

Approved 7/20/2009

Minutes of Special Meeting of  
Union County Board of Commissioners  
Tuesday, June 23, 2009  
9:00 a.m.

The Union County Board of Commissioners met in a special meeting on Tuesday, June 23, 2009, at 9:00 a.m. in the Personnel Training Room, Room 131, First Floor, Union County Government Center, 500 North Main Street, Monroe, North Carolina. The purposes of the special meeting were to: 1) authorize the Chairman to sign a letter of intent to apply for a Community Development Block Grant (CDBG) and to call for a public hearing for the Dodge City water project; 2) receive an update on the Water Allocation Policy; and 3) discuss the fire fee legislation. The following were

**PRESENT:** Chairman Lanny Openshaw, Vice Chair Kim Rogers, Commissioner Allan Baucom (joined the meeting at 9:30 a.m.), Commissioner Tracy Kuehler, and Commissioner A. Parker Mills, Jr.

**ABSENT:** None

**ALSO PRESENT:** Al Greene, County Manager, Lynn G. West, Clerk to the Board, Matthew Delk, Assistant County Manager, Jeff Crook, Senior Staff Attorney, H. Ligon Bundy, Attorney at Law, Brett Vines, Public Information Officer, Ed Goscicki, Public Works Director, members of the press, and other interested citizens

Chairman Openshaw called the special meeting to order at approximately 9:10 a.m.

**1. Community Development Block Grant (CDBG) - Re: Dodge City Water Project**

Al Greene, County Manager, stated that Mr. Delk, the Assistant County Manager, has been working with the Public Works staff on the concept of an application for a Community Development Block Grant (CDBG) in connection with the Dodge City Project. He said if the project is funded the proceeds would be used to extend water service to the Dodge City area that has been a potential self-help project for a number of years. Mr. Greene stated that the number of residents who have asked to receive service under this potential self-help project compared to the costs of extending the lines indicates that the cost per resident will be unworkable, so,

therefore, staff has been working on an application for a community development block grant for the project. He stated that a letter of intent to apply is needed from the County.

Mr. Delk explained that he had attended a meeting about the community development block grant program and expressed an interest in a grant for this project to the Division of Community Assistance, which administers the CDBG funding. He said that it is thought that the infrastructure program of the CDBG funds would be a good opportunity for the Dodge City project. He said there are two factors associated with the grant that the County has no control over: 1) competition; and 2) competition from Tier I communities. He said that applications are pre-screened, and assistance is offered for the preparation of the application, and then the application goes to the federal government. Mr. Delk said that the requested action of the Board is authorization to submit a letter of intent to the Division of Community Assistance. He stated that if this effort were successful, then staff would come before the Board at a future date seeking permission to file an application.

Following the explanation, Vice Chair Rogers moved to authorize the Chairman to sign a letter of intent to apply for a Community Development Block Grant (CDBG) in connection with the Dodge City water project. The motion was passed by a vote of four to zero. Chairman Openshaw, Vice Chair Rogers, Commissioner Kuehler, and Commissioner Mills voted in favor of the motion. Commissioner Baucom was not present at the time of the vote.

## **2. Discus Fire Fee Legislation**

The County Manager stated that the Board had discussed the proposed fire fee legislation at its June 15, 2009, meeting. He said that Mr. Delk has spoken with Senator Goodall about this matter.

Mr. Delk stated that the bill is currently in Senate Finance, and Senator Goodall has not requested that it be heard. He stated that he had advised Senator Goodall of the Board's discussion at the June 15, 2009, meeting, and Senator Goodall had suggested e-mailing the other legislative delegation members and sharing the same information with them regarding the Board's discussion. Mr. Delk said that he had included in the agenda abstract provided to the Board in connection with today's meeting the information that he would propose be included in the e-mail. He stated that if it were acceptable to the Board to send the suggested e-mails, he would send the e-mails this afternoon. Mr. Delk said that as of yesterday afternoon, the proposed bill is not on the Finance Committee's agenda.

