

Minutes of the Regular Meeting of
September 21, 2009

The Union County Board of Commissioners met in a regular meeting on Monday, September 21, 2009, at 7:00 p.m. in the Commissioners' Board Room, Union County Government Center, 500 North Main Street, Monroe, North Carolina. The following were

PRESENT: Chairman Lanny Openshaw, Vice Chair Kim Rogers, Commissioner Allan Baucom, Commissioner Tracy Kuehler, and Commissioner A. Parker Mills, Jr.

ABSENT: None

ALSO PRESENT: Al Greene, County Manager; Matthew Delk, Assistant County Manager; Lynn G. West, Clerk to the Board; Jeff Crook, Senior Staff Attorney; Keith Merritt, County Attorney; members of the press, and interested citizens

OPENING OF MEETING:

At approximately 7:00 p.m., Chairman Openshaw convened the regular meeting and welcomed everyone present.

a. Invocation

Chairman Openshaw offered the invocation.

b. Pledge of Allegiance

Chairman Openshaw led the body in reciting the Pledge of Allegiance to the flag of the United States of America.

c. Employee Recognition/Service Awards

Chairman Openshaw read the names of the following persons recognizing them for their full-time continuous service with Union County Local Government:

5 Years of Service

Jason McBride
Victor Adcock
Stephen Mitrano
Beth Allen
Nona Books
Mary Eudy

Department

Public Works
Sheriff's Office
Sheriff's Office
Social Services
Social Services
Social Services

10 Years of Service

Benson Carpenter
Christy Ford
Valeria Caldwell
Beverly Osborn
Christopher Medlin
Kelly Morton
Stephen Brown
Vickie Cameron
Melissa Chambers
Judy Schmidt
June Smart

Department

General Services
Environmental Health
Inspections
Library
Public Works
Public Works
Sheriff's Office
Social Services
Social Services
Social Services
Social Services

15 Years of Service

Trina Horne
Meridith Elliott
Kathy Newland
Mark Watson
Larry Davis
Robert Smith
Steve Crump

Department

General Services
Environmental Health
Environmental Health
Personnel
Public Works
Public Works
Tax Administration

PUBLIC HEARING – PROPOSED ECONOMIC DEVELOPMENT INCENTIVE – RE: IMO PUMP IN A TOTAL AMOUNT NOT TO EXCEED \$18,000:

At approximately 7:05 p.m., Chairman Openshaw opened the public hearing and recognized Maurice Ewing, President and CEO of Union County Partnership for Progress.

Mr. Ewing provided a brief economic update for the Board. He stated that traditionally he likes to have at least one inquiry per week from a company that has the potential to expand jobs and investment in Union County. He said that currently his office is averaging about six inquiries per month, which he said in his opinion is pretty good. Mr. Ewing shared that since January 2009, his office has received 54 inquiries, and of those 54, there are 17 projects that the Partnership for Progress is classifying as high-quality potential active projects.

He stated that from the standpoint of what is seen in the media and press and in general economic data, business is improving for both companies that might come to Union County from outside areas as well as for existing businesses that are looking to expand as the economy recovers. He said that one of those projects is the reason they are here tonight. However, he stated that his office received a call this morning from the company requesting that the Board delay any action on its incentive request pending further evaluation of incentives as they relate to the proposed expansion. He stated that he is not 100 percent sure what that means, but as soon as he knows what it means, he will inform the Board.

Mr. Ewing introduced Michael Trotter of the Partnership for Progress to present the details of the proposed project.

Michael Trotter said that the Union County Partnership for Progress is here in the effort to recruit the expansion opportunity for IMO Pump. He stated that in August 2009, IMO announced the closure of its plant in Sanford, North Carolina, and, in so doing, the company said that the equipment located in that plant would either be relocated to its plant in Columbia, Kentucky, or its plant in Monroe. He described the project scope which involves the relocation of \$2.08 million of manufacturing equipment and the creation of 36 jobs, whose average pay is \$21 per hour. He said that since IMO's facility is within the city limits of the City of Monroe, the Partnership for Progress has been working closely with Monroe's Economic Development Commission. Mr. Trotter stated that on Tuesday, September 15, the City Council approved an incentive award for this project.

He said that IMO's project qualifies it for the City of Monroe's level one incentive, but in an effort to be as aggressive as possible, the City Council agreed to pursue a level two incentive. He stated that the value of the City's incentive is not to exceed

\$72,000 over five years. Mr. Trotter said that the Partnership for Progress has worked closely with the staff of Union County in developing a design of an incentive award. He explained that if the County moves forward with an incentive, the taxable value the incentive would be based on would be at least a two million dollar investment by January 1, 2010, and would require that the new equipment remain in Union County for the three-year grant period. Further, he said it would require that at least 20 jobs be created, and it would require that the new jobs pay at least an average of the existing Union County manufacturing wage, which is currently \$20.23 per hour.

