

Minutes of the Special Meeting
Wednesday, August 19, 2009
9:00 a.m.

Approved 9/21/2009

The Union County Board of Commissioners met in a special meeting on Wednesday, August 19, 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 as follows: (1) to continue discussions relative to the Water Allocation Policy, including potential self-help projects, and (2) to go into closed session to prevent disclosure of information that is privileged or confidential pursuant to G.S. 131E-97.3 in accordance with G.S. 143-318.11(a)(1), and to discuss matters within 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, Commissioner Allan Baucom (joined the meeting at approximately 10:25 a.m.), Commissioner Tracy Kuehler, and Commissioner A. Parker Mills, Jr. (joined the meeting at approximately 10:20 a.m.)

ABSENT: None

ALSO PRESENT: Al Greene, County Manager, Lynn G. West, Clerk to the Board of Commissioners, Jeff Crook, Senior Staff Attorney, Ligon Bundy, Attorney at Law, members of the press, and interested citizens

At approximately 9:05 a.m., Chairman Openshaw convened the meeting and recognized Al Greene, County Manager, for comments.

Mr. Greene stated that he had written topics on the flip chart that staff thought probably should be discussed at some point during the meeting which included:

1. Review of draft policy;
2. Identify Commissioners' questions and comments;
3. Review recent legislation;
4. Update on self-help projects; and

5. Contractual matters (Anson and Lancaster).

Mr. Greene stated that from the staff's perspective, it would be advantageous to spend as much time as possible reviewing, discussing, and clarifying questions and concerns that the Board has in connection with the current water allocation policy.

Mr. Greene stated that in regards to item 1, Kevin Mosteller of HDR is prepared to review how the numbers in the draft policy were derived.

The Chairman responded that the Board has been previously given numbers or estimates, not hard and fast numbers. He said many of the estimates given in the past have been incorrect and to ask the Board to buy-in to the numbers as anything other than a best guess is asking the Board to suspend its disbelief. He said that one of his concerns is that the numbers have not held up. He further said that the policy should be relevant going forward and not only should it address the current allocation but also the future allocation. He stated that he understood that the numbers are estimates, but he has not seen any evidence that he can count on the numbers.

Mr. Greene stated that he understood the Chairman's concerns and suggested that the first place to start the discussion today would be for Mr. Mosteller to explain how the numbers were developed. He agreed that any numbers used in the development of a policy would be estimates but stressed that it is important that the Board agree with those estimates.

The Chairman said that is a concern for him because the numbers are best estimates, but it does not mean he believes the numbers, which causes him real angst.

Chairman Openshaw questioned the estimated 2.4 million gallons per day and asked what would happen if it reaches a point where the water usage in the Catawba River Treatment Plant Service area is 18 million gallons per day. He asked if it needed to be projected to show each time someone comes in and when it gets to the point where irrigation is one-day per week, then everything else stops at that point, because there is zero reserve capacity.

Ed Goscicki, Public Works Director, commented that the Chairman was correct. He said that the challenge is that allocations have been made and that process has stopped. He said it is not a situation where it has reached 80 percent of the plant capacity and construction has begun on a new plant. He stated that there is a process that now reviews capacity that has been committed through permits, availability letters and contracts, and they are trying to develop a process of how to make allocations. He said that the current

policy does not allocate to new projects, and everything that is included in the allocation policy is an existing project that has been in some type of submittal phase with Public Works for a period of time.

Mr. Goscicki said that they have tried to create a model that can control the demand side through irrigation, reduce the peaking factor, and that will allow continued permitting of existing projects while continuing discussions with Anson and Lancaster to secure additional capacity.

Commissioner Kuehler asked once the plant at Twelve-Mile Creek reaches 80 percent capacity, could 100 percent of the plant capacity be used. Mr. Goscicki responded that at 80 percent the State would want to see the County either in design or have a new solution, whether it is expanding the plant or putting in an alternate discharge facility.

Vice Chair Rogers questioned if there was a warning point from the State in connection with water capacity. Mr. Greene responded that he was not aware of any such warning point. She said that she did not need to review the draft policy at this point but stated that she thought the Board needed to identify the specific questions that they have and get answers to those, find out about the new legislation and its impact, and then maybe review the numbers and determine a comfort factor or contingency percent to add on to the numbers.

Chairman Openshaw asked staff to tell the Commissioners how much water is needed beyond the 2.4 million gallons per day. The Chairman said he wanted that number verbalized so everyone could hear it. He said he wanted people to understand the scope of the problem.

Mr. Mosteller stated that he believed the number was 4.6 million gallons per day. He said that when the 2.4 million gallons per day had been discussed in past presentations, it was an average day number. Mr. Gosckicki commented that the 2.4 million gallons per day number was derived by reviewing the peak day flow.

Mr. Mosteller reviewed how the 2.4 million gallons per day number was determined. He said that the average demand varies seasonably and according to the irrigation pattern. He explained that one reason the Board has heard a number of different peaking factors is because they have been used in the context of a couple of different scenarios. He said that it has been discussed in the context of the water allocation policy as it relates to a short-term look at irrigation impacts. He further said that it has been discussed in relation to the eastern water supply when looking at it from a longer term of what should be built for capacity. Mr. Mosteller stated there are a number of different variables that drive demand.