Vice Chair Rogers said that she has done some research on the fire fees and was able to find an agenda abstract for the Board's meeting of September 2006 discussing the need to develop a strategic fire service study. She said that it also discussed a fire fee versus a fire tax and the impact on the County's general fund. She stated that she had mentioned this because this matter has been going on since at least 2006, and she was not in support of killing the bill totally. She said that she would consider staff going back to Senator Goodall and asking him about amending the date in Section 2 of HB 565 from July 1, 2010 to July 1, 2011, to allow more time.

Chairman Openshaw said that he had spoken with Representative Blackwood and he had indicated that he preferred not to extend the bill. He said that Representative Blackwood had asked that he contact his assistant, which he did, and asked a number of questions and they referred it to staff. Chairman Openshaw said that he liked the compromise proposed by Vice Chair Rogers.

Commissioner Kuehler said that she had attended a Fire Commission meeting last Thursday, and the one recurring theme from all fee districts when they were going door to door asking for \$20 or so, was it did not work, and when the County gave them the fire fees, that had worked for a short time, but it is not working now. She said that Vice Chair Rogers' suggestion sounds like a good compromise to her.

Commissioner Kuehler noted that the Board had been very adamant in the new year's budget about a zero tax increase. She said that in her mind to take advantage of the legislation and raise the fees would not be zero, and, therefore, she would not support assessing the fire fees and amending the budget.

Commissioner Mills said that he thought it would be a mistake to extend the legislation for another year. He thought it would be safe for the legislation to be rescinded and then it could be brought back up again.

Chairman Openshaw said that he had thought of those factors as well and had discussed it with Representative Blackwood. He said that it does not seem that the bill is being pushed and that it will move forward. He pointed out that he did not know Vice Chair Rogers' position in this matter until he saw her in the parking lot this morning. He said that he thought fire fees was an issue that needed to be addressed.

Vice Chair Rogers moved to follow the staff's recommendation to communicate to the legislative delegation by e-mail the following: 1) the Board appreciates the time and attention devoted to the Board's original request but that it has just passed a budget providing for fire protection for the 2009-2010 fiscal year; and 2) that the Board is currently pursuing a fire study that will address fire

funding issues, but that it cannot assume that there will be enough time between now and July 1, 2010 to adequately complete the study, conduct any required hearings and notices, and implement a new system of funding. The motion further included a request that Section 2 of HB 565 be amended to read as follows: "G.S. 153A-236, as it applies to Union County pursuant to Chapter 883 of the 1991 Session Laws, as amended by S.L. 1995-61, S.L. 1999-39, and this act, expires July 1, 2011."

Mr. Greene stated that he was concerned that by asking for the additional year, it is more likely the bill would pass in its present form than if the Board were to ask that the bill not be moved forward. He suggested that if it could be understood and conveyed in the communication to the legislative delegation, that the Board would prefer that the bill be amended as stated by Vice Chair Rogers, but that if it is not amended, the Board would prefer that the bill not pass as opposed to being adopted in its present form.

Vice Chair Rogers reported that language had been added to the bill that was not requested by the Board. She stated that she would like for the Board to go back to the delegation to say that the request was to have the ability to increase the fire fees and the qualifier of July 1, 2010, was added, and the date needs to be at least July 1, 2011, because of the reasons set out in the staff's first two recommendations on the agenda abstract.

Commissioner Kuehler stated that the bill as currently written would allow the fire fees to be increased for FY 2009-2010. She asked if the request would be to amend the fiscal year from 2010 to 2011, so that it is only a one-year timeframe and offered this recommendation as an amendment to Vice Chair Rogers' motion. She said it was not an extension of the bill but would be a switch off of the fiscal year. Vice Chair Rogers accepted the amendment. It was discussed that this could be communicated to the legislative delegation by way of a cover letter to them.

Commissioner Baucom joined the meeting at approximately 9:30 a.m.

Chairman Openshaw recapped Vice Chair Rogers' motion as amended. He explained that the motion would keep the current bill as it is with a change in the fiscal year from 2009-2010 to 2010-2011. He said that it would postpone a mandated implementation of the increased tax until July 1, 2011, and that it would be mentioned in the cover letter to the members of the legislative delegation that the County would not be implementing a fee increase this year.