Mr. Trotter detailed that the incentive award would be the payment of \$500 per new job created up to 36 jobs, and the grant would not exceed \$18,000 and payable in equal payments over a three-year period. He said that the grant would not exceed the property tax revenues from the newly installed equipment. He stated that the grant would be paid in the spring of years 2011, 2012, and 2013. He reiterated that the Partnership's Office had received a call from the company today requesting that any action by the Board regarding an incentive award be delayed. However, he said that Mr. Ewing and he had wanted to share the information with the Board in the event that the company prefers to move forward with this matter.

With there being no one else wishing to comment during the public hearing, at approximately 7:15 p.m., Chairman Openshaw moved to close the public hearing. The motion passed unanimously.

PUBLIC HEARING – DODGE CITY COMMUNITY DEVELOPMENT BLOCK GRANT:

At approximately 7:15 p.m., Chairman Openshaw opened the public hearing to receive public comments on the Dodge City Community Development Block Grant. He recognized Matthew Delk, Assistant County Manager, for comments.

Through the display of a map, Mr. Delk showed the location of the project for the Dodge City Community. He explained the reason for holding a second public hearing in this matter stating that the Community Development Block Grant process and the Department of Commerce requires multiple opportunities for public involvement. He said that the North Carolina Department of Commerce prefers public hearings and specifically requested that a public hearing be held. He stated that the application documents would be the first time that the Federal Government has had a review of the project. He said that there are residents of the Dodge City community here tonight who care deeply about the project.

Chairman Openshaw announced that one speaker had registered to comment during tonight's public hearing. He recognized Ms. Sadie A. Jones for her comments.

Ms. Jones expressed her appreciation for the opportunity to speak about this matter on behalf of the Dodge City Community. She said that she grew up in the Dodge City neighborhood, and her parents have lived in that area over 40 years. She stated that the residents would like to know if there is any way possible to grant them the honor to receive water. Ms. Jones said that there are a number of people in the Dodge City Community who are in great need of County water. She stated there are a number of residents in that neighborhood who are very sick. She said that the residents cannot drink the water in that area, and many of them have never drunk the water.

Ms. Jones stated as they gathered information from the residents of the community, it was found that a number of the residents were sick and in a lot of need of help. She said that a number of the residents have kidney and various other medical problems including her parents. She stated that there are financial needs by the residents to assist in running the water lines into the neighborhood in order to bring in County water.

In conclusion, Ms. Jones asked the Board to assist the residents in the Dodge City Community to be able to have County water.

With there being no one else wishing to address the Board during the public hearing, at approximately 7:20 p.m., Chairman Openshaw closed the public hearing.

INFORMAL COMMENTS:

Chairman Openshaw recognized Don Kerr as the first speaker to address the Board under informal comments.

Mr. Kerr stated that he resides close to where the Chairman and Commissioner Kuehler reside in the Marvin area. He said that his purpose in commenting tonight is to ask: "Why can't we stop our foolish political games and move forward with Union County?" Mr. Kerr shared that he has resided in Union County for a long time, and during that time, he has seen Union County change from a sleepy farming community to a thriving community with great potential and possibilities. He said that he could say with 100 percent confidence that he has never seen a group of Commissioners that have such disdain for one another. He referred to the motion from last meeting to investigate possible ethics violations of a previous Board of Commissioners as petty politics. He said that he would certainly agree that if the FBI had found Commissioners breaking the law, then taxpayer money should not be available for their legal defense. He stated, however, that is not the case because the Commissioners in question were never charged.

He said that since the swearing in of the new Board Chair and Vice Chair in December, he honestly could not find anything that has moved the County forward in a positive way. He shared that he was very concerned about the proposed sale of the County's most valuable asset. He said that he remembered when it was just a dot where the hospital is now located, and he also remembers when it was a two-room Ellen Fitzgerald Hospital located on Hayne Street in Monroe. Mr. Kerr said that the County has come a long way and is very proud of its hospital. He stated that in some ways he could understand why this Commission wants to sell the hospital; they live in the Marvin Community, and if they get sick, they go to Charlotte and do not need the County's hospital. He said that the rest of the County needs the hospital, and it has done great things for the County. He stated that he was very proud of the hospital and does not know of any reason to sell it, because the funds could not be used to pay off County debt.

Due to Mr. Kerr having exceeded his three-minute time allowance for informal comments, Chairman Openshaw asked Mr. Kerr to complete his comments.

Mr. Kerr reiterated his question: "Isn't it time that petty politics are put aside and move forward with Union County?" He said that the County needs water today as well as other services such as fire protection. He encouraged the Board to get along with each other and find areas where they can agree.

Todd Johnson stated that he lives just north of Monroe. Mr. Johnson shared that he frequently watches the Board of Commissioners' meetings on television but said this was his first time to attend or speak at one of the Board meetings. He said that as a father and a husband, he is concerned about the direction of the country, the state, and local government. He stated that he considers himself first to be a Christian and secondly a Conservative. He shared that he is a small business owner and understands the complexities of making payroll and paying taxes, but in his business he is frequently called upon to make things happen, focus on the positive and on the future. Mr. Johnson said that if he looked back and tried to undo things in his past business, it is very unlikely that he would be successful. He stated that his observation over the last few months in Union County is that it is being led along a path like a deer caught in the headlights.

