

Approved 7/20/2009

Minutes of the Special Meeting
Of the
Union County Board of Commissioners
June 25, 2009

The Union County Board of Commissioners met in a special meeting on Thursday, June 25, 2009, at 9:00 a.m. in the Commissioners' Conference Room, first floor, Union County Government Center, 500 North Main Street, Monroe, North Carolina. The purposes of the special meeting were to: 1) approve ambulance user fees; 2) discuss water conservation measures; 3) approve a change order increasing the amount of the SC-Telcon Contract for the Communications Radio Project by \$30,000; and 4) 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 following were

PRESENT: Chairman Lanny Openshaw, Vice Chair Kim Rogers, and Commissioner Tracy Kuehler

ABSENT: Commissioner Allan Baucom and Commissioner A. Parker Mills, Jr.

ALSO PRESENT: Al Greene, County Manager, Lynn G. West, Clerk to the Board, Matthew Delk, Assistant County Manager, Jeff Crook, Staff Attorney, Keith Merritt, County Attorney, Kai Nelson, Finance Director, Ed Goscicki, Public Works Director, members of the press, and interested citizens

At approximately 9:05 a.m., Chairman Openshaw convened the special meeting. Prior to establishing the agenda for the meeting, the Chairman asked what amount of time would be required to cover the Water Conservation discussion. Mr. Greene responded that would be dependent upon the Board but indicated that staff could complete its presentation in approximately 10 minutes.

Chairman Openshaw moved that the Board proceed forward with the agenda as presented. The motion was passed by a vote of three to zero. Chairman Openshaw, Vice Chair Rogers, and Commissioner Kuehler voted in favor of the motion. Commissioners Baucom and Mills were not present.

1. **Change Order Increasing the Amount of the SC-Telcon Contract for the Communications Radio Project by \$30,000:**

Al Greene, County Manager, explained that in May an agreement was executed with SC-Telcon for the construction of three towers, all of which were related to the County's radio communications system. He stated that at the time of the execution of the contract, Motorola, who is responsible for designing the interior layout of the equipment in the equipment buildings, had not completed that design. Mr. Greene said that when the bid was awarded to SC-Telcon, the bid did not include the electrical wiring of the equipment buildings because the layout design was needed before the bids for the wiring could be obtained. He stated that Motorola has now completed the interior layout design, and the County has negotiated a change order to the contract with the County that would allow it to proceed with the wiring of the buildings in conjunction with the construction. He said that SC-Telcon's subcontractor has provided a bid of \$5,000 per equipment building (6 equipment buildings) for a net increase in the contract price of \$30,000.

Mr. Greene stated that it is recommended that the Board approve the Change Order to the SC-Telcon Contract in the amount of \$30,000 to be taken from the project's contingency. He noted that this would leave a remaining balance of approximately \$130,000 in contingency for the project.

Vice Chair Rogers asked if it had been noted on the contract at the time the bid was awarded that the electrical design was deleted from the award and whether the contract had been awarded with the understanding that the \$30,000 was included in the award. Barry Wyatt, General Services Director, responded that the County knew that the electrical design was not included in the contract, because Motorola had not completed its final equipment layout. Vice Chair Rogers repeated her question of whether or not the deletion of the electrical design had been noted when the contract was awarded. Mr. Wyatt confirmed that this notation had not been made at the time the contract was awarded.

Following the explanation, Commissioner Kuehler moved approval of Change Order 1 to the SC-Telcon Contract for the electrical wiring of \$5,000 per equipment building for the six buildings at a total cost of \$30,000, to be taken from the project contingency. The motion was passed by a vote of three to zero. Chairman Openshaw, Vice Chair Rogers, and Commissioner Kuehler voted in favor of the motion. Commissioners Baucom and Mills were not present.

2. Ambulance User Fees:

Al Greene, County Manager, explained that at the time the 2010 Budget Ordinance was adopted, it was in anticipation of additional revenue from user fees generated within the Emergency Medical Services system for services to offset the County's appropriation to Union EMS during the 2010 fiscal year. He said that the increase in user fees would require the user fees to be increased to 120 percent of the median of ambulance user fees charged in adjacent counties. He stated that Jeff Crook has had discussions with Union EMS as to the best way to accommodate that increase and as a result of those discussions, Mr. Crook has prepared a suggested motion to increase the fees, which was included in the agenda package for today.