He said that in looking at the last three summers when the irrigation season has been active, was the average flow during irrigation season was 13.4 mgd, 10.8 mgd, or 9.2 mgd., respectively. He said the average flow during the irrigation season was determined to be the average of the three numbers, which would be 11.1 mgd.

Vice Chair Rogers stated that for planning purposes, was the plan based on the worse case scenario, best case scenario, or average? She said that by using these numbers, staff has chosen to plan based on the average but also the worse case scenario, because they have looked at irrigation.

Chairman Openshaw asked why it should be averaged over a period of three years. He said it seemed to him that the worst numbers of the three years should be used because the plant would be built for the peak day. Mr. Greene responded that there are some variables that the County can control and some that it cannot.

Mr. Mosteller reviewed the worse case scenario during which time there was unrestricted irrigation. He explained that there were only a couple of weeks of data available for this time period. Mr. Greene asked if the Board wanted to exclude the worse case scenario which occurred in 2007. Chairman Openshaw said that his opinion would be that it should be included and questioned why it would not be included.

Vice Chair Rogers pointed out that the current policy is based on two-day per week irrigation. She said that she thought what the County Manager was saying is very true in that the staff has to get the buy-in from the Board of Commissioners on the baseline.

Mr. Greene asked the Board if it would like for Mr. Mosteller to explain what the staff has included in the plan and then go back and adjust it by possibly including data from 2007. Chairman Openshaw responded that he has given this issue a lot of thought and there are other variables. He said that he thought the Board needed to know the big picture of what needs to be done and how to do it. He said that he had asked for a chart that shows everybody who has water and sewer permits and shows the names of the projects. He said that he wanted to see the big numbers right next to the projects. He said that he saw numbers on the chart that are online, which are not coordinated with the sewer information as provided on the chart given to the Board. Chairman Openshaw said that he was looking for the people on the chart who have water and sewer permits and how many gallons that represents.

Mr. Greene asked if those persons who have water permits but no sewer permits would be excluded. Chairman Openshaw said that this would be represented in a separate column. He stated there could be a master list with as many columns as desired, but he

wanted a separate sheet showing only the sewer permits, and a separate sheet showing only the water permits. Mr. Greene said the point he wanted to make is that the staff had stressed that those with water permits should be included in an allocation and that was the basis of the numbers. He stated that if the Board wanted to understand the total numbers, then staff has available the information needed to review those numbers.

Chairman Openshaw said that he was disappointed that there had not been more specifics discussed at the public hearing. He stated that for the projects that did not make the list, they needed to be looked at in the sewer allocation and new projects. He said that the Board's foundation has been all along that it was trying to find a way to free up some water for new projects. He questioned how many years it would take some of the projects to be built. He cited as an example that Mill Bridge has 2,500 homes permitted but has water allocated for 1,045 homes. He said that he thought the County has to find a way to work with some people in order to keep the projects alive.

He said what he is trying to create is a scenario that the Board can look at and say there are those who have water and sewer permits or contracts, and they will be the priority for water and sewer, because the issue becomes "Are they going to use it?" Mr. Greene responded that the current draft policy identifies everybody with water permits.

Commissioner Kuehler asked for clarification on the 11.1 million gallons per day average flow. Mr. Mosteller explained that the 11.1 million gallons per day is the average flow that has occurred during the past three summers. She asked if this number included irrigation. Mr. Mosteller responded that it did include irrigation. She asked when 250 gallons per day flow is allocated per day per house for a subdivision of 250 houses, does that number include an irrigation factor. Mr. Mosteller replied that the 250 gallons per day does not include an irrigation factor. He explained that before arriving at the 2.4 million gallons per day available capacity, the irrigation peak was taken out, so the estimated real allocation amount is 3.2 million gallons per day.

Mr. Greene asked if it would be helpful for Mr. Mosteller to go through the map at this point so everyone would understand how they had arrived at the projections. Vice Chair Rogers responded that the only way she would see that it would be helpful is if there is going to be any believability in the map at this point in time when it sounds like there are holes in some data that has been requested by the Board. Mr. Greene said that the staff would be glad to provide the requested data. He said that it is known how much water is allocated to those with permits in hand. He stated that staff has this information, but it is not connected to sewer.

Mr. Mosteller interjected that he thought the question was "Did the Board believe in the 2.4 million gallons per day number for allocation?" He said that the answer to that question was "no" and there needs to be a comfort level with it, which is separate from to whom can the 2.4 million gallons per day be allocated.

Mr. Greene stated that one point he would note is that Categories B and C are off the table, and under no one's estimations with the assumptions that the Board has given is there water for the projects in Categories B and C.

Commissioner Kuehler asked how many projects under Category A do not have sewer permits. He offered that the staff is currently in the process of compiling a spreadsheet with that information. Mr. Garbark explained that a "WO" beside the project names on the Category A list are water only projects, and they do not have sewer permits. He said that all projects in Category A have sewer permits unless it is indicated by a "WO" or "septic" by the project name.