He said that the primary purpose of his comments tonight is to challenge the Board to look forward. He stated that he does not know any of the Board members personally. He referred to the motion from the last meeting to investigate previous Board members and said this seems to him as a foolish waste of money. He said that Commissioner Kuehler, along with Chairman Openshaw and Vice Chair Rogers now wish to spend even more money to investigate possible ethics violations. He stated that as a taxpayer he was outraged. He questioned if money could be found for the ethics investigation, then why is there not money to give him and other Union County taxpayers a tax cut. He said that it seems like much of the Board majority's time is spent on political attacks as

opposed to moving the County forward. He said that the cat and mouse game over Belk Tonawanda Park is a complete waste of time. He stated that the focus should be on how to best offset the tax base and encourage commercial growth. He referred to the nursing home project in Waxhaw, and said why that project does not have County water by now is beyond any lack of reasoning.

Mr. Johnson said that he hoped the water allocation policy on the agenda for discussion tonight will also protect the homeowners, so the subdivisions can build better value for the homes. He stated that he knew that a solution can be found to obtain more water and sewer to meet the demands. He said it is time to put political differences aside and work together for the best solutions for the County. He stated that he, as a taxpayer, has had enough of the politics and encouraged the Board to move onward.

ADDITIONS, DELETIONS AND ADOPTION OF AGENDA:

Chairman Openshaw said there is a request by the applicant, IMO Pump, to remove Item 10 – Consideration of Economic Incentive Grant Award – IMO Pump in a Total Amount Not to Exceed \$18,000 – from the agenda.

With there being no further additions or deletions to the agenda, Chairman Openshaw moved to adopt the agenda as amended. The motion was passed unanimously.

CONSENT AGENDA:

Commissioner Baucom moved approval of the items listed on the Consent Agenda as presented. The motion passed unanimously.

Minutes: Approved minutes of the special meetings of February 13, 2009, and August 19, 2009

Tax Administrator: Approved the following: 1) Third Motor Vehicle Billing in the Grand Total of \$1,169,484.53; b) Second Motor Vehicle Release Register for the Period of August 1, 2009 – August 31, 2009, in the net grand total of \$7,176.22-; and c) Second Motor Vehicle Refund Register for the Period of August 1, 2009 – August 31, 2009, in the Net Grand Total of \$1,004.52-

Amendments to the 2009-2010 Union County Pay and Classification Plan: Approved the following Classification Title and Pay Grade Revisions to the 2009-2010 Union County Pay and Classification Plan:

- a. Current Classification: Personnel Technician (1 of 2) Pay Grade 61
Revised Classification: Employment Coordinator – Pay Grade 64
- b. Current Classification: Personnel Technician (2 of 2) – Pay Grade 61
Revised Classification: Personnel Services Assistant – Pay Grade 56
- c. Current Classification: Benefits Technician – Pay Grade 65
Revised Classification: Benefits Specialist – Pay Grade 65

Finance: Approved Motor Vehicle Tax Refund Overpayments for August 2009 in the Amount of \$2,495.53

Contracts and/or Purchase Orders Over \$20,000: Authorized the County Manager to approve, pending legal review, an Agreement with Emergency Services Education and Consulting Group (Fire Services) in the Amount of \$76,000 for fire study

Request by Centralina Council of Governments for Removal of Member’s Name from Roster of Nursing Home Community Advisory Committee due to Resignation by Member: Authorized the removal of Elizabeth Ann Richey from the roster of the Nursing Home Community Advisory Committee due to her resignation

Amended and Restated Union County Voluntary Agricultural District & Enhanced Voluntary Agricultural District Ordinance:
Adopted Amended and Restated Ordinance as recorded below:

UNION COUNTY VOLUNTARY AGRICULTURAL DISTRICT & ENHANCED VOLUNTARY AGRICULTURAL DISTRICT
ORDINANCE
(Amended and Restated on September 21, 2009)

ARTICLE I
TITLE

An ordinance of the Board of County Commissioners of Union County, North Carolina, entitled, “Union County Voluntary Agricultural District & Enhanced Voluntary Agricultural District Ordinance.”

ARTICLE II

AUTHORITY

The articles and sections of this program are adopted pursuant to authority conferred by Article 61 of Chapter 106 of the North Carolina General Statutes (N.C.G.S.) and other applicable law.

ARTICLE III
PURPOSE

The purpose of this Ordinance is to promote agricultural values and general welfare of the County and more specifically, to increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture; and increase protection from non-farm development and other negative impacts on properly managed farms.

ARTICLE IV
DEFINITIONS

The following are defined for purpose of this Ordinance:

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|-------------------------|---|
| Advisory Board: | Union County Agricultural Advisory Board |
| Chairman: | Chairman of the Union County Agricultural Advisory Board |
| District: | Voluntary Agricultural District as established by this Ordinance |
| Enhanced District | Enhanced Voluntary Agricultural District as established by this Ordinance |
| Board of Commissioners: | Union County Board of Commissioners |

ARTICLE V
AGRICULTURAL ADVISORY BOARD

A. Creation

The Board of Commissioners establishes an Agricultural Advisory Board to implement the provisions of this Ordinance.