Commissioner Baucom said he thought it would be better to ask to rescind the bill and then send a request next year. He stated that changing the bill at this time would be a challenge. Chairman Openshaw commented that the Board had discussed that issue, but that both Senator Goodall and Representative Blackwood had indicated there has been no move to push the bill forward at this time.

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

### **3. Update on Water Allocation Policy**

Al Greene, County Manager, stated that staff has an Amended and Restated Water Allocation Policy for the Board's consideration today. Copies of the draft policy were distributed to the Board. He said that staff believes it is a good plan, and it meets the goals set by the Board and would accommodate new non-residential projects to the extent possible within the capacity limits. He explained that the proposed amended and restated policy sets a limit of 18 million gallons per day capacity under the potential scenario of one-day per week watering and would allow reclaiming of allocated capacity from projects that have not progressed.

Kevin Mosteller of HDR Engineering introduced himself and stated that he has been working with the County's team on the proposed amended and restated Water Allocation Policy. He explained the problem that led to the Water Allocation Policy is the current water treatment capacity is being exceeded during peak demand periods in the service area of the Catawba River Water Treatment Plant. He stated that capacity limitations in the Water Allocation Policy only apply to the part of the County served by the Catawba River Water Treatment Plant.

Mr. Mosteller stated that the Board adopted the current Water Allocation Policy in October 2008. He said that the current policy: 1) identified all the development projects for which some potential future connection to the Union County water system had been discussed; 2) established a baseline of one-day per week irrigation distributed over the five-week day periods which estimated available allocation of approximately 1.9 million gallons per day; 3) authorized the allocation of 3.6 million gallons per day as follows: a) 2.5 million gallons per day to Priority A projects (defined as those projects with water permits); and b) 1.1 million gallons per day to Priority B projects (additional projects that might not have a water permit but were closely tied to the sewer allocation policy and were going to be granted sewer under that policy).

He explained that the basis for the 3.6 million gallons per day allocation in the current policy while on paper there was 1.9 million gallons per day allocation. He said that the timing of new capacity would match the need for anything beyond the 1.9 million gallons per day or the potential to reduce outdoor irrigation to existing customers to no outdoor irrigation. Mr. Mosteller further stated the policy identified another one million gallons per day capacity to Priority C potential users.

He stated that while the policy was adopted on October 20, 2008, the key decisions were made in August or September which was about the same time that the County moved to the one-day per week irrigation distributed over five days. He said that not much data was available in October, and the data that was available from last summer when there was one day per week irrigation on weekend days. Mr. Mosteller said that in October, it was recognized that some of the actions taken in August and September were producing positive results, i.e. change in irrigation schedule, change in water rates.

He stated that since December 2008, this Board has directed staff to draft an Amended and Restated Policy. He reviewed the Board's directions for developing an Amended and Restated Policy as follows:

1. Develop a method to allow new non-residential projects that are ready to move forward to secure available capacity
2. Reclaim allocated capacity from projects that may not be making progress toward completion
3. Set minimum outdoor irrigation at a one-day per week basis and allow more frequent irrigation if conditions warrant
4. Avoid allocation above the County's capacity which is currently 18 million gallons per day
5. Require Board notification each time 100,000 per day capacity is allocated to new customers

Chairman Openshaw stated that he would express directive three a little differently to set outdoor irrigation at two days per week with a minimum of one day not to allow more frequent irrigation if conditions warrant. He said that the Board's focus had been two-days per week irrigation and then allowing for one day, but he said one thing for sure that the Board was trying to avoid was zero irrigation. Mr. Mosteller said that the draft policy might need to be modified to include the comments by Chairman Openshaw.

Mr. Goscicki explained that the one-day per week irrigation spread out over seven days is the engineering basis for calculating the 2.4 million gallons per day available capacity recognizing that it is the Board's desire to allow the residents to irrigate two days per week spread out over six days. He said the key is if the County has another hot, dry summer next year, the irrigation might need to be reduced to one day per week or in the worse case scenario to zero irrigation. He stated that the whole allocation plan in terms of calculating the available capacity is based on the one day per week irrigation spread over seven days.