Following the explanation, Vice Chair Rogers moved that the Board of Commissioners approve ambulance user fees at 120% of the median of those ambulance user fees charged in counties adjacent to Union County, such fees to become effective on or after July 1, 2009. The motion was passed by a vote of three to zero. Chairman Openshaw, Vice Chair Rogers, and Commissioner Kuehler voted in favor of the motion. Commissioners Baucom and Mills were not present.

3. Discuss Water Conservation Measures:

Vice Chair Rogers suggested that the order of Item 3 be discussed as follows:

- b. Review/Consultation Regarding Revised Conservation Declaration
 - c. Consider Amendment to 2010 Budget Ordinance
 - a. Discussion of Water and Sewer "Balance Sheet"
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- b. Consider Amendments to 2010 Budget Ordinance**

The County Manager explained that Item b is a revised Declaration regarding Water Conservation Measures. He said that the Water Conservation Ordinance requires consultation with the Board before amending the Declaration.

He stated that the County is currently under Stage II of the Mandatory Water Conservation Restrictions. He said there are several of the conservation measures that are optional under various stages. He stated that it is recommended that the County remain in Stage II of the Mandatory Water Conservation Restrictions but to rescind the following measures:

1. Filling new swimming pools
2. Washing residential vehicle
3. Washing public buildings, streets, sidewalk and driveways
4. Using water for dust control during construction
5. Serving drinking water at restaurant except upon request
6. Conducting flushing or hydrant testing programs

Further, he noted that there are three conservation measures that are recommended to remain in effect as follows:

1. Using water from public or private hydrants for any purpose outside Union County other than emergency fire protection and bona fide farm purposes, as defined in Article II, Section III of the Water Conservation Ordinance.
2. Using water for any unnecessary purpose or wasting water
3. Two-day per week irrigation schedule as promulgated on January 28, 2009.

c. Amendment to 2010 Budget Ordinance

Mr. Greene stated that Item c would be a discussion regarding an Amendment to the 2010 Budget Ordinance. He explained that the utility rate structure is adopted each year in conjunction with the Budget Ordinance. He said that there are a number of tiers in the County's water rates depending on the Conservation Stage that the County is in. He stated that there are four levels in the inclining rate structure depending upon the severity of conditions and capacity constraints at any given point in time. Mr. Greene stated that currently the County is in Stage II Water Restrictions for conservation measures and billing purposes, which requires that the County charge the second inclining tier of the Stage II Water Restrictions in the water and sewer rate section of the budget ordinance.

He said that as part of the recommendation on the conservation measures, it is recommended that the County's rate structure be amended to provide that even though the County is in the Stage II Water Restrictions, the increased tier provision would be waived until May of 2010. He explained that this would allow a reduction in rates for higher consumption for residential use. He said that while the County would like to remain at two-day irrigation for a number of reasons, the staff thought that the punitive effect of the rates for those residents who choose to irrigate heavier on their two-day allotment could be relaxed.

Vice Chair Rogers asked if there is any County policy that prohibited the County remaining at the Stage II Water Restrictions and moving to the Stage I water rate structure. It was noted that there is no policy that would prohibit going to Stage I water rate structure while remaining in the Stage II Water Restrictions.

She requested that not serving drinking water at restaurants except upon request remain in effect in the water conservation restrictions. She said that she thought this was a good practice.

Commissioner Kuehler asked about the mechanism to amend the fees based on the actual future weather conditions. Mr. Greene explained that under the proposal, in May 2010, the Board would need to take action to continue to remain in Stage II Water Restrictions but not to charge the additional inclining rate. Mr. Crook responded that this was correct and advised the Board that should it want to amend the fees prior to May 2010, it could adopt another amendment to the budget ordinance.

