power of the County is not and may not be pledged in any way directly or indirectly or contingently to secure any moneys due under the Contract;

WHEREAS, the County is not in default under any of its debt service obligations;

WHEREAS, the County's budget process and Annual Budget Ordinance are in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the County has conformed with generally accepted accounting principles as applied to governmental units in preparing its Annual Budget ordinance;

WHEREAS, past audit reports of the County indicate that its debt management and contract obligation payment policies have been carried out in strict compliance with the law, and the County has not been censured by the North Carolina Local Government Commission (the "LGC"), external auditors or any other regulatory agencies in connection with such debt management and contract obligation payment policies;

WHEREAS, there have been described to the Board of Commissioners the form of the Contract, copies of which have been made available to the Board of Commissioners, which the Board of Commissioners proposes to approve, enter into and deliver, as applicable, to effectuate the proposed installment financing;

WHEREAS, it appears that the Contract is in an appropriate form and is an appropriate instrument for the purposes intended;

## NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA, AS FOLLOWS:

- Section 1. Ratification of Instruments. That all actions of the County, the Chairman of the Board of Commissioners (the "Chairman"), the Clerk to the Board of Commissioners (the "Clerk"), the County Manager, the Finance Director of the County, the County Attorney and their respective designees, whether previously or hereinafter taken, in effectuating the proposed financing are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the Contract.
- Section 2. Application to LGC. That the Finance Director or his designee is hereby directed to file with the LGC an application for its approval of the Contract and all relevant transactions contemplated thereby on a form prescribed by the LGC and to state in such application such facts and to attach thereto such exhibits regarding the County and its financial condition as may be required by the LGC.
- Section 3. Financing Team. That the County approves the use of Special Counsel and the Bank for the financing contemplated by the Contract.

Section 4. Authorization to Execute the Contract. That the County approves the acquisition and construction of the Equipment and Facilities in accordance with the terms of the Contract, which will be a valid, legal and binding obligation of the County in accordance with its terms. The form and content of the Contract shall be and the same hereby are in all respects authorized, approved and confirmed, and the Chairman, the Clerk and the County Manager and their respective designees shall be and they hereby are authorized, empowered and directed to execute and deliver the Contract, including necessary counterparts, in substantially the form and content presented to the Board of Commissioners, but with such changes, modifications, additions or deletions therein as shall to them seem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the County's approval of any and all changes, modifications, additions or deletions therein from the form and content of the Contract presented to the Board of Commissioners, and that from and after the execution and delivery of the Contract, the Chairman, the Clerk, the County Manager and the Finance Director of the County are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Contract as executed, including without limitation the filing of a North Carolina Uniform Commercial Code financing statement for the benefit of the Bank relating to the security interest granted under the Contract (the "Financing Statement").

Section 5. County Representative. That the Chairman, the County Manager and the Finance Director of the County are hereby designated as the County's Representative to act on behalf of the County in connection with the transactions contemplated by the Contract, and the Chairman, the County Manager and the Finance Director are authorized to proceed with the acquisition and construction of the Equipment and Facilities in accordance with the Contract and to seek opinions as a matter of law from the County Attorney, which the County Attorney is authorized to furnish on behalf of the County, and opinions of law from such other attorneys for all documents contemplated hereby as required by law. The County's representative and/or designee or designees are in all respects authorized on behalf of the County to supply all information pertaining to the County for use in the Contract and the Financing Statement and the transactions contemplated by the Contract. The Chairman, the Clerk, the County Manager and the Finance Director of the County or their respective designees are hereby authorized, empowered and directed to do any and all other acts and to execute any and all other documents, which they, in their discretion, deem necessary and appropriate to consummate the transactions contemplated by the Contract or as they deem necessary or appropriate to implement and carry out the intent and purposes of this Resolution.

Section 6. Severability. That if any section, phrase or provision of this Resolution is for any reason declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

Section 7. Repealer. That all motions, orders, resolutions and parts thereof, in conflict herewith are hereby repealed.

Section 8. Effective Date. That this Resolution is effective on the date of its adoption.

On motion of Commissioner Mills, the foregoing resolution entitled "RESOLUTION OF THE COUNTY OF UNION, NORTH CAROLINA APPROVING AN INSTALLMENT FINANCING CONTRACT TO PROVIDE FOR THE ACQUISITION AND CONSTRUCTION OF CERTAIN EQUIPMENT AND RELATED FACILITIES SET FORTH THEREIN" was duly adopted by the following vote:

AYES: CHAIRMAN OPENSHAW, VICE CHAIR ROGERS, COMMISSIONER BAUCOM, COMMISSIONER KUEHLER, AND COMMISSIONER MILLS

NAYS: NONE

At approximately 9:30 p.m., the Chairman called for a five-minute recess. At the conclusion of the recess, at approximately 9:42 p.m., the Chairman reconvened the meeting and recognized the Finance Director to present the next item.

### **2009 REFUNDING BONDS:**

Mr. Nelson, Finance Director, stated that in the Commissioners' package he had included a Summary of Refunding Results. He said since February 2009, BB&T Capital Markets and Wachovia Securities have been providing the county with detailed refunding results on the refunding of two series of bonds; the 2001 series and a few 1996 series. He explained the handout entitled "Savings" and reported that the current debt service is the \$53,259,635 detailed in the column "Prior Debt Service" and is the amount proposed to be refunded. He said the annual savings by this action would be \$1,643,170.83. He reported that the LGC requires a minimum savings level of three percent before it will approve a refunding and as of market conditions of May 7<sup>th</sup>; this refunding would result in 3.9 percent savings. He noted that as of Friday, the savings had improved to over 4 percent but as of today most of what had been gained last week in the municipal bond market was lost. Mr. Nelson reiterated that the result is that with this calculation, the County has the opportunity to save roughly \$150,000 each and every year. He said the action tonight to adopt the various resolutions would provide the staff with the ability to proceed with this action. The Local Government Commission will meet on this refunding on June 2, but assured the bonds would not be sold unless the investors believe that there will be a savings through the year 2020.

Commissioner Mills moved that the following resolution (the "*Resolution*"), a copy of which was available with the Clerk to the Board of Commissioners and which was read by title, be adopted:

## A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA MAKING CERTAIN STATEMENTS OF FACT CONCERNING PROPOSED BOND ISSUE

WHEREAS, the Board of Commissioners (the "Board") of the County of Union, North Carolina (the "County") is considering the issuance of bonds (the "Bonds") of the County which shall be for the following purposes and in the following maximum amount:

Not to exceed \$45,000,000 of General Obligation Refunding Bonds to pay the costs of refunding in advance of their maturities all or a portion of \$1,830,000 aggregate principal amount of the County of Union, North Carolina General Obligation Refunding Bonds, Series 1996 maturing on March 1, 2010 and March 1, 2011 and \$38,000,000 aggregate principal amount of the County of Union, North Carolina General Obligation School Bonds, Series 2001 maturing on and after March 1, 2012.

WHEREAS, the Board must make certain findings of fact in order to enable the Local Government Commission of the State of North Carolina to make certain determinations as set forth in Section 159-52 of the General Statutes of North Carolina.

*NOW, THEREFORE, BE IT RESOLVED* that the Board, meeting in open session on the 18th day of May, 2009, has made the following factual findings in regard to this matter:

- A. Facts Regarding Necessity of Proposed Financing. The proposed bonds are necessary and expedient to lower debt service costs to the County.
- B. Facts Supporting the Amount of Bonds Proposed. The sums estimated for these bonds are adequate and not excessive for the proposed purpose.
- C. **Past Debt Management Polices.** The County's debt management policies have been carried out in compliance with law. The County employs a Finance Director to oversee compliance with applicable laws relating to debt management. The Board requires annual audits of County finances. In connection with these audits, compliance with laws is reviewed. The County is not in default in any of its debt service obligations. The County Attorney reviews all debt-related documents for compliance with laws.
- D. Past Budgetary and Fiscal Management Polices. The County's budgetary and fiscal management policies have been carried out in compliance with laws. Annual budgets are closely reviewed by the Board before final approval of budget ordinances. Budget amendments changing a function total or between functions are presented to the Board at regular Board meetings. The Finance Director presents financial

information to the Board that shows budget to actual comparisons annually and otherwise as the County Manager deems necessary or as a member of the Board may request.

- E. **Retirement of Debt.** The schedule for issuing the bonds does not require a property tax increase. The schedule for issuance calls for issuing all of the bonds in Fiscal Year 2009, but issuance may be delayed until such time as the County receives sufficient net present value savings therefrom.
- F. Direction to Retain Bond Counsel and Underwriters. That the County Manager and the Finance Director, with advice from the County Attorney, are hereby authorized and directed to retain (1) Parker Poe Adams & Bernstein LLP, Charlotte, North Carolina, as bond counsel, and (2) BB&T Capital Markets, a division of Scott & Stringfellow, LLC and Wachovia Bank, National Association, each of Charlotte, North Carolina, as underwriters for the Bonds.