Mr. Mosteller stated that the Amended and Restated Policy provides a directive to allow a reserve allocation for new non-residential and government facilities projects, and it allocates 144,000 gallons per day to those new projects. He said that with the one-day per week irrigation distributed over seven days, the proposed policy estimates 2.4 million gallons per day capacity to allocate. He said that all of the projects listed in Category A can be served under the Amended and Restated Policy and allow for the 144,000 gallons per day capacity to be reserved for new non-residential and government facilities projects that are ready to move forward. He noted that the proposed Amended and Restated Policy includes a mechanism to capture those projects that are not moving forward and to reassign that allocation to the reserved allocation.

Mr. Greene pointed out that in addition to increasing the amount of reserved allocation based on projects not moving forward which may lose permits or allocations, that number could also increase as a result of the County obtaining additional capacity from other sources.

Mr. Mosteller responded that an increase in the reserved amount would allow the Category B Projects (which do not receive allocation under this Amended and Restated Policy) that are non-residential and governmental facilities to move to Category A if they are ready to move forward.

Mr. Mosteller showed a table covering the period of May 2007 to June 2009 showing the various irrigation scenarios that the County has experienced. He said that so far, the staff believes that the proposed Amended and Restated Policy will avoid allocation of greater than 18 million gallons per day and will provide a high level of service to existing customers.

Vice Chair Rogers asked if the data would be available if the Board wanted to see the last two weeks' water usage information. Mr. Goscicki stated that the numbers had been updated as of Monday, June 22, and the usage was still below 13.5 million gallons per day.

Chairman Openshaw said that in reviewing all the documents that have been issued to date regarding the Allocation Policy, there has always been a caveat that there is a desire to have a full season's worth of data upon which to base decisions. He said that this data is not available and stated that the information being presented is great, but stressed that the information should be consistent.

Mr. Mosteller agreed that having a year's worth of data would be beneficial in making some of the decisions. He said that they have gone back and looked at some of the other periods and tried to make translations from them. He stated that it would also be good to go back and have data through a very dry season.

He stated that the proposed policy does require staff to notify the Board as each 100,000 gallons per day increments are assigned to new customers. Chairman Openshaw stated that the Board had received one notification of 100,000 gallons being allocated several months ago. He asked if there was another compilation since that time. Mr. Greene responded that staff maintains a running tab on the allocation, and it has not exceeded another 100,000 gallons yet. Mr. Garbark added that approximately 135,000 gallons have been allocated.

Mr. Mosteller reviewed other key elements in the proposed Amended and Restated Policy as follows:

Requires projects with water allocation to move forward toward completion in an effort to maintain that allocation. He stated that the mechanism for the County to recover capacity is that once the State issues a permit to a developer, which is issued through the County, after 22 months, if an engineer's certification of completion is not received by the State, then the County staff is notified that the engineer's certification has not been received and the permit will expire in a couple of months. He said that the State's form would ask if the County wants to extend the permit. He said that typically the County would indicate that it wants to extend the permit, but noted that going forward, staff would make an assessment as to whether or not the project is moving forward and if not, then deny the permit extension. He further said that the allocation at that point would be discovered and utilized.

Mr. Crook pointed out that there is some legislation pending that could impact the County's ability to recoup the capacity. He said he would be glad to discuss that with the Board at some point if it would like to do so.

Vice Chair Rogers noted that at some point, there had been discussion about the County having its own internal system for tracking capacity. She questioned whether the proposed policy allowed for such a system. Mr. Goscicki responded that he was unsure of the status of developing an internal system for tracking capacity. Mr. Bundy stated that such a system was not part of the proposed plan. He said that the tracking could be done administratively. Vice Chair Rogers said that she thought there had been discussion on an internal tracking system. Mr. Garbark responded that the staff is tracking sewer capacity.

Mr. Mosteller noted that under the proposed policy the non-residential reserve has been restricted to projects that have a maximum of 20,000 gallons per day of demand with the idea being not to allocate the entire 144,000 gallons per day to one user. He clarified that in the current policy restriction for non-residential reserve is 5,000 gallons per day. Mr. Mosteller stated that one of the basis for increasing that amount to 20,000 gallons per day is that if all of the projects listed in Category B, non-residential projects and

governmental facilities using 20,000 gallons per day or less chose to move forward, all of the projects could be covered with the 144,000 gallons per day reserve based on the current projections.