B. Membership

The Advisory Board shall consist of nine (9) voting members and three (3) nonvoting members, all appointed by the Board of Commissioners; provided, however, that the number of voting members may be increased without amendment to this Ordinance if necessary for the Board of Commissioners to comply with Article V(C)(8) below.

C. Membership Requirements

1. Each Advisory Board member shall be a Union County resident.
2. At least six (6) of the nine (9) voting members shall be actively engaged in farming.
3. One of the Advisory Board members shall be the President of the Union County Farm Bureau or his designee.
4. One of the Advisory Board members shall be a member of the Board of Commissioners who shall serve in a nonvoting capacity.
5. One of the Advisory Board members shall be the Department Head of the Union Soil and Water Conservation District who shall serve in an ex officio and nonvoting capacity.
6. One of the Advisory Board members shall be the Chairman of the Union Soil and Water Conservation District who shall serve in a nonvoting capacity.

7. The members actively engaged in farming shall be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Soil and Water Conservation District, the Cooperative Extension Service, the Farm Service Agency, and the Union County Farm Bureau with an effort to have the broadest geographical representation possible.
8. Each District and Enhanced District shall have a member on the Advisory Board.

D. Tenure

As to voting members, the initial Board is to consist of three (3) appointees for terms of one (1) year, three (3) appointees for terms of two (2) years, and three (3) appointees for terms of three (3) years. Thereafter, all appointments are to be for terms of three (3) years, with reappointments permitted. Members shall serve at the pleasure of the Board of Commissioners.

As to nonvoting members, (i) the Advisory Board member who is a member of the Board of Commissioners shall serve for a term of one year, with appointment being made generally at the first meeting of the Board of Commissioners in December of each year, as is the Board=s custom; (ii) the Department Head of the Union Soil and Water Conservation District shall serve ex officio this position; and (iii) the Chairman of the Union Soil and Water Conservation District shall serve ex officio this position.

Failure of a member to attend three (3) regularly scheduled meetings during a calendar year without being excused shall be deemed adequate cause for a determination of vacancy. In the event a member fails to attend three (3) meetings without being excused by the Advisory Board, the Advisory Board members shall take a vote on whether to recommend that member=s continuation or termination of membership. If the vote results in a recommendation that membership be terminated, the Advisory Board Chairman shall report this recommendation to the Board of Commissioners. The Board of Commissioners shall give due consideration to any recommendation provided by the Advisory Board but shall not be bound by such recommendation.

E. Vacancies

Any vacancy on the Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term.

F. Funding

The per diem compensation of the members of the Advisory Board shall be fixed by the Board of Commissioners, and funds shall be appropriated to the Advisory Board to perform its duties.

G. Advisory Board Procedure

1. Chairman

The Advisory Board shall elect a Chairman and Vice-Chairman each year at its first meeting of the fiscal year. The Chairman shall preside over all regular or special meetings of the Advisory Board. In the absence or disability of the Chairman, the Vice-Chairman shall preside and shall exercise all the powers of the Chairman. Additional officers may be elected as needed.

2. Jurisdiction

The Advisory Board may adopt rules of procedure not inconsistent with this Ordinance or with other provisions of State law.

3. Advisory Board Year

The Advisory Board shall use the Union County fiscal year as its meeting year.

4. Meetings

Meetings of the Advisory Board shall be held at the call of the Chairman and at such other times as the Advisory Board may specify in its rules of procedure. A meeting shall be held at least every two (2) months, and notice of any meetings to the members shall be in writing, unless otherwise agreed to by all Advisory Board members. All meetings of the Advisory Board shall be announced and conducted in accordance with Article 33C of Chapter 143 of the North Carolina General Statutes, the North Carolina Open Meetings Law.

5. Majority Vote

The concurring vote of a majority of the members of the Advisory Board shall be necessary to pass upon any matter on which it may act under this Ordinance.

6. Records

The Advisory Board shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact.

H. Duties

The Advisory Board shall:

1. Review and make determinations concerning the establishment and modification of Agricultural Districts;
2. Conduct public hearings;
3. Advise the Board of Commissioners on projects, programs or issues affecting the agricultural economy or activities within the County that will affect Agricultural Districts;
4. Review and make recommendations concerning proposed amendments to this Ordinance;
5. Prepare a draft of the report required by G.S. 106-743, and Article XVI of this Ordinance, giving the status, progress and activities of the Advisory Board;
6. Study additional methods of farmland preservation and make recommendations to the Board of Commissioners;
7. Advise Cooperative Extension and the Board of Commissioners on a variety of matters, to include the Commission-approved Agricultural Services and Conference Center operating rules and regulations;
8. Perform other agricultural related tasks or duties assigned by the Board of Commissioners; and

9. Develop a countywide farmland preservation plan.

The Advisory Board may consult with the Cooperative Extension Office, the Natural Resource Conservation Service Office in Union County, the North Carolina Department of Agriculture, the Union County Farm Bureau, the North Carolina Farm Bureau and any other such agency the Advisory Board deems necessary to perform the duties imposed pursuant to this Ordinance.