On motion of Commissioner Mills, the foregoing resolution entitled "A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA MAKING CERTAIN STATEMENTS OF FACT CONCERNING PROPOSED BOND ISSUE" was duly adopted by the following vote:

AYES: Chairman Openshaw, Vice Chair Rogers, Commissioner Baucom, Commissioner Kuehler, and Commissioner Mills

NAYS: None

Commissioner Mills introduced the following bond order (the "Bond Order") by reading the title thereof and moved that the Bond Order be adopted:

## BOND ORDER AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$45,000,000 GENERAL OBLIGATION REFUNDING BONDS OF THE COUNTY OF UNION, NORTH CAROLINA

WHEREAS, the County of Union, North Carolina (the "County") has issued (1) \$26,300,000 aggregate principal amount of its General Obligation Refunding Bonds, Series 1996 (the "1996 Bonds") and (2) \$56,700,000 aggregate principal amount of its General Obligation School Bonds, Series 2001 (the "2001 Bonds");

WHEREAS, the Board of Commissioners of the County (the "Board") deems it advisable to refund all or a portion of \$1,830,000 of the 1996 Bonds maturing on March 1, 2010 and March 1, 2011 and \$38,000,000 aggregate principal amount of the 2001 Bonds maturing on and after March 1, 2012 (collectively, the "Refunded Bonds");

NOW, THEREFORE, BE IT ORDERED by the Board as follows:

- Section 1. The Board deems it advisable to refund all or a portion of the Refunded Bonds.
- Section 2. To raise the money required to pay the costs of refunding the Refunded Bonds as set forth above, General Obligation Refunding Bonds of the County are hereby authorized and shall be issued pursuant to the Local Government Bond Act of North Carolina. The maximum aggregate principal amount of such General Obligation Refunding Bonds authorized by this bond order shall be and not exceed \$45,000,000.
- Section 3. A tax sufficient to pay the principal of and interest on said General Obligation Refunding Bonds when due shall be annually levied and collected.
  - Section 4. A sworn statement of the County's debt has been filed with the Clerk to the Board and is open to public inspection.
  - Section 5. This bond order shall take effect on its adoption.

Adopted by unanimous consent without change or amendment.

As prescribed by The Local Government Bond Act, the Clerk to the Board is directed to publish a notice of adoption of the bond order titled, "BOND ORDER AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$45,000,000 GENERAL OBLIGATION REFUNDING BONDS OF THE COUNTY OF UNION, NORTH CAROLINA," which was introduced at the meeting of the Board held on May 18, 2009.

aggregate principal amount of such General Obligation Refunding Bonds authorized by this bond order shall be and not exceed \$45,000,000

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

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$45,000,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2009C OF THE COUNTY OF UNION, NORTH CAROLINA

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

WHEREAS, the County of Union, North Carolina (the "County") desires to issue its General Obligation Refunding Bonds, Series 2009C (the "Bonds") and to request that the Local Government Commission (the "Commission") sell the Bonds through a negotiated sale to BB&T Capital Markets, a division of Scott & Stringfellow, LLC, and Wachovia Bank, National Association (collectively, the "Underwriters"), in accordance with the terms and conditions set forth in a Bond Purchase Agreement to be dated on or about June 12, 2009 (the "Bond Purchase Agreement") among the County, the Commission and the Underwriters;

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

- 1. the Bond Purchase Agreement;
- 2. the Preliminary Official Statement with respect to the Bonds to be dated on or about June 3, 2009, together with the Official Statement with respect to the Bonds to be dated on or about June 12, 2009 (collectively, the "Official Statement"); and
- 3. the Escrow Agreement dated as of June 1, 2009 (the "Escrow Agreement") between the County and Regions Bank (the "Escrow Agent").

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

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

"Bond Order" means the Bond Order authorizing the General Obligation Refunding Bonds adopted by the Board of Commissioners on May 18, 2009 and effective on its adoption.

"Bonds" means the County's General Obligation Refunding Bonds, Series 2009C, authorized under the Bond Order.

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

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

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

"1996 Bonds" means \$26,300,000 aggregate principal amount of the County's General Obligation Refunding Bonds, Series 1996, of which \$1,830,000 is currently outstanding.

"Pricing Certificate" means the certificate of the County's Finance Director delivered in connection with the issuance of the Bonds which establishes with respect to the Bonds (1) the final maturity amounts, the interest payment dates and the provisions for redemption, all as agreed on in the Bond Purchase Agreement and (2) the disposition of the proceeds of the Bonds.

"Refunded Bonds" means, collectively, the 1996 Bonds and the Refunded 2001 Bonds.

"Refunded 2001 Bonds" means the 2001 Bonds maturing on and after March 1, 2012.

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

"2001 Bonds" means \$56,700,000 aggregate principal amount of the County's General Obligation School Bonds, Series 2001, of which \$38,450,000 is currently outstanding.

- Section 2. The County shall issue its Bonds in an aggregate principal amount not to exceed \$45,000,000.
- Section 3. The Bonds shall be dated as of their date of issuance. The Bonds shall pay interest semiannually on March 1 and September 1, beginning September 1, 2009, unless the County Finance Director establishes different dates in his Pricing Certificate. The Bonds are being issued to refund any portion of the Refunded Bonds that will produce not less than 3% net present value aggregate savings to the County as certified by the Finance Director in the Pricing Certificate.
- **Section 4.** The Bonds are payable in annual installments on March 1 in each year, unless the County Finance Director establishes different a date in his Pricing Certificate. The maturities of the Bonds will be as set forth in the Pricing Certificate.
- **Section 5.** The Bonds are to be numbered from "RC-1" consecutively and upward and shall bear interest from their date at a rate or rates which will be hereafter determined on the sale thereof computed on the basis of a 360-day year of twelve 30-day months.
- **Section 6.** The Bonds are to be registered as to principal and interest, and the Finance Director is directed to maintain the registration records with respect thereto. The Bonds shall bear the original or facsimile signatures of the Chairman of the Board of Commissioners or County Manager of the County and the Clerk to the Board of Commissioners. An original or facsimile of the seal of the County is to be imprinted on each of the Bonds.

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

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

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

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

by facsimile a copy of the notice of redemption within the time set forth above (1) to the Commission, (2) to each of the then-existing securities depositories and (3) to at least two of the then-existing national information services.

- **Section 9**. The Bonds and the provisions for the registration of the Bonds and for the approval of the Bonds by the Secretary of the Local Government Commission are to be in substantially the form set forth in the Appendix A hereto.
- **Section 10**. The County covenants to take such action as may be required in the opinion of nationally recognized bond counsel to cause the Bonds and all actions of the County with respect to the proceeds thereof to comply with Code. In particular, the County covenants as follows:
  - (a) At least one of the following two conditions will be satisfied for the Bonds: (1) less than 10% of the proceeds of the Bonds, reduced by costs of issuance, will be used directly or indirectly in the business of a person other than a state or local governmental unit or (2) less than 10% of the principal or interest on the Bonds will be (under the terms of such issue or any underlying arrangement) directly or indirectly (A) secured by an interest in property used or to be used in a private business or any interest in payments made with respect to such property or (B) to be derived from payments made with respect to property, or borrowed money, used or to be used in a private business;
  - (b) At least one of the following two conditions will be satisfied: (i) less than 5% of the proceeds of the Bonds reduced by costs of issuance will be used by nongovernmental persons for a use unrelated or disproportionate to the purposes for which the Bonds were issued or (ii) less than 5% of the principal or interest on the Bonds will be (under the terms of such issue or any underlying arrangement) directly or indirectly (A) secured by an interest in property used or to be used in a private business described in (i) or by any interest in payments made with respect to such property or (B) derived from payments made with respect to property the use of which is described in (i), or borrowed money, used or to be used in a private business;
    - (c) It will not loan directly or indirectly more than 5% of the proceeds of the Bonds to nongovernmental persons;
  - (d) It will not enter into any management contract with respect to the facilities refinanced with the proceeds of the Bonds unless it obtains an opinion of nationally recognized bond counsel that such management contract will not impair the exclusion from a recipient's gross income for federal income tax purposes of the interest on the Bonds;
  - (e) The County acknowledges that the continued exclusion of interest on the Bonds from a recipient's gross income for federal income tax purposes depends, in part, on compliance with the arbitrage limitations imposed by Section 148 of the Code. The County covenants to comply with all the requirements of Section 148 of the Code, including the rebate requirements, and it shall not permit at any time any of the proceeds of the Bonds or other funds of the County to be used, directly or indirectly,

to acquire any asset or obligation, the acquisition of which would cause the Bonds to be "arbitrage bonds" for purposes of Section 148 of the Code:

- (f) The Bonds shall not be "federally guaranteed" as defined in Section 149(b) of the Code;
- (g) The County covenants to file or cause to be filed Form 8038G with respect to the Bonds in accordance with Section 149(e) of the Code.
- Section 11. The Finance Director (1) shall cause a portion of the proceeds of the sale of the Bonds to be applied to redeem all or a portion of the 1996 Bonds on the date that the Bonds are issued and (2) shall deposit the portion of the proceeds of the sale of the Bonds necessary to defease and redeem all or a portion of the Refunded 2001 Bonds with the Escrow Agent in an Escrow Fund created pursuant to the Escrow Agreement, each as more fully set forth in the Pricing Certificate. The Finance Director shall deposit the balance of the proceeds of the sale of the Bonds in a special account to be designated "County of Union, North Carolina General Obligation Refunding Bonds, Series 2009C Cost of Issuance Account" (the "Cost of Issuance Account") and apply such funds to pay the costs of issuance of the Bonds. The Finance Director shall transfer any money remaining in the Cost of Issuance Account on August 31, 2009 to pay the interest on the Bonds on the next interest payment date therefor.
- **Section 12**. Actions taken by officials of the County to select paying and transfer agents, and a bond registrar, or alternate or successor agents and registrars pursuant to Section 159E-8 of the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, are hereby authorized and approved.
- Section 13. The Commission is hereby requested to sell the Bonds through a negotiated sale to the Underwriters pursuant to the terms of the Bond Purchase Agreement at a true interest cost not to exceed 3.25%. The form and content of the Bond Purchase Agreement are in all respects approved and confirmed, and the Chairman of the Board of Commissioners, the County Manager or the Finance Director is hereby authorized, empowered and directed to execute and deliver the Bond Purchase Agreement for and on behalf of the County, including necessary counterparts, in substantially the form and content presented to the County, but with such changes, modifications, additions or deletions therein as he may deem necessary, desirable or appropriate, the execution thereof to constitute conclusive evidence of the Board of Commissioners' approval of any and all such changes, modifications, additions or deletions therein, and that from and after the execution and delivery of the Bond Purchase Agreement, the Chairman of the Board of Commissioners, the County Manager and the Finance Director are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Bond Purchase Agreement as executed.
- **Section 14.** The form and content of the Escrow Agreement are in all respects approved and confirmed, and the Chairman of the Board of Commissioners, the County Manager or the Finance Director is hereby authorized, empowered and directed to execute and deliver the

Escrow Agreement for and on behalf of the County, including necessary counterparts, in substantially the form and content presented to the County, but with such changes, modifications, additions or deletions therein as he may deem necessary, desirable or appropriate, the execution thereof to constitute conclusive evidence of the Board of Commissioners' approval of any and all such changes, modifications, additions or deletions therein, and that from and after the execution and delivery of the Escrow Agreement, the Chairman of the Board of Commissioners, the County Manager and the Finance Director are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Escrow Agreement as executed.

- Section 15. The Chairman of the Board of Commissioners, the County Manager, the Finance Director and the Clerk to the Board of Commissioners are hereby authorized and directed to cause the Bonds to be prepared and, when they shall have been duly sold by the Commission, to execute the Bonds and to turn the Bonds over to the registrar and transfer agent of the County for delivery through the facilities of DTC to the Underwriters.
- Section 16. The form and content of the Official Statement are in all respects authorized, approved and confirmed, and the Chairman of the Board of Commissioners, the County Manager, the Finance Director and the Clerk to the Board of Commissioners are authorized, empowered and directed to execute and deliver the Official Statement in substantially the form and content presented to the Board of Commissioners, but with such changes, modifications, additions or deletions therein as the Chairman of the Board of Commissioners, County Manager or the Finance Director may deem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the approval of the Board of Commissioners of any and all changes, modifications, additions or deletions therein from the form and content of the Official Statement presented to the Board of Commissioners.
- Section 17. The Chairman of the Board of Commissioners, the County Manager, the Finance Director and the Clerk to the Board of Commissioners are authorized and directed to execute and deliver for and on behalf of the County any and all additional certificates, documents, opinions or other papers and perform all other acts as may be required by the documents contemplated hereinabove or as may be deemed necessary or appropriate in order to implement and carry out the intent and purposes of this Resolution.
- **Section 18.** The County agrees, in accordance with Rule 15c2-12 (the "Rule") promulgated by the Securities and Exchange Commission (the "SEC") and for the benefit of the Registered Owners and beneficial owners of the Bonds, as follows:
  - by not later than seven months after the end of each Fiscal Year to the Municipal Securities Rulemaking Board (the "MSRB"), the audited financial statements of the County for the preceding Fiscal Year, if available, prepared in accordance with Section 159-34 of the General Statutes of North Carolina, as it may be amended from time to time, or any successor statute, or if such audited financial statements are not then available, unaudited financial statements of the County for such Fiscal Year to be replaced subsequently by audited financial statements of the County to be delivered within 15 days after such audited financial statements become available for distribution;

- by not later than seven months after the end of each Fiscal Year to the MSRB, (a) the financial and statistical data as of a date not earlier than the end of the preceding Fiscal Year for the type of information included under the captions "THE COUNTY--DEBT INFORMATION" and "--TAX INFORMATION" (excluding information on overlapping units) in the Official Statement referred to in Section 16 and (b) the combined budget of the County for the current Fiscal Year to the extent such items are not included in the audited financial statements referred to in clause (1) above;
- (3) in a timely manner to provide in a timely manner to the MSRB, notice of the occurrence of any of the following events with respect to the Bonds, if material:
  - (a) principal and interest payment delinquencies;
  - (b) non-payment related defaults;
  - (c) unscheduled draws on debt service reserves reflecting financial difficulties;
  - (d) unscheduled draws on credit enhancements for the Bonds reflecting financial difficulties;
  - (e) substitution of any credit or liquidity providers, or their failure to perform;
  - (f) adverse tax opinions or events affecting the tax-exempt status of the Bonds;
  - (g) modification to the rights of the beneficial owners of the Bonds;
  - (h) call of any of the Bonds for redemption, other than sinking fund redemptions;
  - (i) defeasance of any of the Bonds;
  - (j) release, substitution or sale of any property securing repayment of the Bonds;
  - (k) rating changes on the Bonds; and
- (4) in a timely manner to the MSRB, notice of the failure by the County to provide the required annual financial information described in (1) and (2) above on or before the date specified.

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

All documents provided to the MSRB as described in this Paragraph shall be provided in an electronic format as prescribed by the MSRB and accompanied by identifying information as prescribed by the MSRB. The County may discharge its undertaking described above by providing such information in a manner the SEC subsequently authorizes in lieu of the manner described above.

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

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

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

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

Section 19. Those portions of this Resolution other than Section 18 may be amended or supplemented, from time to time, without the consent of the owners of the Bonds if in the opinion of nationally recognized bond counsel, such amendment or supplement would not adversely affect the interests of the owners of the Bonds and would not cause the interest on the Bonds to be included in the gross income of a recipient thereof for federal income tax purposes. This Resolution may be amended or supplemented with the consent of the owners of a majority in

aggregate principal amount of the outstanding Bonds, exclusive of Bonds, if any, owned by the County, but a modification or amendment (1) may not, without the express consent of any owner of Bonds, reduce the principal amount of any Bond, reduce the interest rate payable on it, extend its maturity or the times for paying interest, change the monetary medium in which principal and interest is payable, or reduce the percentage of consent required for amendment or modification and (2) as to an amendment to Section 20, must be limited as described therein.

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

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

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

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

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

shall be made by the County, for the mailing of a notice to the owners of the Bonds that such moneys are so available for such payment.

Section 21. All acts and doings of the Chairman of the Board of Commissioners, the County Manager, the Finance Director and the Clerk to the Board of Commissioners that are in conformity with the purposes and intents of this Resolution and in the furtherance of the issuance

of the Bonds and the execution, delivery and performance of the Bond Purchase Agreement are in all respects approved and confirmed.

**Section 22.** If any one or more of the agreements or provisions herein contained is held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or for any reason whatsoever is held invalid, then

such covenants, agreements or provisions are null and void and separable from the remaining agreements and provisions and will in no way affect

the validity of any of the other agreements and provisions hereof or of the Bonds authorized hereunder.

Section 23. All resolutions or parts thereof of the Board of Commissioners in conflict with the provisions herein contained are, to the

extent of such conflict, hereby superseded and repealed.

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

On motion of Commissioner Mills, the foregoing resolution entitled "A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$45,000,000 GENERAL OBLIGATION

REFUNDING BONDS, SERIES 2009C OF THE COUNTY OF UNION, NORTH CAROLINA" was duly adopted by the following vote:

AYES: Chairman Openshaw, Vice Chair Rogers, Commissioner Baucom, Commissioner Kuehler, and Commissioner Mills

NAYS: None

#### APPENDIX A

Form of Bond

No. RC-

UNITED STATES OF AMERICA STATE OF NORTH CAROLINA COUNTY OF UNION

INTEREST

 RATE
 MATURITY DATE
 DATED DATE
 CUSIP

 MARCH 1,
 , 2009
 906395

REGISTERED OWNER: CEDE & CO.