In response to a question by Vice Chair Rogers of how projects were determined to be included on the new table for Category B, Mr. Mosteller stated that the Category B, non-residential projects should be a close overlap of those Category B, non-residential projects from the current policy.

A copy of the proposed policy was distributed to the Board. Mr. Greene described the proposed policy distributed as being much simpler and more straightforward than previous versions and possibly easier to understand by itself without trying to track the history of the water allocation policy.

Vice Chair Rogers asked the basis for recommending that the non-residential reserved projects in Category B be moved from 5,000 gallons per day to 20,000 gallons per day. Mr. Goscicki stated that everything is based upon one-day per week irrigation spread over seven days. He said that the staff thought the 20,000 gallons per day projects would allow a larger mix of non-residential projects to move forward.

Mr. Bundy suggested that it might be helpful to explain how long a project can tie up allocated capacity. He explained that under the proposed policy that once a project receives a portion of the reserved allocation, the project must obtain a building permit and use the capacity within what is considered to be a reasonable period of time, or the capacity will be lost.

Mr. Crook commented that since adoption of the Water Allocation Policy in October 2008, the non-residential reserve allocation utilizing a 5,000 gallons per day cap is approximately 19,000 gallons per day. Mr. Mosteller stated that 144,000 gallons per day in the proposed policy for non-residential and governmental facilities (less the 19,000 gallons per day allocated to the non-residential projects since October 2008) would cover the remainder of the Category B non-residential projects.

Commissioner Kuehler asked if the proposed policy was saying that Category B projects would have priority over others. Mr. Mosteller explained that Category B projects under the proposed policy are not granted any water allocation whatsoever, only Category A projects. He said that the team recognized the Board's desire to allow non-residential projects that want to move forward to do so. He stated that once the Board adopts the proposed policy, the Category B projects could come forth and indicate they are ready to go.

Mr. Greene said that the only real advantage that Category B projects have is they would be ready to apply for a permit more quickly.

Commissioner Kuehler stated she was concerned that Category B and Category C projects are still listed and appear to be part of the policy. Mr. Goscicki commented that these are included for informational purposes only, but there is no commitment to these projects from the County to move forward with water allocation. Vice Chair Rogers recommended that the policy be amended to state that these Category B and C projects are included for informational purposes only.

Mr. Greene added that under the draft amendment there is no opportunity for the residential projects listed in Category B of 1.48 million gallons per day to move forward or any other residential projects other than those listed in Category A of the draft policy with the exception of the one-tap projects.

Mr. Goscicki stated that the Category B list identifies those projects that Public Works knows about today. Chairman Openshaw asked about projects not included on the Category B list but which might want to be on the list. Mr. Greene responded that if the proposed plan were adopted and there was remaining allocation under the non-residential reserve, and the project needs 19,999 gallons per day or less, they could bring their permit application and engineering data, then the County would send the permit information to the State. Mr. Mosteller stated that team has asked everyone with water availability letters last year to submit their letter, and that was the basis for those projects being included on the Category B list. He stated that Category C projects would be projects identified after the adoption of the proposed policy.

Chairman Openshaw asked if there is a waiting list for any projects other than Category B projects under the proposed policy. He said that it seemed to him that it would be advantageous to have a list of projects that might be potentially interested. Mr. Mosteller stated that those projects would be Category C, but unless the proposed policy is amended, Category C would never be a part of the policy. Chairman Openshaw questioned whether Category C should be referenced in the proposed policy for informational purposes only to encourage those projects so they will know they can be included on the list. It was noted that the proposed policy does reference Category C Projects. Mr. Greene stressed that those projects have no standing in terms of water allocation.

It was pointed out in the proposed policy, that the total capacity needed for all projects listed in Category B is 2,211,000 million gallons per day. Mr. Greene pointed out that the 2.211 million gallons per day includes residential which the proposed policy

does not allow to go forward. Mr. Goscicki also pointed out that the 2.211 million gallons per day is average daily demand, not peak daily demand.