Chairman Openshaw again requested to have everything broken down in separate lists. He said that he would also like to see this information broken down by municipality. He further requested to have the information inputted into a software program that would allow the information to be tracked and posted online so that the interested public, either the development community or the general public, could view all of this information throughout the process. He said he had requested that this be done in the past and was now asking for direction from the Board to support his request.

Vice Chair Rogers asked the Chairman to restate his request. He repeated that he wanted all of the relevant data to the development process to be available online, even down to the details of status of the projects in the permitting process. He said that if the schools had access to this information, they could start to plan better.

Vice Chair Rogers asked what information is currently available. Mr. Goscicki responded that there are multiple spreadsheets used within the Public Works Department to track the sewer and water allocations. He said that Public Works' staff is in the process of combining the spreadsheets and is considering more and more the need for an Access database, because the information is becoming too difficult to manage in Excel. He stated that they have begun evaluating whether a software program is available for what is needed or whether one could be developed in-house with the support of Information Systems. The Chairman stated he was told that a software program was being developed in-house years ago.

In response to a question by Vice Chair Rogers regarding whether there is an existing external tracking system, Mr. Goscicki stated that the water allocation policy is online.

The Chairman asked if there was newer data online than the October 2008 information. He said that this information should be updated every day. He stated that he has been asking for this information since the APFO committee group met several years ago. He said it is still not done and the schools cannot access it. He stated that it was public information and that it was time for the County to go into the 21st century.

Vice Chair Rogers asked if the Chairman was requesting that the Board give direction to the County Manager and Public Works to investigate available software programs and then come back to the Board with those costs and recommendations. Mr. Greene responded that the staff has made tremendous progress in developing information on this project. He said that staff was very much ahead of where it was in October of 2008 in gathering data on these projects. He stated that the information could be sorted in as much detail as needed, and the staff could attempt to find software programs that would accommodate it. He stated that he believed it would have very little impact on the allocation of available water. The Chairman commented that it had impact on how it could have stopped the situation from happening in the first place and implications on how to prevent it from happening in the future.

The Chairman said that one of the big problems that he has is that it is another caulk to the leak in the wooden sailboat with a piece of bubble gum; then move on until the next leak occurs; and then get another piece of bubble gum. He stressed that it is time to deal with the project as a whole, not just for now but for the future too. He said that the problem, which he sees so often, is it is putting out this brush fire and putting out that brush fire. He stated it is time to get ahead of the game. Chairman Openshaw said he had been asking for the software and has been told year after year after year, not just by this administration, but by others in the past that it is being worked on, and then he finds out it will not communicate with other existing software. He stated the point that is everyone is supposed to be able to access this information.

Vice Chair Rogers said that it seems that staff understands what is being requested, but what the Chairman wants to see is formal direction. She said that the Board could give formal direction to staff to investigate or look at the software packages available that would enable the public to get read only access, and it would enable the staff to combine all the data and work with the municipalities. Mr. Greene responded that he thought staff understood what the Board wants and is working toward that goal. He asked what direction the Board wanted to go with today's meeting.

Chairman Openshaw said that he wanted it in the minutes that the Board has directed staff to address this problem. Vice Chair Rogers stated that the Clerk to the Board maintains an action items list for the Board and asked if her preference would be that the direction be in the form of a motion or by consensus. Chairman Openshaw said that he was comfortable with it being that the Board

has voted to give staff direction. The Vice Chair stated that she thought Mrs. West has captured that information, and it would be included on the Board's action items. Chairman Openshaw clarified that this was the Board's direction and by consensus, the Board agreed that this was the Board's direction. Chairman Openshaw, Vice Chair Rogers, and Commissioner Kuehler were present. Commissioners Baucom and Mills were not present.

The Chairman said he did not want to have to go through different documents to correlate the data that he needs to be able to make the best decisions. He stated that there is other information that has been asked for repeatedly, such as information about the Auto Bell on New Town Road, which shows an allocation of 2,300 gallons per day. He said that Auto Bell has been built for approximately one year and questioned how much water it is actually using on a monthly basis. He said he would like to see that information updated. He stated that he wanted to see all of the data updated with current usage and wants to compare those numbers with the assumptions.

Mr. Goscicki agreed and assured that staff is working on this information. He stated that better tools are needed in order to track and monitor this information. He stated that in the water column, it shows that there are 2.4 million gallons of water per day to allocate, and if the data is tracked a little tighter, there might be a little more or a little less water to allocate. He noted that this would only expand or decrease the non-residential component that has been plugged into the revised policy. He stated that it would not change the concept or the overall program. He said that staff agrees that it needs to be administered as best it can and improve its tools, but in terms of the overall big picture policy, it is not going to change the 2.4 million gallons per day.

Mr. Greene commented that the key is not to look at monthly data by accounts but to monitor the total usage. He said that staff can put together any information the Board wants, but the question is how much time does the Board want the staff to spend on this.

The Chairman said that he had met with Mr. Goscicki and has given him a list of general information that he wanted. He stressed not only does he want the information but also wants the information online so everyone can access it. He said he wanted more data so the Board can do a more professional job on reaching a decision.