PRINCIPAL SUM: DOLLARS

#### GENERAL OBLIGATION REFUNDING BOND, SERIES 2009C

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

This Bond is issued in accordance with the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, and pursuant to The Local Government Finance Act, a bond order adopted by the Board of Commissioners of the County on May 18, 2009 and effective on the date of its adoption. The Bonds are issued to provide funds to refund in advance of their maturities all or a portion of (1) \$1,830,000 aggregate principal amount of the County of Union, North Carolina General Obligation Refunding Bonds, Series 1996 maturing on

March 1, 2010 and March 1, 2011 and (2) \$38,000,000 aggregate principal amount of the County of Union, North Carolina General Obligation School Bonds, Series 2001 maturing on and after March 1, 2012.

The Bonds maturing on or before \_\_\_\_\_, 20\_\_ are not subject to redemption before maturity. The Bonds maturing after \_\_\_\_\_, 20\_\_ are subject to redemption before maturity, at the option of the County, from any moneys that may be made available for such purpose, either in whole or in part on any date on or after \_\_\_\_\_, 20\_\_, at the principal amount of the Bonds to be redeemed, together with interest accrued thereon to the date fixed for redemption, [without premium].

If less than all of the Bonds are called for redemption, the County shall select the maturity or maturities of the Bonds to be redeemed in such manner as the County in its discretion may determine and DTC and its participants shall determine which of the Bonds within a maturity are to be redeemed by lot;

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

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

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

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

(SEAL)	
Clerk to the	Chairman,
Board of Commissioners	Board of Commissioners
Date of Execution:, 2009	
	The issue hereof has been approved under the
	provisions of The Local Government Bond Act.
	T. Vance Holloman
	Secretary of the Local Government Commission
	FORM OF ASSIGNMENT
	ASSIGNMENT
FOR VALUE RECEIVED the under	signed hereby sells, assigns and transfers unto
	(Please print or typewrite Name and Address,
	including Zip Code, and Federal Taxpayer Identification or
	Social Security Number of Assignee)
the within Don	d and all rights thereunder, and hereby irrevocably constitut

Attorney to register	ansfer of the within Bond on the books kept for registration thereof th full power of substitution in the premises.	
Dated: Signature guaranteed by:		
NOTICE: Signature must be guaranteed by a Participant in the Securities Transfer Agent Medallion Program ("Stamp") or similar program.	NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within Bond in every particular, without alteration, enlargement or any change whatever.	

#### RANSFER FEE MAY BE REQUIRE

The County Manager complimented Mr. Nelson and his staff for the work they had accomplished during the last month of trying to finalize the budget while working on the details of the forward-starting swap discussed at the last meeting and then these two important items that he had brought before the Board tonight. He said he appreciated Mr. Nelson's continued efforts to look at ways to save the County money.

### REQUEST FOR WATER ALLOCATION FOR WHITE OAKS - AUTUMN CORPORATION:

The Chairman recognized Commissioner Mills who had requested this item be added to tonight's agenda. Commissioner Mills reported that Mr. Campbell had approached him three or four weeks ago when he learned that his project did not have water. He said that it appears that the Town of Waxhaw inadvertently gave a building permit for this nursing home, which is located in Waxhaw, but it had not received approval of water. Commissioner Mills said that there are several things pressing such as the Certificate of Need and also the financing package for the project. He further said he thought that the project is within the "B" category, non-residential in the Water Use Plan. He stated that he believed Mr. Cox and his project had gotten caught in the last motion when the County stopped

sending water permits to the State. Commissioner Mills said he realized there are several issues, one of which is that the project does not fall under 5,000 gallons a day so the allocation set aside for commercial projects is not applicable to this one. He further stated that he and Commissioner Kuehler had an extremely good meeting with Lancaster Water and Sewer Authority last Wednesday and he asked if it would be interested in helping to supply Union County with additional water; the representatives were receptive to that request. Commissioner Mills said it is hoped the County can get additional several million gallons a day.

Chairman Openshaw asked Commissioner Mills' source for his statement that Waxhaw inadvertently gave a building permit to the developer. Commissioner Mills responded that he had talked to the Mayor and Manager of Waxhaw who had confirmed this statement.

Commissioner Kuehler interjected that this is an item that will be discussed later in the meeting and thought it would be more appropriate to stick with the issue surrounding Autumn Corporation's water request.

At approximately, 10:00 p.m., Chairman Openshaw moved that the Union County Board of Commissioners go into closed session to consult with an attorney in order to preserve the attorney-client privilege in accordance with General Statute 143-318.11 (a) (3). The motion passed by a vote of four to one. Vice Chairman Rogers voted in opposition to the motion.

The Board members moved to the Board's Conference Room, first floor, Union County Government Center, where the closed session was convened at approximately 10:00 p.m..

At the conclusion of the closed session, at approximately 10:49 p.m., Commissioner Vice Chair Rogers moved to adjourn the closed session. The motion was passed unanimously.

The Board members moved to the Commissioners' Board Room, first floor, Union County Government Center, and the Chairman reconvened the regular meeting and asked for a motion.

Commissioner Mills stated that in light of discussions during the closed session there are some issues that need to be resolved. He moved to defer this action until the next meeting to allow time for the questions raised to be answered.

Chairman Openshaw stated that Commissioners Mills and Kuehler had a meeting at the water plant with the partners in Lancaster County last Wednesday. He said he wanted to work out an arrangement with Lancaster to pursue an agreement with them

to get a finite amount of water to free up some water now. He explained it is the County's wish to get a commitment from Lancaster that Union County can get water in the needed time frame to be replaced with water from the plant expansion.

Commissioner Kuehler explained that the plant expansion is anticipated to be completed within four or five years but, as discussed with the Lancaster Water Authority, Union County needs three to five million gallons of water contracted until the expansion is completed.

Chairman Openshaw reminded that several meetings ago he brought forth a pilot project for reclaimed water and a cost projection was to be forthcoming. He said he would like to see a presentation that the County moves forward with reclaimed water, which would free-up potable water.

Commissioner Mills said that in talking with some representatives of the Lancaster Water and Sewer Authority after the meeting, he learned that Lancaster might not be a partner in all of that expansion so Union County might have a lot of water from the expansion.

The motion passed unanimously.

### **CAROLINA THREAD TRAIL MASTER PLAN DEVELOPMENT:**

Travis Morehead, Carolina Thread Trail Community Coordinator with the Catawba Land Conservancy, gave his address as 105 West Morehead Street in Charlotte. He said the purpose of his presentation is to request the Board's endorsement of a resolution of support for the Carolina Thread Trail. Mr. Morehead explained that the project is a regional greenway system that will connect 15 counties in the Piedmont region, 11 of these in North Carolina and four in South Carolina, with an estimated population of 2.3 million people. He said the acceptance of the invitation to participate is the decision of the County and its elected officials. He said if Union County decides to become a part of the project that the people in Union County get to decide where the trails go and where they do not go. Mr. Morehead reported that Gaston County, NC, and York County, SC, have both approved the Carolina Thread Trail Master Plan. He said that they granted the counties roughly \$60,000 each and the counties had a local steering committee that planned a master greenway trail system in those counties.

Mr. Morehead said that his operation is a non-profit organization with the primary mission to advocate support of the planning, design, and construction of greenways and trails throughout the region. He reported that his organization provides a planning grant of

approximately \$60,000 for the county to hire a consultant to do a greenway plan and the county and all municipalities get to participate in this planning project. He said this would also be coordinated with surrounding counties of Stanly, Lancaster, York, and Cabarrus for likely connection points. Mr. Morehead said his organization also provides grant funds for design, acquisition and construction of the trails. He reported the grants are mostly through private contributions and of its \$25 million goal, the organization has obtained \$16 million.

Mr. Morehead reviewed the process that would be followed if Union County decides to participate in the Carolina Thread Trail.

Commissioner Baucom expressed his concern about this project is that it goes to the individual's property rights and how property is obtained and the landowners' rights with his property. He said he understands the Thread Trail and has respect for the people involved in the program, but that he wants to make sure that the public has the right to express their opinions. Commissioner Baucom moved that prior to the County adopting a resolution in support that it goes through the public hearing process. He further moved that staff be asked to work with Catawba Land Conservancy and move to public hearings on the question of support of the resolution. He said that he thought this information should be made available to the public and their opinions ascertained prior to adopting the requested resolution. Commissioner Mills said he would want to make sure that if and when it is done that it would be done properly for the benefit of everyone.