ARTICLE VI

CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS & ENHANCED VOLUNTARY AGRICULTURAL DISTRICTS

A. Implementation

In order to implement the purposes stated in Article III, this program provides for the creation of Voluntary Agricultural Districts which meet the following standards:

1. The District or Enhanced District shall contain a minimum of twenty (20) contiguous acres of qualified farmland; or
2. The District or Enhanced District shall contain two (2) or more qualified farms within areas designated by the Advisory Board.

B. Education

The County may take such action as it deems appropriate through the Advisory Board or other entities or individuals to encourage the formation of the Districts and Enhanced Districts and to further their purposes and objectives, including the implementation of a public information program to reasonably inform landowners of the Agricultural District program.

C. Display

The Districts shall be marked on County maps displayed for public view in the following County offices:

1. Planning;

2. Register of Deeds
3. Cooperative Extension; and
4. Any other office deemed necessary by the Advisory Board and approved by the Board of Commissioners.

D. Withdrawal

In the event that one or more participants in the District or Enhanced District withdraw and the acreage in the District or Enhanced District becomes less than the minimum acreage required or results in the remaining land being noncontiguous, a Voluntary Agricultural District will continue to exist so long as there is one (1) qualifying farm.

ARTICLE VII
CERTIFICATION AND QUALIFICATION OF FARMLAND

A. Requirements

To secure County certification as qualifying farmland in either a Voluntary Agricultural District or Enhanced Voluntary Agricultural District, a farm must:

1. Be participating in the farm present-use-value taxation program established by N.C.G.S. §105-277.2 through §105-277.7, or is otherwise determined by the County to meet all the qualifications of this program set forth in G.S. 105-277.3;
2. Be managed, if highly erodible land exists on the farm, in accordance with the Natural Resources Conservation Service defined erosion-control practices that are addressed to said highly-erodible land; and
3. Be the subject of a Conservation Agreement, as defined in N.C.G.S. § 121-35, between the County and the owner of such land, that prohibits non-farm use or development of such land for a period of at least ten (10) years, except for the creation of not more than three (3) lots that meet applicable County zoning and subdivision regulations.

ARTICLE VIII
APPLICATION, APPROVAL AND APPEAL PROCEDURE

A. Application Procedure

1. A landowner may apply to participate in either the Agricultural District or the Enhanced Agricultural District program by making application to the Chairman of the Advisory Board or a designated staff person and must designate the application as for either Voluntary Agricultural District status or Enhanced District status. The application shall be on forms provided by the Advisory Board. The application to participate in a District or Enhanced District may be filed with the application for verification of qualifying farmland.
2. A Conservation Agreement with a duration of not less than ten (10) years (required by N.C.G.S. §106-737 and § 106-743.2, and defined in N.C.G.S. §121-35) suited to District type (Voluntary Agricultural District or Enhanced Voluntary Agricultural District) designated by the landowner to sustain, encourage and promote agriculture must be executed by the landowner and recorded with the Advisory Board, which shall record a certified copy of such with the Union County Register of Deeds. Permitted uses include agriculture, horticulture and forestry. Conservation Agreements for the Enhanced Agriculture District program may, at the election of the parties, include provisions requiring that any disputes between the County and the landowner be resolved through arbitration or mediation and, in the event of litigation, that the prevailing party be awarded costs, including reasonable attorney fees. The Conservation Agreement for the Enhanced Voluntary Agricultural District shall be binding upon all successors in interest to the landowner, except for successors in interest resulting from the exercise of rights under a security interest or lien that preceded the Conservation Agreement.

B. Approval Process

1. Upon submission of the application to the Advisory Board, the Advisory Board shall meet within sixty (60) days to approve or disapprove the application. The Chairman shall notify the applicant by first class mail of approval or disapproval of participation in the District.

2. Upon receipt of an application, the Chairman will forward copies immediately to the following offices which shall be asked to provide comments, if any, to the Advisory Board prior to the date set for the Advisory Board vote on the application:
 - a. Union County Tax Administrator;
 - b. Union Soil and Water Conservation District office;
 - c. Union County Office of N.C. Cooperative Extension; and
 - d. Natural Resources Conservation Service

C. Appeal

If an application is denied by the Advisory Board, the landowner may, within ten (10) days of notification of disapproval of the application, request in writing that the Advisory Board reconsider its decision. The request for reconsideration shall state the reason(s) therefor. Upon either an initial denial, if no request for reconsideration was made, or denial after reconsideration, the landowner shall have thirty (30) days from the date of notification to appeal the decision to the Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

ARTICLE IX
RENEWAL AND REVOCATION OF CONSERVATION AGREEMENTS

A. Renewal

1. District. A Conservation Agreement for land within a Voluntary Agricultural District shall be automatically renewed unless the landowner provides a thirty (30) day written notice to the Advisory Board of intent not to renew. Absent noncompliance by the landowner, neither the Advisory Board nor the Board of Commissioners shall fail to renew any Conservation Agreement unless this Ordinance or its authorizing legislation has been repealed.
2. Enhanced District. A Conservation Agreement for the Enhanced Voluntary Agricultural District shall be deemed automatically renewed for an additional term of three (3) years, unless either the Advisory Board or the landowner gives written notice to the contrary prior to the termination date of the Conservation Agreement. At the end of each

three (3) year term, the Conservation Agreement shall automatically renew for an additional three (3) year term unless notice of termination is given.