The Chairman said that one of the issues he has is, for example, projects that have water or sewer tied up for 500 homes, and they are not going to use all of the allocation. He asked if the developers could voluntarily work out an arrangement with the County so that some of the allocation could be released temporarily and could be used by the developers for some of their other projects or for new projects. He made a comparison of trying to build a structure while only having part of the puzzle pieces.

Chairman Openshaw said that the Board has been dealing with these issues too long and is not getting where it needs to go. Vice Chair Rogers said that she thought there were two paths the Board could take with this policy: 1) the Board does not have the data that it needs to go forward with the water allocation policy, and there are still some holes that need to be filled or processes that need to be in place before there is a comfort level for the Board to move forward with the policy; and 2) the Board realizes that there are some processes and improvements, such as software, that can be done that could be separate from today's issues.

Commissioner Kuehler said that she did not know if anybody would ever be totally comfortable with the numbers. She said her concern, aside from the numbers, is that once the numbers have been figured out, she still does not see a plan within the policy of how to allocate any remaining capacity.

Mr. Greene responded that the policy was never intended to allocate future water. He stressed that its intent was to allocate the current capacity, to identify the capacity available to allocate, and to choose between those projects that have met the criteria, such as where the projects are in the process, etc.

Commissioner Kuehler said that from the beginning she has been an advocate of not closing the door on any new projects. She stated that she could think of projects that are not on the plan that could very well move faster than any of the other projects listed in Categories B or C. Mr. Greene explained that Category A projects have been based on discussions with the attorneys. Commissioner Kuehler said that hopefully this situation is not going to last forever, and someday the County will not have to ration capacity. She said when that day comes, to keep from getting right back in its current situation, the County needs a plan that everybody understands when they apply for water and sewer, this is documentation they will be expected to have in hand and this is the criteria by which the projects will be rated.

Mr. Greene responded that was not the original goal of the water allocation policy. He said if that was the Board's goal, then this was good input and the scope of the water allocation policy needs to be revised. He stated that would be a completely new direction in looking at how to allocate future capacity.

Commissioner Kuehler asked if how to deal with future allocation is not included in the policy, then where would staff propose that the information be included. Mr. Mosteller commented that the water allocation policy was never intended to be in place long term, and is not typical of any other utility.

Commissioner Kuehler suggested that perhaps the proposed policy should be renamed something other than "policy." The Chairman noted that the Knightdale policy, which had been referred to by Commissioner Kuehler, is a water allocation policy and is projected to move forward with periods of adjustment annually. Mr. Mosteller stressed that the County's water allocation policy was put into place to state that until the County obtains more capacity, then the remaining capacity needs to be allocated.

Chairman Openshaw said that he had voted against the original policy. He said that the policy does not address everyone on the list and to deny that other projects exist is ridiculous. He stated that this has to be dealt with and the policy is flawed. He said that there are projects listed in Categories A, B, and C that have not gotten approvals from the towns.

Commissioner Kuehler said that she would like to see the document made into a longer-term document. Vice Chair Rogers said that there is a lot of confusion concerning the policy. She stated that she thought in the minds of some individuals the policy was long-term and dealt with future allocation. She described the policy as Phase I to deal with the short-term current Categories A, B, and C and then there would be Phase II which is long-term water allocation.

Mr. Crook said he thought it might be helpful for the Board to understand that this policy is an anomaly, and most governments do not find themselves in a position of having to have a policy such as this one.

Mr. Mosteller explained that two of the reasons the County was in this situation are: 1) past planning efforts have been changed because of regulatory changes in the State related to the interbasin transfer; and 2) Union County is one of the fastest growing counties in the country. He recapped that the Board was talking about three different things: 1) short-term way to allocate the remaining capacity; 2) a process to be put into place to track projects; and 3) a long-term water supply plan.

Commissioner Kuehler said that maybe she had misunderstood the short-term need for the policy. She stated that she had wanted to review information about the new legislation because the legislation specific to Union County talks about reallocation of projects that are listed in the draft policy. Mr. Crook responded that one of the major reasons for today's meeting is to discuss the changes needed in the draft policy to bring it to the point that the Board could exercise the flexibility guaranteed by the statute.

Mr. Mosteller said that when the Board directed staff to draft a water allocation policy in January or February 2008, a few months later Union County along with Lancaster County hired a consultant to expand the Catawba River Treatment Plant. He stated that as soon as staff started working on the policy, the plan was the plant would be operating in four years from that point. He said that in 2012 the 18 million gallons per day (the County's portion of the Catawba River Plant capacity) would increase to 27 million

gallons per day, and all of the Categories A, B, and C's could become a relative non-issue. He said then the planning would not be based on individual projects but would be based on population projections and other factors. He re-emphasized that when the policy began last year, the goal was that the policy would go away in four years.