Following the discussion, Vice Chair Rogers moved to approve the revised Conservation Declaration as recommended with the exception that the following restriction remain in effect: Serving drinking water at restaurants only upon request. The motion further included the adoption of an Amendment to the 2010 Budget Ordinance as recorded below.

DECLARATION

June 25, 2009

Following consultation with the Union County Board of Commissioners and the Public Works Director, a modification to the mandatory water conservation restrictions under the current Stage II Water Shortage Condition is hereby declared.

Recognizing an easing of the drought conditions that we have experienced for the past two years while also considering the capacity restrictions of our current water supply system, Stage II mandatory water conservation restrictions are amended as follows:

The following restrictions which have been in effect since January 28, 2009 are hereby rescinded:

- Filling new swimming pool

- Washing residential vehicle
- Washing public buildings, streets, sidewalk and driveways
- Using water for dust control during construction
- Conducting flushing or hydrant testing programs

Stage II mandatory water conservation restrictions that remain in effect are:

- Using water from public or private hydrants for any purpose outside Union County other than emergency fire protection and bona fide farm purposes, as defined in Article II, Section III of the Water Conservation Ordinance
- Using water for any unnecessary purpose or wasting water
- Two day per week irrigation schedule as promulgated on January 28, 2009
- Serving drinking water at restaurant except upon request

Al Greene
County Manager

AMENDMENT TO BUDGET ORDINANCE

The Union County Fiscal Year 2009-2010 Budget Ordinance is hereby amended as set forth below.

1. Section XI(B), WATER AND SEWER RATES, Monthly Service Charges. Add the following sentence after the table indicating Monthly Volume (Usage) Charges but before the double asterisk (**):

The imposition of additional monthly volume (usage) charges attributable to the declaration of various stages of water restrictions shall be suspended, such that the monthly volume (usage) charges for monthly gallons billed shall be equivalent to those indicated for Stage I, No Water Restrictions; provided, however, that such suspension shall become effective for all bills rendered on or after July 1, 2009, but before May 1, 2010; and provided further that the Union County Board of Commissioners may rescind or further modify this provision by amendment at any time, should conditions warrant.

2. Except as herein amended, the terms and conditions of the Fiscal Year 2009-2010 Budget Ordinance shall remain in full force and effect.

Adopted this the 25th day of June.

The motion was passed by a vote of three to zero. Chairman Openshaw, Vice Chair Rogers, and Commissioner Kuehler voted in favor of the motion. Commissioners Baucom and Mills were not present.

a. Discussion of Water and Sewer "Balance Sheet"

Prior to beginning the discussion on this item, Vice Chair Rogers suggested that Mrs. West, Clerk to the Board, try to contact Commissioner Baucom by telephone to determine whether or not he would be attending the remainder of the meeting. Mrs. West attempted to reach Commissioner Baucom by telephone but was unable to do so.

The Manager explained that over the past couple of years, there have been a number of factors that have had a dampening effect on the growth and revenues of the County's water and sewer system, i.e., capacity issues, drought issues, and the resulting conservation measures. He said that over the last month or so there have been more short-term implications for the expenses. He stated that most notably among those would be the Board's decision to move ahead with the issuance of the \$20 million in debt associated with the forward starting swap. Mr. Greene said that today the staff has consulted with the Board on an amendment to the Water Conservation measures and the Board has adopted an amendment to the 2010 Budget Ordinance. He explained that the impact of the Budget Ordinance amendment, while it is hard to model, is probably going to have an effect on the County's revenues. He said that this had led staff to the conclusion that it might be good to have a general discussion with the Board about the water and sewer fund, the balance sheet, and the potential need in the future to look at the rate structure. He recognized Kai Nelson, Finance Director, for comments.

In connection with the expense side of the ledger, Mr. Nelson stated that the Board would be having discussions soon with the City of Monroe in connection with partnership opportunities. He said that the staff feels that in advance of that discussion, there probably needs to be a discussion on the short-term Capital Improvement Program (CIP), those expenditures that are reasonably expected to occur within the next one to three years.