Commissioner Kuehler commented that she understood from some of the material submitted in the package that the acquisition grants and land use of the trail is existing public land and some of the land will be either purchased or acquired by donation of conservation easements. She said she did not read that any of the land would be taken by eminent domain and asked when would that process become an option.

Mr. Morehead responded that on a national level eminent domain is rarely used in trail acquisition. He said that Gaston County had included in its resolution of support the fact that it will not use that legal option. Mr. Morehead said his organization is non-profit and does not have the legal authority to use eminent domain and those decisions will be made by the municipalities as they may have trail corridors.

Commissioner Kuehler said that without the organization having eminent domain authority that any such action would require the approval of the Board of County Commissioners. He agreed that it would be the Board's authority within its jurisdiction.

The Chairman stated that he had been through this process in Marvin in years past when the area was more rural than it is now and the survey showed overwhelming support for non-structured recreation such as trails. He emphasized that he does not support eminent domain acquisition and has consistently questioned its use even for water lines so he would not want to allow anyone to think that he would support that option but voiced his support of the trails. He asked Commissioner Baucom if his motion requires a public hearing prior to the adoption of the resolution.

Commissioner Baucom replied that he wants to make sure that those people whose property will be potentially impacted have an opportunity to bring those concerns forward and let the public hear them. He said irrespective of what this Board says here the people who own the property along the potential trails are the ones who stand to be at risk. Commissioner Baucom stated that there is a lot of rural area that will be trailed that will not be policed and would be subject to having anyone on the property that might stray onto private land with crops and livestock, etc. He stressed that he thought those who own the property deserve to have the opportunity to bring those concerns forward. He said he too had seen surveys that overwhelmingly support the trails but that not many of these survey respondents own property on which the trails will pass.

Commissioner Kuehler said that it was her understanding that the trails had not been set and pointed out that until such time as that is determined the citizens will not know whose land is impacted. Commissioner Baucom responded that he had seen maps of the proposed trails.

Mr. Morehead interjected that the trails that are on the maps are only concepts that he used to illustrate what he is talking about when he addresses a regional trail system.

The Vice Chairman said that she thought the only matter before the Board tonight is to adopt the resolution of support.

Mr. Morehead agreed.

Commissioner Mills said that he had heard several board members talk about the fact that they do not want to be involved in eminent domain and he concurs with that. He pointed out, however, the County's authority doesn't supersede any of the municipalities and if a municipality decided that it wanted to enforce eminent domain, the County's decision would not be applicable.

Mr. Morehead agreed and stated that Union County's decision would only be applicable to the County's jurisdictional area.

Commissioner Mills said he thought he remembered that in last year's budget that \$5,000 had been set aside to match a grant that the County was going to apply to receive.

Mr. Nelson replied that the County did include it in the budget and it was promptly cut in December or January.

Commissioner Baucom read one of the resolves from the proposed resolution and questioned the Board's commitment to the project without a more detailed study. Mr. Greene interjected that there is another issue that might need to be studied and that is the question "Does the Board want to spend taxpayers dollars for the acquisition of trail property?" He suggested that this issue be decided and the resolution could be adopted to allow the County to apply for a planning grant with it being known that within the unincorporated area of the County that the Board of Commissioners would not use eminent domain for acquisition of property for trails and that could be clearly stated at any public meetings and public hearings. He noted that the drawback is that future boards could certainly change that policy.

The Chairman called for a vote on the motion of Commissioner Baucom to move to a public hearing to decide whether or not to support the resolution.

Vice Chair Rogers called the question. The vote on calling the question passed unanimously.

Commissioner Baucom's motion failed by a vote of two to three. Commissioners Baucom and Mills supported the motion and Chairman Openshaw, Vice Chair Rogers and Commissioner Kuehler voted against the motion.

The Chairman stated his motion would be for the County to approve the resolution addressing that Union County would not exercise the use of eminent domain consideration for acquisition of property and the resolution be sent to legal for proper wording and the staff be authorized to work with the Catawba Land Conservancy to pursue a grant for the proposed Carolina Thread Trail Master Plan Development.

Commissioner Kuehler asked if the eminent domain philosophy as well as the necessity for a public hearing could be incorporated in the resolution.

Vice Chair Rogers interjected that Gaston County had taken that action.

Mr. Morehead agreed that it could be done and that Mr. Black, the Planning Director, could better provide direction for adopting a plan in Union County. She said she would want to see those two provisions included. The Chairman agreed to her request.

Commissioner Baucom offered a substitute motion that the Board defers action on the support of a resolution until the second meeting in July to allow time to bring this proposal back to the County.

The Chairman stated that he would include in his motion to allow the staff to bring forth the resolution when the legalities have been included in the motion and if time becomes an issue that it will be dealt with then.

Commissioner Baucom withdrew his substitute motion.

Commissioner Mills asked that the Carolina Thread Trail Master Plan Development be added to the agenda of the MCIC that is scheduled for this Thursday. He said he would like to see how the municipalities have adopted the resolution. Mr. Morehead responded that all the municipalities except Fairview have adopted the resolution as presented tonight.

Chairman Openshaw repeated that his motion is to approve the resolution and send it to the legal department to insert the eminent domain restrictions and the requirement for public hearings and that it be brought back to the Board for adoption. The motion passed unanimously.

### **ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT:**

Al Greene, County Manager, explained that Union County has been notified that it is eligible for \$751,800 from the Energy Efficiency and Conservation Block Grant program. He said this is some of the stimulus money through the American Recovery and Investment Plan of 2009 that everyone has heard about. He stated that in order to receive the funds, the County must submit a detailed application to the Department of Energy by June 25, 2009, and then there will be a little additional time, if the County chooses to take it, to submit an Energy Efficiency and Conservation Strategy grant. He said the strategy grant application could be submitted with the first application, if the Board chooses to do so. Mr. Greene said that after looking at the requirements for the grant application and strategy, the staff determined that it does not have the expertise to put the package together and to develop the strategy. He said that Mr. Delk took the lead and worked with Mr. Glenn and Mr. Wyatt and contacted the Centralina Council of Governments to determine if it would have an interest in assisting the County and if it has the expertise to do this work. He further stated COG is interested and

does have the expertise to assist with the grant application and that Jason Wager, Community & Regional Planner, and Rich Deming, Energy Consultant with COG, are with Dean Glenn, Union County Construction Manager, tonight to answer any questions.

Mr. Greene said that two agreements have been developed for the Board's consideration. One is for the application and the second one for the strategy itself. He explained this had been separated because the application cannot be funded with grant funds; it would be a direct cost to the County, but the strategy can be.

Mr. Greene reported that the recommendation is to authorize the application for \$751,800 for the Energy Efficiency and Conservation Block Grant and to also authorize the County Manager to contract with Centralina Council of Governments to prepare the application and to prepare the strategy. He noted that the total cost for providing these services is estimated to be \$17,910 for both projects but the cost of the Energy Efficiency and Block Grant application was reduced by using 22.5 member's hours which brought the financial impact to \$9,985.

The Chairman noted that in the County Manager's background information, he had stated that the grant appears to give the County flexibility to pay for retrofit projects for school buildings. The Chairman spoke to the use of block grants and asked if the \$9,985 is after the use of member hours. He stated that this raised the question with him as to whether or not the County should hire its own grant writer.

Commissioner Mills moved to: 1) authorize application for \$751,800 from the Energy Efficiency and Conservation Block Grant; 2) authorize the County Manager to contract with Centralina Council of Governments to prepare the Energy Efficiency and Conservation Block Grant application; and 3) authorize the County Manager to contract with the Centralina Council of Governments to prepare the Energy Efficiency Conservation Block Grant Strategy Plan.

Commissioner Kuehler stated that the stimulus money or grant money sounds good but asked if it created a legal obligation on the part of the County. She asked if the staff knew if receiving this money has any stipulation for spending additional money. Mr. Greene asked Mr. Wagner or Mr. Deming if they could answer that question. The response was that there is a lot of accounting that has to be done for tracking and a lot of paper work, but, other than that, there does not seem to be any strings attached to the grant. He said the strings are more administrative than anything else.

Commissioner Baucom asked if this cost includes an audit. Mr. Glenn said that as far as a real nuts and bolts audit, the answer would be no. But he is trying, because of the time crunch, to get a preliminary overview or audit to get the application in before the deadline.

The motion passed unanimously.