B. Revocation

1. District. By providing thirty (30) days advance written notice to the Advisory Board, a landowner of qualifying farmland within a Voluntary Agricultural District may revoke the Conservation Agreement or the Advisory Board may revoke the same Conservation Agreement based on noncompliance by the landowner, subject to the same provisions as contained in Article VIII(C) for appeal of denials. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a District. Absent noncompliance by the landowner, neither the Advisory Board nor the Board of Commissioners shall revoke any Conservation Agreement prior to its expiration. If the Advisory Board shall revoke this Conservation Agreement for cause, the landowner shall have the appeal rights set forth in Article VIII(C). Transfers of land in a Voluntary Agricultural District due to death of the landowner, sale or gift shall not revoke the Conservation Agreement unless the land no longer qualifies for the present-use-value taxation program or, in the event that there are water or sewer assessments held in abeyance, the new owner(s) fails to agree in writing to accept liability for those assessments in the event that the land is withdrawn either voluntarily or involuntarily from the District. Enforcement of the terms of a Conservation Agreement for land enrolled in a Voluntary Agricultural District shall be limited to revocation of the Conservation Agreement and the benefits derived therefrom.
2. Enhanced District. Conservation Agreements for land within Enhanced Districts are IRREVOCABLE for a period of ten (10) years. Enforcement of the terms of the Conservation Agreement may be through an action for injunctive relief and/or damages in any court of competent jurisdiction. The County may also terminate any benefits to the owner under this program either permanently or during the period of violation, as appropriate. If the Advisory Board shall revoke this Conservation Agreement for cause, the landowner shall have the appeal rights set forth in Article VIII(C). The right to terminate program benefits is in addition to any legal rights that the County may have under either this Ordinance or the terms of the applicable Conservation Agreement. The County may seek costs of the action, including reasonable attorney fees, and such a provision shall be incorporated into the Conservation Agreement.

ARTICLE X
WAIVER OF WATER AND SEWER OR ALL UTILITY ASSESSMENTS

A. No Connection Required

1. A landowner belonging to the District shall not be required to connect to Union County water and/or sewer systems.
2. A landowner belonging to an Enhanced District shall not be required to connect to Union County utility systems.

B. Abeyance

1. Water and sewer assessments shall be held in abeyance, without interest, for farms in a District until improvements on such property are connected to the water or sewer system for which the assessment was made.
2. Utility assessments shall be held in abeyance, without interest, for farms in an Enhanced District until improvements on such property are connected to the utility system for which the assessment was made.

C. Termination of Abeyance

When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

D. Suspension of Statute of Limitations

Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest. The landowner may be required to sign an acknowledgment (that may be incorporated into the Conservation Agreement) of the abeyance of the statute of limitations upon collecting water and sewer assessments, or other utility assessments.

E. Other Statutory Abeyance Procedures

Nothing in this section is intended to diminish the authority of the County to hold assessments in abeyance under N.C.G.S. § 153A-201 or other applicable law.

F. Conflict With Water and/or Sewer System Construction and Improvements Grants

To the extent that this section conflicts with the terms of federal, state or other grants under which County utility systems are constructed, this section shall not apply. This section shall not apply to utilities that are not owned by the County unless the County has entered into an agreement with the entity(ies) owning the utilities and that agreement provides that this Ordinance shall apply.

ARTICLE XI
ADDITIONAL ENHANCED AGRICULTURAL DISTRICT BENEFITS

Land enrolled in the Enhanced Voluntary Agricultural District program is entitled to all of the benefits available under the Voluntary Agricultural District program and to the following additional benefits:

A. Sale of Non-Farm Products

Landowners participating in Enhanced Districts may receive up to twenty-five percent (25%) of gross sales from the sale of non-farm products and still qualify as a bona fide farm that is exempt from County zoning regulations under N.C.G.S. § 153A-340(b). A farmer seeking to benefit from this subsection shall have the burden of establishing that the property=s sale of non-farm products did not exceed twenty-five percent (25%) of its gross sales.

B. Agricultural Cost Share Program

Landowners participating in Enhanced Districts are eligible under N.C.G.S. § 143-215.74(b) to receive the higher percentage of cost-share funds for the benefit of that farmland under the Agriculture Cost Share Program established pursuant to Part 9 of Article 21 of Chapter 143 of the General Statutes for funds to benefit that farmland.