Mr. Nelson said that more of the major infrastructure projects, whether a regional water treatment for the Yadkin Pee Dee Basin or partnering with the City of Monroe on wastewater, are going to occur outside the one to three-year period. He stated that based on an initial review, it appears that with the water and sewer capital project ordinance and the \$20 million from the revenue bonds, there will be sufficient funds to cover most of the projects that will probably be in the near-term CIP, such as Anson County water improvements. Mr. Nelson said that staff does not anticipate within the next three years any additional debt issuance relative to the water and sewer system. He stated that clearly going beyond three years and in looking at the master plans, there are probably some significant amounts.

He discussed the annual debt service in connection with the \$20 million issuance and estimated that debt service to be approximately \$1.4 or \$1.5 million, which is currently not in the rate structure. He stated that the debt service on the lease payments for the additional two million gallons per day (mgd) for two years from Catawba is approximately \$100,000, which is also not in the rate structure. He addressed the impact of moving to the rate structure for Stage I - No Watering Restrictions. He explained that if it were assumed that water consumption remains the same, the impact would be approximately \$80,000 per month for approximately five months (due to irrigation). Mr. Nelson said that the combined impact of all of the decisions is approximately \$2 million. He stated that in connection with the 2010 budget, there is sufficient flexibility in that budget to address this issue but stressed on a long-

term basis (2011-2012), it demands a more comprehensive review of the revenues, consumption patterns, and expenses. He said that as he had indicated earlier in the discussion, he did not anticipate in the upcoming one to three years incurring any additional debt relative to capital projects.

Chairman Openshaw asked whether this allowed for the requirements needed for the Anson County water, which he said that he would like to have discussions about. Mr. Greene responded that staff has planned a workshop with the Board in the coming weeks to review the entire CIP process.

Mr. Nelson pointed out that roughly 80 percent of the County's customers never use more than 10,000 gallons per month. He said that 80 percent of the customers consume approximately 50 percent of the County's water and 20 percent of the customers consume the remaining 50 percent.

Chairman Openshaw questioned whether Pilgrim's Pride is included in the 20 percent. Mr. Nelson stated that he was referring to only the residential customers. Chairman Openshaw asked what percentage of the water is for non-residential use. Mr. Nelson responded that he would have to bring the answer to that question to Board at another time.

Ed Goscicki, Public Works Director, commented that the County has largely a residential customer base. Chairman Openshaw stated that he would like to know the amount allocated for Pilgrim's Pride.

Vice Chair Rogers referred to the \$80,000 in loss revenues as a result of going to Stage 1 rate structure. She asked if there was a reason why the restrictions would not be relaxed on the amount of watering to makeup for that loss in the short-term period. Mr. Greene responded that in effect, that was what was being done. He explained that there is an offsetting measure but that there is not really a method to predict the amount of offsetting there would be. She again asked about relaxing the watering restrictions at the present time since capacity is available now.

Chairman Openshaw responded that the peak day capacity would be the problem. Mr. Greene stated that there was concern about capacity, because it is unknown what the weather patterns will be in July or August. He said that if the County were to go to three-day irrigation, there is a concern if the rainfall does not continue, that the three-day irrigation would have to be reversed fairly quickly. He stated that it would take a month or more to sit down and logistically determine how to handle the three-day irrigation. He said that it is thought from the customer's standpoint with reasonable awareness with conservation measures, two-days per week

irrigation should be sufficient for most customers. He stated that from the staff's standpoint, the third day irrigation is seen more as a revenue producer.

Vice Chair Rogers said that all of her questions right now are driven by revenue and not by allowing three-day or four-day irrigation. She said that she understood what the Manager was saying that there would be some overhead associated with it. Mr. Greene said that there were other concerns that staff would like to model such as the two-day per week irrigation through the summer, so there will be better data to work with next year and in future years. He said that there is also a concern about changing the irrigation schedule too many times causing confusion for the customers. He stated that he thought the longer the two-day per week irrigation continued, the more effect it would have on the customers' mindset and awareness of conservation measures.