#### <u>COMMUNITY DEVELOPMENT BLOCK GRANT – SCATTERED SITES HOUSING:</u>

The County Manager introduced Lisa Stiwinter, Assistant Director of Planning and Building Standards with the City of Monroe Planning Department, and Isabelle Gillespie, Executive Director of the Monroe-Union County Community Development Corporation. He explained the County has been notified of its eligibility to apply for \$400,000 in Community Development Block Grant (CDBG) funds for a scattered sites project. He said these projects provide housing rehab funds to low-income citizens for bringing homes up to the building code standards. He said it is not the old target area where one neighborhood is singled out but applied across the county. He further stated that Union County was awarded these grants in 2003 and 2006 and, as these are provided to counties on a rotating basis, it is now Union County's time again. He said in both of these years, Union County passed to the City of Monroe the authority to apply for the grant on behalf of all of Union County because the City has a staff that is more familiar with Community Development Block Grants than does Union County. He said, in turn, the City of Monroe worked with the Monroe-Union County Community Development Corporation to assist in the grant application and administration. He said all of this was at no cost to Union County. Mr. Greene further said that in exchange it is also agreed that the grant will be available to all properties throughout the unincorporated area of the county, including Monroe and other municipalities that might want to participate. He said it is the staff's recommendation that the same approach be followed and the City of Monroe be authorized to take the lead in applying for this grant on behalf of all of Union County and to contract as it deems appropriate for the administration of grant application. He said it is also recommended that all municipalities be notified to express their interest in participating. The Manager said the process includes establishing a local coordinating committee and all participating units would have membership on that committee and would assist with developing the project to move forward.

Motion was made by Commissioner Mills to assign responsibility for receiving the grant to the City of Monroe as the lead entity for Union County and to authorize the Manager to appoint a staff member to represent the unincorporated area of Union County on a committee coordinating the project.

The Chairman asked who would be responsible for notifying the other municipalities. Ms. Stiwinter responded that this had been completed.

Chairman Openshaw said that it has been the County's painful experience that if a notice is sent to a single point in a municipality that it does not necessarily get moved about and recommended that the notice be sent to all board members within a municipality. He moved to amend Commissioner Mills' motion to include that all municipal board members be notified by an email.

Commissioner Baucom requested this issue be discussed at the MCIC meeting on Thursday night. The Chairman agreed and called for a vote on the amended motion.

The motion as amended passed unanimously.

#### CONSIDERATION TO SCHEDULE A COMPREHENSIVE PLAN WORKSHOP:

The Chairman stated the item and addressed the County Manager. The Manager stated that all had seen the draft of the comprehensive plan and recommended that since there is a new Planning Board that the Board of Commissioners hold a workshop wherein the consultant can be brought in to work with the Planning staff to present the results of the Comprehensive Plan and to consider inviting the new Planning Board to join in this workshop. He said this would be a good way to present the plan and perhaps the Board might want to allow the new Planning Board to review it and offer any comments prior to adoption.

Motion was made by Commissioner Mills that it be approved as recommended.

Chairman Openshaw recommended and made a substitute motion that the Comprehensive Plan be referred directly to the Planning Board to allow the Planning Board an opportunity to review and make recommendations to the Commissioners prior to a joint meeting.

Commissioner Mills withdrew his motion.

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

#### PRESENTATION OF COUNTY MANAGER'S RECOMMENDED BUDGET FOR 2009-2010:

The County Manager presented the Manager's recommended 2009-2010 budget for Union County. He explained that the General Fund Budget contains recommended expenditures of \$226,579,000 which represents a decrease of \$12,716,000 or 5.3 percent from the current year's amended budget. He further stated the recommended budget is balanced without a fund balance appropriation. It would, however, require a property tax increase of 2.76 cents above the current tax rate of 66.5 cents for a tax rate of 69.26 cents per one hundred dollars of valuation. He further stated that the recommended tax increase is designed to cover additional costs of debt service for school construction and operations and maintenance expenses associated with the opening of new schools. Mr. Greene further said that the costs of additional debt and operations and maintenance expenses are estimated to be \$3.5 million and \$2.6 million respectively for a total of \$6.1 million.

He pointed out that as the Board is aware the County has experienced a significant decline in all of the major revenue sources in the current fiscal year, and it is not anticipated that the trend will reverse in the next budget year; in fact, he said it is expected that there might be a further significant decline below the 2009 year-end estimate in sales tax, real estate related revenue, and investment earnings. The County Manager noted that each of these revenue sources benefited from a relatively strong economy of the initial months of the current fiscal year. Mr. Greene said the projections for the fiscal year 2009-2010 reflect the anticipation of a weak economy and investment markets for the entire fiscal year.

Mr. Greene also reported that an overall comparison of estimated 2009-2010 general fund revenue to budgeted 2008-2009 revenue reflects a 5.3 percent decline. He said the 2008-2009 budget contains a \$2.45 million appropriation of fund balance; a comparison of 2008-2009 revenue to 2009-2010, adjusting for the current year's fund balance appropriation and the recommended 2009-2010 tax increase of \$6.1 million, reflects a real decline in the year over year revenue of \$16,372,000 or 6.9 percent.

He explained that the Board of County Commissioners implemented significant mid-year cost reduction measures in January 2009 and, as a result of those measures, the staff now anticipates the County will end this fiscal year with a structurally balanced budget without a significant reduction or increase in fund balance.

Mr. Greene said the recommended spending for the new year reflects the annualized effect of January's reduction plan without restoration and authorized appropriations in most areas of employee-related costs or operating expenses. He went on to state that while the staff recommends the restoration of capital funding for the Sheriff's office for the replacement of vehicles and for annual pay-go capital funding for school purposes at reduced levels, it is not recommended that there be other significant capital appropriations.

The County Manager reported there have been many comments from citizens asking when the County is going to deal with the short-fall and reminded that this County dealt with the short-fall in January of 2009 in a very significant manner when other local governments were not responding in the same manner. These municipal governments are dealing with the shortfall now. He stressed that the budget being proposed is one that continues those cuts for another year.

Mr. Greene stated that Water and Sewer operating margins – revenues over expenses – continue to decline from fiscal year 2008's \$5.5 million favorable balance to FY2009-2010's \$2.3 million. He explained that the principal reason for the decline in revenues is reduced sales due to the drought condition over the last several years and the resulting imposition of water conservation measures. He said the impact of smaller margins in the operating fund has been a reduction in the net revenues available to transfer to the Capital Improvement Program. The County Manager noted that the decline in the financial performance of the utility has not yet resulted in the need to raise rates, fees, and charges. He said this was in part due to controlling and reducing personnel costs as part of the recent budget cuts. He said the rate structure remains sufficient to cover operations, maintenance, and debt service and limited net revenue transfers to the capital program. Therefore, he stated, the recommended budget contains no rate or fee adjustments for the FY2009-2010 in the Water and Sewer fund.

He said that Solid Waste Operating margins remain extremely tight while municipal solid waste program expenses and revenues remain fairly predictable, construction and demolition tonnages declined, contributing to a very tight Solid Waste budget. He said the EMSW expenditure budget for transportation and disposal is based on a current rate structure from the contract hauler. Mr. Greene said that should those rates increase in January 2010 as the agreement permits, with the CPI index, the County will need to reevaluate its tipping fee at that time. Therefore, he said at this time there is no recommended rate adjustments in the Solid Waste fee structure.

In conclusion, the County Manager stated that he was recommending a 2009-2010 budget with no frills and spending levels comparable to those reflected in the budget reductions of January 2009. He explained that short-term implications of the reduction of resources are that employees are being asked to accomplish more to compensate for the staff reduction and both the Board of Commissioners and the citizens may experience delays in responses or requests for services. Mr. Greene said that in some areas actual service reductions will continue. He said that long-term implications are lagging response to critical long-term needs; these may be most pronounced in non-routine activities such as revisions to growth management policies and implementation of those policies and planning and implementation of future utility projects and other planning processes and special projects.

Mr. Greene stated that in addition a reduction in capital spending for maintenance of facility infrastructure improvements will certainly lead to more expensive and frequent repairs to facility systems and equipment and will delay capital improvement projects in some cases.

He said that he is extremely proud of the efforts and attitudes of the employees during these difficult months from late 2008 to present. Mr. Greene stressed that the citizens of Union County are blessed with excellent county employees who are dedicated to their role in serving the citizens. He noted that while there are potential long-term implications associated with continued operations with reduced resources that he is confident that Union County can expect outstanding effort on the part of the organization.

He offered to answer questions and said he is anxious to begin the budget workshops to review the budget.

Commissioner Kuehler addressed the tax increase of 2.76 cents and asked if that is the 2006 bond increase that would be due.

The Finance Director responded that was correct.

Chairman Openshaw reminded that those bonds were voter approved bonds from three years ago.

Commissioner Kuehler noted that there is basically not a tax increase but it does reflect the debt payment that the voters agreed to three years ago.

Mr. Nelson, Finance Director, explained that this figure represents the re-evaluation tax base adjusted figure. He said the amount would have been 3.5 cents based on the tax rate at the time the voters approved the votes. He stressed this is essentially a revenue-neutral tax rate. He also noted that on page 7 of the proposed budget is the budget review schedule, which indicates the first meeting is to be this Wednesday at 9 a.m.