Chairman Openshaw said that there was no guarantee that the plant expansion would be completed in four years. He asked what happens to all of the other projects in the meantime. He said to say that the policy was short-term is sticking your head in the sand. Mr. Goscicki said that the issue is that the water allocation policy is for allocating the remaining capacity. He stated that the underlying policy that has been in effect is that water and sewer are allocated to new development on a first come, first serve basis. He said that they had been moving forward on the first come, first serve criteria, and the County got into a situation with explosive growth and other issues on drought which put the County into a constrained situation where there are more people on paper who have requested capacity than there is capacity to serve. He stated that the policy was put into effect to deal with the short-term situation.

He said that as a part of this, the County is also looking at the whole process of what is required for projects to come into the system. Mr. Goscicki said that is another effort that will be coming to the Board for review and approval. He explained that they were trying to move forward with the water and sewer master plan and the finance plan that will go along with the master plan on how to pay for it, as well as determining what the capacity fees should be, what the debt should be, what is to be financed, and how to make it fair and equitable, etc.

Chairman Openshaw said that Mr. Goscicki had mentioned fair and equitable distribution, and he stated that was what Commissioner Kuehler is talking about. Mr. Greene stressed again that the County was limited to the Category A projects which have permits. The Chairman said that how the County deals with those projects once the information is updated is a very relevant issue that has to be addressed. He discussed first come, first serve. He said that there are projects that have sewer permits but no water permits, and projects with water permits but no sewer permits. He stated that the Board needs that list before deciding how to deal with the projects fair and equitably. Chairman Openshaw said that by using the staff's current numbers, there is extra capacity. He questioned how to determine what is fair and equitable for the projects on Category B, non-residential projects.

Mr. Greene responded that if that was what the Board wanted to do, then it changed the scope of the work the staff was doing, and that it would take a lot longer. He stated that he appreciated the Board's comments, because staff had been working with the assumption that its task was to identify available capacity and to allocate that capacity among those projects that are in the works now. He further stated that if the Board wanted to say in a fair and equitable manner, he thought that was an accurate description. He said

if the Board wanted to go beyond Priority A and beyond the existing capacity, then that is a completely different exercise that needs to start soon.

Commissioner Kuehler said that she thought if there is any remaining capacity after the projects it is decided should be taken care of, then the policy needs to say that no more capacity will be allocated until the Board determines how to allocate any remaining capacity. She clarified that she was referring to the 144,000 gallons per day.

Mr. Mosteller said that the proposed policy outlines how a project can apply for capacity under the 144,000 gallons per day. Commissioner Kuehler said it was not based on the value of the project to the community but was based on pure construction timeline.

Chairman Openshaw said that since this Board took office in December, the staff has been told that the Board wanted to find ways to bring new projects into the allocation. Commissioner Kuehler said it was to allow the opportunity to whomever is ready to build, whether they are included in Category B or C to move forward.

[Commissioner Mills joined the meeting at approximately 10:20 a.m.]

Mr. Greene responded that the staff heard the Board's request, and it has been incorporated into the proposed policy. He said that there is a mechanism based on state permitting and discussions with the attorneys as to how to free up the capacity allocated to Category A projects if it can be done. However, he stated that there has not been discussion about how to reallocate that capacity. He said that this would require some Board discussion.

Mr. Crook interjected that this was the main reason for the non-residential reserve, and it does not apply to just Category B projects, it applies to new projects as well. He said that the Board had discussed shovel-ready projects, and that was the intent of the number for non-residential reserve to accommodate non-residential projects to move forward under certain parameters. Mr. Crook stated that there are some legal issues associated with this if the Board would like to address those in closed session.

Vice Chair Rogers asked if there is any project listed in Category A that is being held up because the amended policy has not been approved. Mr. Greene responded that the projects in Category A can proceed under the current policy that was adopted in October. The Vice Chair stated that currently the only projects being held up because the amended policy has not been adopted are projects in Category B or other shovel-ready projects that would utilize the 144,000 non-residential reserve.

At approximately 10:25 a.m., Vice Chair Rogers requested that the Board take a five-minute recess, and the Chairman called a recess of the meeting.

[Commissioner Baucom joined the meeting at approximately 10:25 a.m.]

At approximately 10:30 a.m., Chairman Openshaw reconvened the 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). The motion was passed unanimously.

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

At the conclusion of the closed session at approximately 11:25 a.m., Chairman Openshaw moved that the Board go out of closed session and reconvene the open session. The motion was passed unanimously.

The Board remained in the Personnel Training Room for the continuation of the open session. At approximately 11:25 a.m., the Chairman reconvened the open session.

Mr. Greene stated that Chairman Openshaw had expressed an interest in discussing self-help projects. Kai Nelson, Finance Director, was requested to join the meeting at this time for the discussion on self-help projects.

The Manager summarized that there are three pending self-help projects, excluding Dodge City. He suggested that Dodge City not be included in this group because grant funds are being pursued for the project, and without those grant funds, it would not be a viable project. He said that there are water allocation issues related to Dodge City, as well as to the remaining three self-help projects. Further, he said there are funding allocation questions related to the other three projects.