Mr. Mosteller stated that the proposed policy anticipates and makes provisions for additional allocations to whomever and however the Board chooses if new capacity is identified. He said that two occurrences are taking place: 1) movement with Lancaster; and 2) bids are being received next week on the Anson County project which would bring in a total of two million gallons per day capacity by the end of next year.

Mr. Greene asked Mr. Mosteller to summarize and clarify the proposed policy. Mr. Mosteller stated that currently the plan sets as its basis the one-day per week irrigation distributed over seven days, which frees up approximately 2.4 million gallons per day capacity. He said that in the proposed policy, the capacity has been granted to Category A. He stated that the plan also grants 80,000 gallons per day to one-tap projects, and 60,000 gallons per day to self-help projects, which leaves 144,000 gallons for reserved allocation for non-residential and governmental facilities projects.

There was brief discussion regarding the Mill Bridge project. Mr. Crook offered that the legal issues regarding this matter could be discussed in closed session if the Board would like to do so.

Mr. Mosteller resumed summarizing the proposed policy. He stated that all of the Category A projects would receive allocation under the proposed policy, and the Category B projects, which are a compilation of the previous policy's Categories B and C projects, would not be granted water allocation under the proposed policy. Mr. Greene noted that of the Category B projects, the only ones that could potentially move forward if capacity were available would be the government facilities and non-residential projects with a demand of 20,000 gallons per day or less unless that number is changed.

Chairman Openshaw referred to the 60,000 gallons per day reserve for self-help projects included in the proposed policy. He asked if the Oak Brook, Polk Mountain and Wellington Woods I self-help projects were included in the 60,000 gallons per day allocation. Scott Huneycutt, Assistant Public Works Director, stated that the Oak Brook project was listed in the Category A projects. However, he said that he did not think that the Polk Mountain or Wellington Woods projects are listed in Category A projects. Chairman Openshaw stated that he thought the 60,000 gallons per day reserve for self-help should be increased. It was pointed out that the 60,000 gallons per day was double the capacity contained in the policy adopted in October 2008. There was discussion about other potential self-help projects that might occur in the future. Mr. Greene stated that the self-help projects reserve could be adjusted

to whatever the Board wanted but the additional allocation would have to come from the 144,000 gallons per day reserve capacity for non-residential and governmental facilities projects.

Chairman Openshaw stated that he would like to increase the allocation for the self-help projects and said that he would get back with staff with his recommendation for that increase.

Mr. Mosteller stated that the proposed policy does allow one-tap projects to include residents served by wells, and it does allow irrigation above one day per week if the conditions warrant.

In response to an earlier question by Commissioner Kuehler regarding the status of the discussions with Lancaster County, Mr. Greene said that there had been discussions with Lancaster representatives on a couple of occasions. He stated Lancaster's staff was prepared to present a request to its board. He said that Lancaster's staff is supportive of a request from Union County that Union County be allowed to lease additional capacity from Lancaster for a period of 18 to 24 months. He stated that Lancaster's staff would present that request at the next opportunity, possibly in August. He explained that Union County would be charged for not only the cost of producing the water at the current rate but also would be charged a lease payment. He cited as an example that if Lancaster were to lease two million gallons per day capacity to Union County, the annual lease payment for that amount would be based on Lancaster's prorata debt service for the treatment plant. He said that for two million gallons capacity that amount would be approximately \$110,000 annually. He stated that if Union County used the entire two million gallons capacity, it would be an additional fifteen cents per thousand gallons. Mr. Greene added that Union County would probably not use the entire two million gallons. He emphasized that this is a very good rate for water.

Vice Chair Rogers asked Mr. Greene if there have been discussions with Lancaster about obtaining additional capacity from them forever. Mr. Greene responded that there have been discussions with Lancaster's staff, but they are not comfortable with extending the additional capacity beyond the 18 to 24 month period.

Chairman Openshaw stated that if Union County receives two million gallons per day from Lancaster, it would take all of the capacity to be obtained from Anson County. He explained that any amount beyond the two million gallons is a number that cannot be validated and basically those two million gallons would be used to push out interbasin transfer water. Mr. Goscicki commented that was correct in that the two million gallons could not be double counted, because when the Anson project is completed, the additional capacity from Lancaster would go away. He explained that it would allow the County to advance the capacity anticipated from Anson and provides an interim capacity until the Anson capacity comes online.