The Chairman thanked the Manager for the presentation and called for the next item.

# <u>UPDATE FROM MANAGER REGARDING HIRING IN DEPARTMENTS THAT WERE SUBJECT TO REDUCTION IN</u> FORCE:

The County Manager recognized Mark Watson, Personnel Director, who along with his staff developed this report. He asked Mr. Watson to make the presentation.

Mr. Watson asked if there are any specific questions or comments that the Commissioners would like to have answered. He distributed copies of his report and reviewed it briefly. He said he had tried to supply the requested information in an easy format, but it may not be as easy to read as he had hoped. He said that this document had been created to answer the specific question about the new hirings in the departments that were subject to the reduction in force. He said there were reduction in force for positions that were vacant in the departments and also a reduction in workforce for positions that were filled by employees. Mr. Watson noted that in his report he had separated the two categories and explained the columns and the numbers beneath the headings. He explained the reduction in work force action and pointed out 86 vacant positions were eliminated and 31 filled positions were eliminated. He stressed that a position was not eliminated in the reduction of work force in January to only turn around and create it again the next month. He noted that when an employee resigned, there were certain positions that had to be filled immediately.

He explained that 22 seasonal part-time people have been hired for safety reasons at Cane Creek Park but assured these employees will be there only on a limited basis. Overall, since January 23, 2009, the County has filled a total of 48 positions in all categories (including the 22 seasonal in Parks and Recreation) and the County is currently recruiting and is in various stages of the hiring process for 20 positions. Mr. Watson pointed out that there are currently 115 vacant positions that are frozen and noted that 39 of those are seasonal employees for the Board of Elections.

Vice Chair Rogers stated that this is the information that she had requested and did not have questions now, but may have some after she has had a chance to review the material.

Mr. Watson assured that he would be glad to discuss it with her at any time.

He pointed out in the column "Percent Vacant Using Revised Position Allocation" that this number versus what has been appropriated, which is the revised position allocations, shows the vacancy rate is 11.4 percent off of the already revised allocation. He said that after taking off the 39 vacant seasonal election workers, there is actually an 8.1 percent vacancy rate. He said that using that number versus the original allocation, the number of employees across all categories is actually 16.3 percent lower today than it was on July 1, 2008. He stressed that is a significant number when one talks about the workload that has to be accomplished in County government.

Commissioner Mills asked if under the next item a hiring freeze is implemented, how would that affect the vacant positions where persons are being recruited currently. Mr. Watson said that would be a good question in that job offers have already been made to some persons and these individuals have already given notice to their current employers. He said of those 20 positions, his department is in different stages of the employment process on filling those jobs. He stressed the six jobs at Cane Creek Park are very important for its summer operation on a day-by-day basis. Mr. Watson agreed that the two items are tied to this one document.

No action was taken, and the Chairman recognized the Vice Chairman for discussion on the next item.

#### **SOLID HIRING FREEZE PENDING ADOPTION OF BUDGET:**

Vice Chairman Rogers said that the reason that she had included this item was because she did not have the information that she had been given tonight. She had requested additional information on this subject because of the number of calls that she had received from former employees and citizens regarding the hiring to fill vacancies. She said the information provided tonight is perfect in that it gives her more details and is the information that she needs to address the subject with the citizens. She said she did not intend to take any action to impose a strict solid hiring freeze. The Vice Chair stated that she had needed more information than what she had been given prior to tonight's comparison. She requested that in the future more detailed information, such as this report, be provided to the Commissioners.

Mr. Watson reported that all the jobs that are now posted are posted first for the reduction in force employees and for internal candidates to apply for. He said a number of the RIF employees have applied for jobs and have been interviewed in other departments. He said three have been successful and have been made job offers or are currently on the job. He said that others have not been successful in gaining employment in other departments.

No action was taken.

# <u>DIRECT MANAGER TO RUN LINE ITEM BUDGETS THROUGH FINANCE SUBCOMMITTEE PRIOR TO MEETING WITH THE BOARD OF COMMISSIONERS ON BUDGET:</u>

The Chairman recognized the Vice Chair to address this issue. Vice Chair Rogers said that she had spoken with the Manager about this issue before the meeting and this request comes from the meeting when the committee was formed. She said that the budget line items have not been run through the Finance subcommittee.

Mr. Greene stated that the committee had talked about getting together in April and decided to wait a couple of weeks because the Finance Director was swamped at the time. He said he was to have contacted Commissioners Kuehler and Rogers in late April, but had dropped the ball on calling the meeting. The Manager said that he and the Finance Director certainly want to meet with the subcommittee. He said he thought that if the Board would proceed with the first scheduled work session that the information the subcommittee would need to review will be presented and there will be no time wasted. He said it would be in line with what the staff would do when it sits down with the sub-committee.

The Vice Chair said that while she was on the School Board, the finance subcommittee met several times prior to anything going before the Board of Education. She said there were several expectations that she had coming out of that system and not knowing what this system would provide.

The County Manager responded that the County operates on a little different system than the school system in that in county and municipal governments, the staff is required by State law to develop and present a recommended budget and, after it is presented to the Board, the workshops start. He said that one workshop had been held in April because this is an unusual year, but reported that in all counties and cities in the State, the budget work sessions begin once the budgets have been presented. He reported that by the laws of the State of North Carolina it is a different process than the one under which the school board operates, but assured that the staff will be glad to spend as much time as needed with the Finance Subcommittee.

Mr. Nelson interjected that the line item detail is in the budget document and assured that there are pages and pages of line items and, of course, if members of the finance subcommittee or members of the Board of Commissioners, as they are reviewing this document, have any specific questions with regards to any changes in the line item details from year to year, that he or his staff would be glad to research it and get it back to the members.

Mr. Greene said that it would be helpful that as a Commissioner has a question that he/she e-mails the question to Mr. Nelson. He said that the Finance Director may not know all the details but as he has great staff, he might want to have one of them to research the question.

No action taken.

#### <u>DIRECT MANAGER TO BRING LISTING OF ALL RENEWABLE CONTRACTS TO BOARD FOR APPROVAL AT</u> LEAST TWO MONTHS PRIOR TO NOTIFICATION OF RENEWAL:

The Chairman recognized the Vice Chair who said that her request had been to direct the County Manager to bring a listing of all renewable contracts to the Board and had not included the statement "at least two months prior to notification of renewal." The Chairman explained that he had added the last section but now believes that the time should be three months instead of two. He said this would allow the Board to deal with some of the issues in advance instead of having to deal with last-minute contracts as it has had to tonight with the EMS contract.

Vice Chair Rogers said that her request could be as simple as an Excel spread sheet that has the contract, renewable, number of renewable terms, etc. She said she does not want to see every contract but that there are some "hot topic" ones that she would want to know about.

The Manager said that the Staff Attorney and his office staff do a great job of maintaining records of all the contracts and offered Mr. Crook the opportunity to address the Board.

Mr. Crook said that as he indicated earlier, his office wants to be responsive to whatever the Board wants, but wanted to be sure he understood what the Board is wanting. He said there are several hundred contracts every year and there are many hundreds of active contracts because these extend beyond an initial year. Mr. Crook explained his office sends out notices of contracts that are about to expire to the department involved two months in advance so they will know the contract status. He said it would be a relatively easy process to send the Clerk those same notices that are sent to the departments, but said he did not believe that action would capture all the contracts that the Commissioners want to see. Mr. Crook said that if the Board wants a listing of all of them including expiration and renewal dates, it will require a great deal of work because there are hundreds of active contracts. He also explained that if there is something in particular that the Board wants to see or if the Board does not favor automatic renewal that is something that can be phased out. The Staff Attorney said he was trying to cut down on the administrative work because he has only one assistant that assists two active attorneys, and she is busy all the time. He assured that he wants to know what the Board wants, and he will make sure that the Board gets it.

The Vice Chair said for her the EMS contract is a perfect example; contracts that need to be looked at and haven't been looked at by this Board to determine if it needs to be renewed. She said that anything that is automatically renewable and/or could be competitively bid given the climate that the economy is in now, is a contract she would like to see. She further said that she would

like to see any contract that is a hot topic issue or an issue of public interest or a contract that is running at a deficit and costing the taxpayers money. She assured that the purpose of her request is to get a listing and not copies of all contracts. She said what she would like to have is whatever the Staff Attorney uses to track his contracts.

Mr. Crook responded that his staff does track the expiration of all the contracts but there are some contracts that do not expire naturally but are automatically renewed. He said the primary responsibility for the contract is with the departments' directors. He said his office does notification as a courtesy and to make sure that there are no lapses in the contracts for liability purposes. He said that he thought what is being requested would require his staff to go back and look at each contract, and assured he will be glad to do so, but pointed out that it will take a good bit of time. He also asked for clarification as to whether these are contracts exceeding the Manager's authority or those that would come back to the board because they are not automatically renewed or is it all contracts or just those above \$20,000.