C. Priority Consideration

State departments, institutions or agencies that award grants to farmers are encouraged to give priority consideration to landowners participating in Enhanced Districts.

D. Utility Assessment Waiver

As provided in Article X above, waiver of all County utility assessments in addition to waiver of water and sewer assessments is available to all participants in Enhanced Districts.

ARTICLE XII PUBLIC HEARING

A. Purpose

No state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a District until such agency or unit has requested the Advisory Board to hold a public hearing on the proposed condemnation.

B. Procedure

1. Upon receiving a request, the Advisory Board shall publish notice describing the proposed action in a newspaper of general circulation in Union County within five (5) business days of the request and will in the same notice notify the public of a public hearing on the proposed condemnation to be held within twenty (20) days of receipt of the request.
2. The Advisory Board shall meet to formulate recommendations regarding:
 - a. whether the need for the project has been satisfactorily established by the agency or unit of government involved, including a review of any fiscal impact analysis conducted by the agency involved; and
 - b. whether there exist alternatives to the proposed action that have less impact on and disruption to the agricultural activities of the District within which the proposed action is to take place.

3. The Advisory Board may consult with the County Cooperative Extension Agent, USDA Natural Resource Conservation Service District Conservationist, the Union County Farm Bureau and any other individuals, agencies or organizations deemed by the Advisory Board to be necessary for its review of the proposed action.
4. Not later than thirty (30) days after receiving a request to hold the public hearing, the Advisory Board shall submit a report containing its findings and recommendations regarding the proposed action to the decision-making body of the agency proposing acquisition. To the extent practicable, the report shall be made available to the public for comment prior to its being conveyed to the decision-making body of the agency proposing acquisition.
5. Pursuant to N.C.G.S. Section 106-740, the agency or unit of government proposing acquisition shall not formally initiate a condemnation action while the proposed condemnation is properly before the Advisory Board within these time limitations.

ARTICLE XIII
PUBLIC NOTICE

A. Notice of Proximity to District and Enhanced District

1. Procedure

Upon approval of, or modification to, a District or Enhanced District by the Advisory Board or the Board of Commissioners, the Advisory Board shall provide to the Union County GIS office such information and materials as may be necessary to enable the GIS office to prepare maps designating the location of the Districts and Enhanced Districts established pursuant to this Ordinance. Within a reasonable time after receipt of such information and materials, the Union County GIS office shall prepare or update appropriate maps so as to allow determination of the proximity of a particular tract to a District or Enhanced District by those desiring such information. Maps shall be accessible to the public as indicated in Article VI(C). The GIS office shall also endeavor to establish a separate layer on the GIS system for delineation of the Districts and Enhanced Districts. In addition, the Tax Administrator shall endeavor to indicate on the tax screens of the Administrator's official web site whether a District or Enhanced District is located within one-half aerial mile of a subject parcel.

2. Signs

To the extent legally permissible, the County Manager may cause signs to be placed along public roadways to notify the public of the presence or proximity of a District or Enhanced District.

3. Limit of Liability

In no event shall the County or any of its officers, employees, members of the Advisory Board or agents be held liable in damages for any misfeasance, malfeasance or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this Article.

4. No Cause of Action

In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or Voluntary Agricultural District or Enhanced Voluntary Agricultural District as defined in this Ordinance.

ARTICLE XIV
SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW

Developers of major subdivisions or planned unit developments shall designate on preliminary development plans the existence of the Districts and Enhanced Districts within one (1) aerial mile of the proposed development.

ARTICLE XV
COUNTY LAND-USE PLANNING

A. Duty of the Advisory Board

It shall be the duty of the Advisory Board to advise the Board of Commissioners or the agency or office to which the Board of Commissioners delegates authority to oversee County land use planning, on the status, progress and activities of the County's

Agricultural District program and to also coordinate the formation and maintenance of Agricultural Districts with the County's land use planning activities and the County's land use plan.

B. Posting of Notice

The following notice, of a size and form suitable for posting, shall be posted in the office of the Register of Deeds and any other office or agency the Advisory Board deems necessary, as approved by the Board of Commissioners:

Union County has established Agricultural Districts to protect and preserve agricultural lands and activities. These Districts and Enhanced Districts have been developed and mapped by the County to inform all purchasers of real property that certain agricultural and forestry activities, including but not limited to pesticide spraying, manure spreading, machinery and truck operation, livestock operations, sawing and other common farming activities may occur in these Districts and Enhanced Districts any time during the day or night. Maps and information on the location and establishment of these Districts and Enhanced Districts can be obtained from the North Carolina Cooperative Extension Service office, the office of the Register of Deeds, the County Planning office or the Natural Resources Conservation Service office.

ARTICLE XVI
NORTH CAROLINA AGENCY NOTIFICATION

Record Annually With the Department of Agriculture

A record of this Ordinance shall be recorded with the North Carolina Commissioner of Agriculture's office after adoption. The County shall make an annual report to the North Carolina Commission of Agriculture as specified in N.C.G.S. Section 106-743.