Chairman Openshaw said the problem with that is basically there would be no new water for the Yadkin Basin if the County uses the entire two million gallons. Mr. Greene stated that it would be the Board's decision on how to allocate the two million gallons. Mr. Greene said that his example of the two million gallons from Lancaster was hypothetical, because it is unknown what amount Lancaster's staff will recommend to its board. He stated that Lancaster's staff was agreeable to present a scenario to its board.

Mr. Greene clarified that the lease payment for the two million gallons per day from Lancaster would apply to capacity, whether Union County uses the two million gallons or not, because Lancaster has debt service payments. Chairman Openshaw said that the two million gallon number needed to be massaged to a number that the County could live with. Mr. Greene said that what has been communicated to Lancaster is that if the leased capacity cannot be for a period longer than two years, it would be difficult for Union County to accept any amount over the two million gallons per day because the County has no water to replace that amount with at the end of the lease.

Chairman Openshaw stated that the scenario needs to be better thought out in terms of implications of using the entire two million gallons capacity and leaving nothing to the east side of the County. He said that once the Yadkin number is determined, then the amount of needed capacity could be determined to request of Lancaster. Mr. Greene suggested that the Board wait to see what amount Lancaster offers, and then at that time, the offer could be reduced.

Vice Chair Rogers asked if the costs associated with the additional capacity from Lancaster would be passed on to the County's customers or if it would come from the enterprise fund. Mr. Greene responded that staff would not recommend an increase in water rates at this time, but eventually the costs would be borne by the customers.

Vice Chair Rogers asked what the impact would be to go the lower stage in the rate structure. She further asked if the costs associated with the additional capacity from Lancaster would immediately be passed on to the customers and the rates increased. Mr. Goscicki stated that the numbers have not been run to determine what the increase would be.

In summary, Mr. Mosteller stated that the staff believed the proposed policy accomplishes the following objectives as expressed by the Board since December 2008:

1. Develop a method to allow new non-residential projects to move forward up to the reserved allocation available.

2. Reclaim allocated capacity from projects not moving forward.
3. Set a minimum outdoor irrigation at a one-day per week and allows more frequent irrigation if conditions warrant.
4. Avoid allocation of water above the County's 18 million gallons per day capacity.
5. Require Board notification when incremental capacity of 100,000 million gallons per day is utilized.

The Chairman asked if the numbers in the proposed policy were based on a one-day per week or a two-day per week irrigation schedule. Mr. Mosteller responded the numbers were based on one-day per week irrigation spread over seven days. Chairman Openshaw asked if there is a mechanism in the proposed policy that prevents the irrigation schedule falling below one day per week. Mr. Mosteller responded that the policy does not prohibit expressly going to zero days per week irrigation.

Chairman Openshaw moved to include in the policy a prohibition of less than one day per week irrigation.

Mr. Greene stated that there are two ways that it would be monitored: 1) through the new customers being added and the 100,000 gallons per day increase trigger; and 2) daily monitoring of demand.

Chairman Openshaw restated his motion.

Mr. Goscicki stated that there is a proposed water allocation policy, which is based on the amount of available water in the system, and there is a corresponding ordinance dealing with water conservation and restrictions. He said that to include an irrigation policy that deals with water conservation issues might be confusing. He suggested that the proposed policy might not be the best place in which to address the irrigation issue but suggested that perhaps it might be addressed in the water conservation ordinance.

Mr. Greene said that the proposed policy is predicated on the staff's best understanding of the water capacity and demand and the amount that can be allocated and the staff's being comfortable with allowing one-day per week irrigation. He said that for the staff to say that it can guarantee that irrigation would be allowed no less than one day per week is absolutely off the table. He said that staff cannot guarantee that there will always be capacity under any scenario for one-day per week irrigation, but the staff feels very confident that the proposed policy is a reasonable approach to meet the Board's objective. Mr. Greene said that under the

proposed policy, if there were climatic changes or contamination in the water source, then the Board would be in the position of making a decision as to whether or not to continue to allow irrigation at the expense of daily consumption of water.