The Chairman stated that from his perspective the EMS contract is a classic example as to something that was overlooked in that it says that the County will notify them six months in advance, if the County is going to renew. He said that the County should be looking at this at least three months in advance so the Board could study and evaluate the options. Chairman Openshaw pointed out that EMS is running at a deficit that is greater than the revenue from the contract. He reminded that there was one in Public Works that automatically renewed and no one on the Board was aware of it.

Commissioner Kuehler said the ones that are automatically renewed are the ones that concern her.

The Chairman said that everyone needs a tracking system both the staff and the Commissioners so there is a period of review.

Mr. Crook agreed the Board has made some good points particularly with the EMS contract and agreed that it needs review. He said that the tickler file on the EMS contract was sent out eight months prior to its expiration, but, again, he noted that the County has hundreds and hundreds of active contracts. He said he wants to be responsive to the Board, but explained that it will take a significant amount of time to work through each contract. He said if the Board could give him any other parameters, those would be helpful, or if the Board wants him to go through all of them, he will get that back to the Board as soon as possible.

Commissioner Baucom asked if the staff attorney could be given some latitude and allow him to develop a form that he is comfortable with expediting and bringing back to the Board.

The Vice Chair suggested that the attorney review ten contracts and develop a format that would be workable and manageable to him and his staff and bring it back to the Board for review.

Mr. Crook said that it is not the format that will be difficult; that could be established quickly given what the Board has indicated tonight. He stated that the difficulty will be going back and finding each contract that is currently active and reviewing it to determine if it is automatically renewable. He pointed out that some of them may be very minor maintenance contracts, book leases for the library, etc. that he would not think the Board would be particularly interested in. So, again, he asked for parameters.

Commissioner Kuehler said that anything that does not require the Manager's approval would not need to be included as it would be seen by the Board.

The Vice Chair said that she would want to see any automatically renewable contracts and any contract that has not been reviewed for a while that has been extended by date extensions.

The Manager asked if there is any category of contracts such as software maintenance contracts that the Board might not be interested in.

The Vice Chair said that she would be interested in seeing a list of any contract that could be competitively bid. The Staff Attorney said the Manager's example was a good one in that software contracts are not bid.

The staff accepted the direction of the Board.

# <u>DISCUSSION ON PERMITTING POLICIES BETWEEN COUNTY AND TOWNS THAT ISSUE THEIR OWN BUILDING PERMITS:</u>

Commissioner Kuehler said that this subject follows the earlier discussion tonight on the Autumn Corporation request. She said that she was pleased when she received the email from Mr. Greene about the fact that the County had a process in place with Waxhaw about the issuance of building permits, but Waxhaw countered that there is not a process other than the town issues its building permits and that is the end of it. She asked if there is a policy in writing or does it need to made clearer.

Mr. Greene said that it concerns him as well. He said there was a process in place that was developed between county and town staff some time ago. He explained the process had been used by the town until recently and the County does not know why the Waxhaw staff did not use the process when permitting the nursing home. Mr. Greene said that he received an email from the Town Manager explaining that apparently the town does not intend to use the process in the future. He reported that Jeff Reavis, Director of the Inspections Department, who was here earlier tonight, and he have talked with the Staff Attorney and there has been discussion with the Department of Insurance. He thinks it has taken some time to find the requirement that water and sewer must be available for a project before a building permit is issued. Mr. Greene said that the County believes that before a building permit is issued there must be a water supply and a means of wastewater disposal.

Commissioner Kuehler asked if there is a policy or a memorandum that was adopted that would memorialize that this is the process and that is the way it was followed.

Mr. Greene said it was his understanding that it was an administrative procedure that was agreed to by the staffs.

Commissioner Kuehler asked if it can be documented that this process has been followed in the past. She said that it was her understanding there was only one other municipality that has permitting authority. She asked where is the County in the policy process or discussion about the permitting policy and what is the plan of action. Commissioner Kuehler noted that Waxhaw has lots of projects that could realistically hit the ground.

Mr. Greene said his plan is to continue to work with John Reavis and Jeff Crook to verify whether or not building codes or other sections of the General Statutes might require that water and sewer be obtained or verified prior to issuance of building permits. He said he would then sit down with the Town Manager and determine the policy and course of action.

Chairman Openshaw said that he always thought while he was on the Marvin Town Council that the town asked for the "first-come, first-serve" letters that were being issued at the time. However, he said that he ran into a project developer in the Marvin area who said he did not have water and sewer. He suggested that this also be discussed at the MCIC. Chairman Openshaw said that it was his opinion that the County controls the water and sewer, and he would be willing to go to court about it, unless the attorneys would tell him differently. He said this situation also goes to the issue of fairness. Chairman Openshaw pointed out that if one town uses 8,000 building permits and some other town would like to have development, there would not be water and sewer left for the other municipalities.

No action was taken.

#### ANNOUNCEMENTS OF VACANCIES ON BOARDS AND COMMITTEES:

Chairman Openshaw announced the following vacancies on boards and committees:

- a.) Adult Care Home Advisory Committee (3 vacancies)
- b.) Agricultural Advisory Board (3 vacancies as of June 2009)
- c.) Nursing Home Advisory Committee (2 vacancies)
- d.) Region F Aging Advisory Committee (vacancies for three regular members and one alternate member as of June 30, 2009
- e.) South Piedmont Community College Board of Trustees (1 vacancy as of June 30, 2009)
- f.) Jury Commission (1 vacancy as of June 2009)
- g.) Parks and Recreation Advisory Committee (1 vacancy for unexpired term ending February 2010)

## <u>APPOINTMENT OF COMMISSIONERS AS NON-VOTING CHAIRPERSON AND MEETING LEADER FOR UNION</u> COUNTY COMMISSIONER GOVERNANCE ADVISORY COMMITTEE:

The Chairman announced the item and Vice Chair Rogers moved the appointment of Commissioner Kuehler. The motion passed unanimously.

#### **MANAGER'S COMMENTS:**

The Manager stated that prior to the meeting he had distributed information requested by the Chairman showing property owned by either the County or the Board of Education. He said the staff had only received the report and had not yet reviewed it in detail but would review it in as much detail as needed. Mr. Greene said that if there are questions, he would be glad to bring the locations up on GIS.

### **COMMISSIONERS COMMENTS**:

Commissioner Mills reported that the World War II Memorial had been located on the grounds of the hospital and is a very nice one. He said the  $100^{th}$  anniversary of the Civil War Monument will be next year and there is a time capsule. He requested some historical information on its location.

Commissioner Mills said he had spent this weekend at Waxhaw at the Museum of the Waxhaws and attended its fund raiser.

He said that he had read that Susan Helms, a friend of his, had received the Art Award for special needs children and would request special recognition for her.

Vice Chair Rogers did not have any comments.

Commissioner Baucom reported that the Board of Equalization and Review's example of appeals is being aired now. He said there were four examples, and the county won all four. He expressed concern that the County is setting an example that discourages persons from appealing their complaints.

The County Manager said he was glad that was brought up as there is an interesting story behind it. He said the staff developed the cases that would be presented, but they did not script the Board of Equalization and Review; those were their real decisions. He said a decision was not predetermined.

Commissioner Baucom asked Keith Merritt for copies of all correspondence that he has had with Commissioners since his employ and copies of his billing. Mr. Merritt agreed to provide him copies and explained that the billing is sent to the County Manager's office and is available through that office, but he would be glad to furnish that to him.

Commissioner Kuehler reported that the Governance Committee met for the first time and announced that its standing committee meeting will be the fourth Wednesday of every month at 6:30 p.m. She said the meetings are open to the public and has included an item at the beginning of the meeting for public comments. Commissioner Kuehler stated that 19 of the 24 appointees were present at the first meeting and there was spirited debate.

Chairman Openshaw congratulated the North Carolina Teacher of the Year, Jessica Gardner from Porter Ridge, who was the Union County Teacher of the Year last year. He also congratulated David Daharie from Marvin Ridge who is the first man selected as Teacher of the Year for Union County. The Chairman said it would be incredible to see him follow in the footsteps of Mrs. Gardner.

He also congratulated Mayor Pro Tem P. E. Bazemore for being the recipient of the Karen W. Ponder Leadership Award for his leadership for the betterment of children.

Chairman Openshaw said he attended the annual antique tractor show held in Fairview this past weekend and invited the citizens to attend next year.

He extended his best wishes to Matthew Delk, Assistant County Manager, who is spending a month in misery with the United States Army, perhaps preparing for a tour of duty overseas. He announced that Mr. Delk is a legitimate hero as proven in the field of battle.

The Chairman asked for a motion to adjourn. At approximately 12:32 a.m., motion was made by Vice Chairman Rogers that the meeting be adjourned. The motion passed unanimously.