Mr. Goscick explained the current self-help policy. He stated that the prior self-help policy required 100 percent participation from the residents in order for the project to move forward. He said that in 2006 the Board amended the policy to require 70 percent participation. He explained funding of the projects and stated that in 2006 the policy established the value of the customer to the utility system. He stated that staff had looked at what would be the legitimate amount for the utility fund to contribute to the construction based upon the revenue stream that would be developed by having the customer as part of the system. He said that for water customers, that amount was set at \$2,220 per customer and for sewer customers, it was set at \$1,410 per customer. He

explained that the general fund contribution was also created and set at \$2,000 per participating customer subject to budgetary availability.

He said that any cost over the \$4,220 per customer (total of utility fund and general fund contribution), would be borne by the property owner. He noted that an additional complicating factor was, as mentioned previously, the original policy was based on 100 percent participation. He cited as an example if a project cost \$100,000 for 10 lots divided by 10 it would equal \$10,000 per lot to connect with \$4,220 per customer paid by the general fund and the utility fund, leaving a balance of \$5,800 to be paid by the resident. He said if only 70 percent of the residents decided to connect, the 70 percent would pay the \$5,800 and for those residents that did not want to connect to the system, the utility fund paid their \$5,800. Further, he stated that the policy provided if the customers who did not connect initially wanted to connect in the future, they would have to pay a penalty.

He said that there are four self-help projects under construction at the current time: Oak Brook, Cyrus Lee Lane, Wellington Woods I, and Polk Mountain. He provided information showing the number of applicants for each project and the costs. He stated there are four pending projects including Dodge City, Lake Providence East, Greyland, and Wellington Woods II and III. He said that the total capacity for all of these projects is approximately 61,500 gallons per day, and the current allocation policy provides for only 30,000 gallons per day. He stated that the first four projects essentially use 90 plus percent of that allocation, and in order for the additional projects to move forward, there would need to be additional allocation.

Mr. Greene stated that in order to proceed with the three new projects and Dodge City an additional 20,000 gallons in water allocation would be required. He said that it was his understanding that the general fund portion of the funding has been taken care of, and to pursue the water and sewer enterprise fund portion, would require a capital project ordinance. He said that he would say up front and Mr. Nelson would also tell the Board that a Capital Project Ordinance should not be done without an approved Capital Improvement Program (CIP), so that the Board can see the big picture. He stated that this amount would not be a substantial amount in terms of the entire capital program, and if the Board wants to proceed with the Capital Project Ordinance, staff could have specific actions for the Board, possibly on the consent agenda.

Chairman Openshaw asked the dates that the various self-help projects had been received. Mr. Greene responded that Scott Huneycutt was the one who manages the self-help program, and he was on vacation. He stated that staff would recommend that the Board pursue all of the self-help projects and not try to differentiate among them. He said that the Board may have objective criteria to separate the projects, but staff does not have that information. The Chairman stated that he was looking at it from the standpoint if someone else came in first and had everything done, and they have water allocation, then he did not see holding that project up. Mr.

Greene said that all of the projects are relatively small amounts of both water and the big picture funding, and that is why staff has no ranking criteria. He stated that if the Board would like to rank the projects and consider them in some type of order, the staff will be glad to work with the Board's direction. Chairman Openshaw said he would be glad to give that direction for future projects. He stated that he thought there should be a hierarchy as projects come in. He said that he was not sure that the County should be paying \$2,000 out of the general fund. Mr. Greene said staff agreed with that and had the same concern.

Commissioner Kuehler stated that she could not see holding up these projects for the CIP process. She said that she knew a couple of the projects were ready to go. She asked if Public Works waits until it gets a certain number of self-help projects to come in to approve them all at the same time or if they are approved as they come in. Mr. Goscicki responded that the projects are approved as they come in. He said that it was his understanding the reason why these four projects have not moved forward has been because they were waiting on the CIP.

Chairman Openshaw questioned why the projects were stalled in the CIP when there is funding for them. Mr. Greene responded that there was not complete funding in the water and sewer fund for these projects. The Chairman replied that there was not funding for all of the projects at once, but he referred back to the timing issue. He said that if the projects are ready and they qualify, it is the first come, first serve basis. He said he was a little concerned that there was no process to deal with self-help projects. He stated that it had concerned him that all of the projects were not included in the water allocation policy. He stated that he had said earlier that the 30,000 gallons per day allocation was not enough for the self-help projects. He stated that he had been repeatedly assured that this was the average for four years, and he assumed that the 30,000 gallons was from that point forward. He stated that the bottom line was there was not enough allocation in the 30,000 gallons. He used the analogy that when it snows in Union County, everybody goes to the grocery store to purchase milk and bread. He said it was the same thing with the County running out of water, and people are going to go out and try and get the water.

The Chairman asked how the Board wanted to move forward with the self-help projects. Commissioner Kuehler asked if all the projects were at the same readiness point. Mr. Greene responded that applications have been received for all of the projects, and the staff considers the projects equal.

Commissioner Baucom asked for Mr. Nelson's comments. Mr. Greene interjected that funding and water would have to be allocated if the Board directs staff to move forward. He said that the necessary actions could be on the consent agenda at the next meeting.

Vice Chair Rogers asked for clarification of what the Chairman was asking the Board to approve. She questioned why the projects would not move forward. Mr. Greene stated that if the Board directed staff to move forward, staff would begin the process in-house, but would not spend money or allocate water, and would put the action items on the agenda for approval that would allocate the funds and the water. Vice Chair Rogers asked how the funds could be allocated if they were not available. Mr. Greene said there is no authorization for the appropriations.