Mr. Crook stated that if there is new capacity oncoming, whether it is with Lancaster during the transition period or with Anson, there is nothing in the policy that determines how that water would be allocated.

Vice Chair Rogers recommended that the Board be allowed time to review the proposed policy and then come back and incorporate the spirit of the Chairman's motion.

[No vote was taken on the motion.]

Chairman Openshaw said he would also like to see dual charts of the numbers included in the proposed policy with their impact on a peak day. He asked if the permitted capacity is the same as peak day capacity. He questioned the amount of permitted capacity. He said that he thought the County should be looking at those standards if for no other reason but as a metric to know where it stands.

Commissioner Mills asked if under Category A is there a timeline associated with those permits and if a project does not move forward, would the project lose that capacity under this policy. Mr. Mosteller responded that everyone in Category A has a permit through Union County as the permittee to implement a water system in its project. He said that if there is not an engineer certification to go to State within two years, the State notifies the County. Mr. Crook stated that there is legislation pending that could have an effect on that issue.

Mr. Goscicki stated that the proposed policy has more extensive criteria for new non-residential projects under Category B trying to move into Category A, with a 270-day period for those projects to move forward with building permits. The Chairman asked if this requirement would impact phased projects. Mr. Goscicki responded that the projects would need to be phased to correspond to their ability to develop. He said that larger developments that would take multi years would have to come to the County in phases, because the County would only commit the capacity that the projects can actually get built in the 270-day period. Mr. Goscicki said that the staff has been discussing in its weekly meetings looking at the whole development review and development commitment process and the time when capacity is actually committed.

Commissioner Mills stated that under the original policy, Category B projects have water. He asked if these were residential or non-residential. It was stated that it was both residential and non-residential. Commissioner Mills said that under the original policy, Category B projects have sewer allocation. He said that in the amended and restated policy, some of the projects still have sewer allocation. Mr. Mosteller responded that some of the projects do. He said that Categories B and C have basically been combined in the proposed amended and restated policy. Commissioner Mills asked about legal issues associated with Category B projects having no water and then some of the projects having sewer allocation.

Mr. Bundy responded that the attorneys would prefer to address those issues in closed session.

Commissioner Mills suggested that the Board take a short break and then go into closed session to receive legal advice from the attorneys.

Vice Chair Rogers stated that she would not be ready to adopt the proposed policy today but would like to have time to present questions regarding the proposed policy. She asked if staff would like for the Board members to send their questions to the staff. Vice Chair Rogers stated that she would send her questions to the Manager and he could forward them to whomever needed copies. She said that since there was going to be further discussion on the proposed policy, she did not see a reason to continue on with the discussion today.

Commissioner Baucom said that he would like to have the legal components addressed by the attorneys, which might affect some of the questions.

Mr. Bundy interjected that it was anticipated that the Board would want to hold a public hearing on the proposed policy before its adoption. Mr. Greene said that staff would recommend that the Board consider calling for a public hearing on the proposed policy on July 20, 2009, and that the only specific action requested of the Board today is regarding the plan would be to amend the definition of one-tap projects to include existing residences served by wells.

Commissioner Baucom moved to amend the definition of one-tap projects to include existing residences served by wells. Following discussion, the motion was passed unanimously.

At approximately 11:10 a.m., Commissioner Baucom moved that the Board go into closed session to consult with an attorney in order to preserve the attorney-client privilege in accordance with G.S. 143-318.11(a)(3). The motion was passed unanimously.

Following the conclusion of the closed session, at approximately 11:30 a.m., Vice Chair Rogers moved that the Board go out of closed session and to reconvene the open session. The motion was passed unanimously.

The Chairman reconvened the open session, and Vice Chair Rogers moved that the Board hold public hearings on the Amended and Restated Water Allocation Policy and the Community Development Block Grant project for Dodge City on Monday, July 20, 2009. The motion was passed unanimously.

With there being no further items for discussion, at approximately 11:35 a.m., Vice Chair Rogers moved to adjourn the special meeting. The motion was passed unanimously.