Vice Chair Rogers referred to the \$100,000 debt service on the lease payments for the additional two million gallons per day from Lancaster for approximately three years. She questioned whether the \$100,000 was on an annual basis. She asked about the cost analysis on the two million gallons per day capacity versus the \$100,000 debt service payment. She questioned the amount of revenue generated from the additional two million gallons per day to offset the \$100,000.

Mr. Greene responded that he believed it was nearly impossible to answer those questions, because it is not known how much more water will be allocated this fiscal year. Further, he said it is not known when projects would come online if water were allocated to new commercial projects and what the demand would be.

Vice Chair Rogers said, as she had understood it from the June 23, 2009, meeting, that the \$100,000 expense would be spread over the current customer base. Mr. Greene offered that one way of looking at the \$100,000 might be that there are approximately 40,000 customers, and each of those customers' prorated share of the \$100,000 per year would be less than one dollar per month.

Mr. Nelson noted that the County has not had a comprehensive rate analysis conducted for at least seven years. He said that the County did embark on a comprehensive review of its capacity and fees several years ago. He stated that effort had been terminated because there was not a capital improvement plan. He said that in the upcoming fiscal year, there are a number of decision points that the Board will need to take such as adopting a CIP and in connection with the CIP complete a comprehensive rate and capacity fee analysis.

Chairman Openshaw said that at the present time, the Board needed to look at the \$100,000 expense in connection with new projects and if a separate rate structure can be created for those customers until the Anson Water project is completed. Mr. Greene

suggested that staff be allowed to answer those questions during the future work session. He explained that there are a number of logistical and equity reasons why a separate rate structure for those customers might not be the best approach.

Vice Chairman Rogers said that she would like to look at some type of premium or a user fee in the future rather than altering the rate structure.

Mr. Nelson reiterated that in the coming months there are a number of decisions that the Board will have to make and staff understands that those decisions will be predicated on the appropriate work sessions. He stated that these decisions should take place within the next six months while the Board is comprehensively looking at the water and sewer system for the next three years, and the discussions should not be part of the budget discussions.

Mr. Nelson referred to his earlier statement that 80 percent of the County's customers use less than 10,000 gallons per month even seasonably. He said that at looking at rate adjustments since 1997, 80 percent of the customers are paying less in rates today in actual nominal terms than they did in 1997. He stated that there have been a number of rate adjustments over the years. He said that the County has been able to accomplish what it has in the utility system for the past 15 years through customer growth and through the 20 percent of customers who use 50 percent of the water. Mr. Greene added that the long-term implications of the 20 percent of the customers who use 50 percent of the water are very significant in terms of future capital costs.

Chairman Openshaw said at some point, he thought there should be a public information article spelling out the fact that the customers are paying less in rates now than they did in 1997. He stated that he received more calls on this issue during the budget discussions from residents on fixed incomes than he did on any other issue. He said that he thought a 3,000 gallons per month rate is something the Board probably should consider adjusting to no more than the rate of inflation, if at all.

Vice Chair Rogers requested a five-minute recess at 9:55 a.m. At approximately 10:00 a.m., the Chairman reconvened the special meeting and 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) and to consider and receive advice concerning the following judicial action: Thomas J. P. Marsh vs. Union County Board of Adjustment, File No. 09 CVS 00030. The motion was passed by a vote of three to zero. Chairman Openshaw, Vice Chair Rogers, and Commissioner Kuehler voted in favor of the motion. Commissioners Baucom and Mills were not present.

The Board members remained in the Conference Room for the closed session. All persons not invited by the Board to remain in the closed session, left the Conference Room.

At approximately 10:20 a.m., in open session, Chairman Openshaw moved that the Board go out of closed session. The motion was passed by a vote of three to zero. Chairman Openshaw, Vice Chair Rogers, and Commissioner Kuehler voted in favor of the motion. Commissioners Baucom and Mills were not present.

With there being no further discussion for the special meeting, at approximately 10:20 a.m., Chairman Openshaw moved to adjourn the special meeting. The motion was passed by a vote of three to zero. Chairman Openshaw, Vice Chair Rogers, and Commissioner Kuehler voted in favor of the motion. Commissioners Baucom and Mills were not present.