Mr. Nelson said that the staff continues to encourage capital decisions within the comprehensive CIP. He stated that staff recognizes on the utility side, it is roughly \$500,000 and in the context of a \$100 to \$110 million CIP, it is a drop in the bucket.

Mr. Greene stated that there is no funding for these projects in the current CIP; there is \$500,000 in a draft CIP. There was discussion that in 2006, \$500,000 was set aside from the general fund for self-help projects. Mr. Nelson said that in the CIP document presented to the Board in July, a placeholder was included for roughly \$500,000 per year from the utility fund for self-help projects.

In response to a question by Vice Chair Rogers, the Chairman said that a motion was needed to move ahead to allow these self-help projects to move forward and to direct staff to place them on the agenda of August 31st for the Board to take action.

Mr. Crook interjected that before the Board voted on the motion, he wanted to request a very brief closed session.

At approximately 11:50 a.m., the Chairman 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.

The Board remained in the Personnel Training Room for the closed session. At the conclusion of the closed session at approximately 12:10 p.m., Commissioner Baucom moved that the Board go out of closed session. The motion was passed unanimously.

At approximately 12:10 p.m., the Chairman reconvened the open session in the Personnel Training Room.

Commissioner Mills requested the Board to instruct the staff to talk with the County's partners in Lancaster about working out a rental formula for Union County to lease additional capacity from Lancaster.

Mr. Goscicki explained that the agreement with Lancaster is structured so that the makeup of the Board is a 50/50 split with three members from Union County and three from Lancaster. He said as far as the infrastructure itself is concerned, the County has the right to move forward, as does Lancaster, with a unilateral plant expansion to serve additional needs.

Vice Chair Rogers said her concern is that the Board has spent three hours on this policy and she did not know that it has gotten any further than where it started at 9:00 a.m. She asked what the action would be going forward to get the policy completed.

The Chairman responded that it would be to obtain the lists, more data, and work on a holistic policy to determine how to allocate capacity in the future. He said that one of the issues that needs to be dealt with is if capacity is freed up, who would receive capacity and when.

Mr. Greene responded that under the direction of the 120 days, it would require that language be incorporated in the policy of how to allocate water that is recouped under that provision. He said if the Board would like for the policy to address the allocation of future capacity, staff needs that direction as well.

Vice Chair Rogers said that she thought there were different phases with the amended policy directing how to apply the current allocation, Priority A, and then the reallocation would apply to the 144,000 reserve, and then a long-term plan with criteria on how to allocate water in general. The Chairman said that he thought reallocation and the 144,000 gallons per day are two separate issues. Vice Chair Rogers said that she would concede that point and there would be four points: 1) how to deal with the current allocation; 2) how to allocate the 144,000 gallons for non-residential; 3) reallocation if there is any as a result of the new legislation; and 4) the long-term allocation for future projects. She said she did not want to hold up the first point because there are four separate pieces that will, in the end, cumulate into one document. She stated that it should be worked on in phases.

In response to a question by Chairman Openshaw, Vice Chair Rogers said that the Board could give staff deadlines at this meeting as to when these issues need to be completed. However, she said that she did not think the Board has given any direction to staff to get Priority A projects moving. Chairman Openshaw said that he did not think there should be a problem with Priority A projects. He stated that assuming the numbers are correct, there should be enough water to cover all of the projects in Priority A. He said that there are projects in Priority B and beyond that are the issue.

Commissioner Kuehler commented that there are projects listed in Category A that have not moved forward. Chairman Openshaw said again that is one of the items he had asked that staff update the list and send it to the Board in the August 31st package.

Mr. Greene said that staff could not complete all the information requested by the Chairman by August 31. Chairman Openshaw responded that staff could have the clean list for Priority A for the Board by August 31. Mr. Greene requested that the Chairman define a clean list once again for staff. The Chairman explained what he meant was for staff to go through each project and define the status of each project. He further defined status to mean where the projects stand in the construction process. He said that for instance, some of the information on the list is not necessarily active.

Commissioner Kuehler asked if staff could look at the projects in Categories B and C in terms of the 120 days as a benchmark and determine if infrastructure is in the ground and if they are ready to move forward. The Chairman said that on the October 9, 2008, compilation, there were 2.4 million gallons at that time. He asked how relevant that amount is today. He said that he had used the examples of the Auto Bell and CVS properties, which are already functioning. He questioned if these two projects were included in the 2.4 million gallons per day.

Mr. Greene responded that if they were included on a list at that time, they are included in the 2.4 million gallons per day. The Chairman said that he would like for staff to check the billings and determine the actual usage versus the amounts projected for these projects so there could be some comfort with the numbers.

The Manager stated that he was unclear on what the Board was requesting from staff for August 31. The Chairman explained that the Board wanted staff to examine the projects on at least Category A to determine the projects' status in the construction process relative to the 120-day rule. Mr. Greene said that information was available today but reported the staff would update it for August 31.

The Chairman asked if there was anything else the Board wanted for the August 31 meeting. Vice Chair Rogers said there are some self-help projects and other projects that are not moving forward because the amended policy has not been adopted. She stated that she was still unclear as to what the Board needs to do to get those projects moving forward. The Chairman stated that the staff would be coming back to the Board with the legal issues regarding self-help projects.

The Vice Chair questioned what is needed to get the amended document adopted. She said she would not call it a policy. She said she did not have an answer as to what is needed going forward.

Commissioner Kuehler asked if the short-term document was needed and if it could be incorporated into a long-term policy. Mr. Greene responded that if the Board wants to deal with the existing capacity and let the development community know definitively

where the projects stand based on existing capacity and existing projects, that would be the amended document. He said that it would be short-term if it focused only on those issues, but if the Board wants to focus on future capacity and allocations, it would be a much longer process. He noted that if the short-term document is delayed until the long-term document is resolved, it could be delayed up to a year or more.

Commissioner Kuehler asked if the current allocation is defined and any remaining allocation is determined, how does the Board determine to whom to give that capacity. Mr. Greene said that staff could make a recommendation on the short-term along with the language on the 120 days. He stated that those questions need to be wrapped up and could be done fairly quickly if that is the focus of the Board.

Chairman Openshaw stated that he would like to see the reallocation of the 144,000 gallons per day versus the 30,000 gallons for self-help versus the 80,000 gallons in tap only. He said that self-help has been proposed for 60,000 gallons per day. Mr. Greene said that the tap only had been increased to 80,000 gallons based on the Board's input but it is unknown what will come in for tap only. Mr. Crook said that those numbers were only estimates. Chairman Openshaw said he would like to know if there is a legal problem with the Board moving those numbers around. Mr. Crook said that he thought that was a policy issue for the Board.

Mr. Crook said he wanted to refer back to Commissioner Kuehler's comments about the 144,000 non-residential reserve. He stated that it was addressed in the draft policy, and he needed to know what is not addressed in it that the Board would like to see. He said that right now it is for non-residential projects requiring less than 20,000 gallons per day capacity and is on a first-come, first-serve basis. Commissioner Kuehler asked Mr. Crook if she could get back with him on his question.

Vice Chair Rogers said that it was already known that the self-help allocation would have to increase because there are 61,500 gallons for self-help projects on the spreadsheet. She stated these are policy issues and the Board could change those numbers to whatever the Board wanted them to be. Mr. Greene said that right now all of the self-help projects included on the information provided to the Board would require 49,750 gallons of capacity. The Chairman suggested that no more applications be accepted for self-help projects at this time.

Commissioner Mills said that the existing water allocation policy was working. He said that one of the key problems with the policy was that it allocated more water than was available. He stated not everyone would come in at the same time and ask for the allocation. He suggested that the simplest motion would be to keep the original policy in place and to work with the County's partners in Lancaster on leasing additional capacity. He said that it is still a down economy and there is not a lot of growth occurring.

The Chairman said he would like to determine how to handle Categories B and C. He said the discussion with Lancaster was a great idea. He stated that the County needs to find new water so it can address the other issues or a resolution about how to allocate the capacity that the County is estimated to have. He said that this might be a voluntary situation where the County goes to the development community and asks what can be worked out.

Commissioner Kuehler said that the policy did not allow for any new projects to come in. She said that the problem is that the allocations have been given and the capacity is not being used, and the County is going to lease water capacity from Lancaster that will increase the rates to the people who are using the water.

Commissioner Mills said that he thought it was only fair that Union County look at leasing more capacity from Lancaster, because it has put in the capital expenditure to handle that capacity. He stated that the alternative is to follow the existing policy and work with Lancaster to meet all of the needs. Chairman Openshaw said that if the County does receive the additional two million gallons from Lancaster, there should be a plan in place to allocate that water. He stated that is why he would like to deal with the whole issue at once.

Commissioner Kuehler said that she thought today was the first time that it has ever come to the forefront in her mind that the allocation policy was short-term. She suggested that the policy be called another name.

Chairman Openshaw asked when the County might receive information regarding the Dodge City grant. Mr. Greene responded that the County had received a letter inviting it to apply for the grant, and it could be several months before it heard whether it had received the grant. The Chairman said that to him Dodge City is a priority, because they have been waiting the longest time. He stated that other than Dodge City, he would like to go back to the first come, first serve basis for the self-help projects.

Commissioner Mills asked if the Board would not want to take some of the additional water that would be coming in from Lancaster and raise the 5,000 gallon non-residential reserve amount. The Chairman responded that is not water that is allocated, because it cannot be replaced.

Mr. Greene said that staff would work to clarify that by August 31. He stated that in working with Lancaster, he thought it should clarify the terms under which the offer for additional capacity might be valid.

[The public notice contained a reference for the Board to go into closed session to prevent disclosure of information that is privileged or confidential pursuant to G.S. 131E-97.3; however, no discussion took place during the special meeting, pursuant to this reference.]

With there being no further discussion, at approximately 12:10 p.m., Commissioner Baucom moved to adjourn the special meeting. The motion was passed unanimously.