ARTICLE XVII
LEGAL PROVISIONS

A. Severability

If any article, section, subsection, clause, phrase or portion of this Ordinance is for any reason invalid or unconstitutional as determined by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

B. Conflict With Other Ordinances and Statutes

Whenever the provisions of this Ordinance conflict with other Ordinances of Union County, this Ordinance shall govern to the extent permitted by law. Whenever the provisions of any federal or state statute require more restrictive provisions than are required by this Ordinance, the provisions of such statute shall govern.

C. Amendments

This Ordinance may be amended from time to time by the Board of Commissioners. Pursuant to G.S. § 153A-122, the territorial jurisdiction of this Ordinance shall be those parts of Union County not within a municipality.

D. Effective Date

The Effective Date of this Ordinance shall be October 1, 2009.

ARTICLE XVIII
ENACTMENT

The Union County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this Ordinance.

Adopted this the 21st day of September, 2009.

Consideration of Amendment to Weddington Interlocal Agreement: Authorized the County Manager to approve an amendment to the Weddington Interlocal Agreement to increase the not-to-exceed amount for engagement of non-staff consultants from \$25,000 for each party to \$31,000 and adopted Budget Ordinance Amendment #11 in the amount of \$6,000

BUDGET AMENDMENT

BUDGET	Parks & Recreation			REQUESTED BY	Ed Goscicki				
FISCAL YEAR	FY2010			DATE	September 21, 2009				
<u>INCREASE</u>				<u>DECREASE</u>					
<u>Description</u>				<u>Description</u>					
Contracts, Grants and Subsidies			6,000	General Fund Contingency					6,000
Explanation:	Appropriate additional funding for County participation in development of hydrological model, remediation plan								
	and related services in connection with Weddington and WCWAA.								
DATE				APPROVED BY					
					Bd of Comm/County Manager				
					Lynn West/Clerk to the Board				

FOR POSTING PURPOSES ONLY

FOR POSTING PURPOSES ONLY					
DEBIT			CREDIT		
Code	Account	Amount	Code	Account	
10561373-5699	Contracts, Grants and Subsidies	6,000	10592000-5920	General Fund Contingency	6,000
	Total			Total	6,000

			6,000				
		Prepared By	bl				
		Posted By					
		Date				Number	11

Information Only – No Action Requested: Included in the agenda package for information purposes only with no action requested were the following: a) Department of Inspection Monthly Report for August 2009; b) Personnel Department’s Monthly Report for August 2009; and 3) Report of Health Hazard Sanitary Sewer Tap Allocation located at 3304 Oscar Privette Road, Matthews, NC (in Union County)

PUBLIC INFORMATION OFFICER’S COMMENTS:

Chairman Openshaw recognized Brett Vines, Public Information Officer, for his comments.

Mr. Vines offered comments regarding the following matters:

- a. One-stop voting for Monroe elections is taking place from 8:30 a.m. - 6:00 p.m. in the Griffin Room of the Monroe Library. One-stop voting for the Monroe election ends on October 3.
- b. Absentee voting for Monroe election ends October 5.
- c. Vet Fest will be held on Saturday, September 26 from 11:00 a.m. to 4:00 p.m. at Belk-Tonawanda Park sponsored by the Disabled American Veterans of Union County
- d. 4-H Celebration is being held on October 3 at 6:30 p.m. at the Union County Ag Center/Cost \$50 per person.
- e. Rabies Clinic is being held on Wednesday, October 7, at 6:00 p.m. in the parking lot of the Animal Shelter - Cost \$7 cash per shot.
- f. Sheriff’s Golf Tournament will be held on October 12 at 8:30 a.m. at Stonebridge Golf Club/\$75 per player/\$300 per team.
- g. Agricultural Cost-Share Funds in the amount of \$95,000 are available through Union Soil & Water Conservation District to assist farmers with conservation methods that improve water quality. The State pays up to 75 percent of the average cost.

- h. New landfill rules will become effective October 1, 2009. It will be unlawful to dispose of the following items at the landfill: 1) Motor oil filters; 2) wooden pallets; and 3) plastic bottles. The landfill accepts those items for recycling. Chairman Openshaw questioned if it included all plastic bottles. Mr. Vines stated that he would find the answer to the Chairman's question and provide that information to the Commissioners.

UPDATE BY PRESBYTERIAN HOSPITAL MATTHEWS:

Roland Bibeau and others, including Dr. Roy Blank, Dr. Garnet Maharaj, and Dr. James Roberts, from Presbyterian Healthcare updated the Board regarding healthcare and its partnership for healthcare in Union County. Highlights included:

- 1) In 2008, Presbyterian Healthcare received the Ernest A. Codman Award – Presbyterian is only the second system in the country to receive multiple awards for its hand hygiene initiative.
- 2) Has received Magnet designation – Presbyterian is the only healthcare facility in the entire geographic region to have achieved magnet designation that their nurses provide in the top 10 percentile of quality throughout the healthcare professions in the country. It is one of five health systems to receive the award as a complete system.
- 3) A third party rating agency, the Professional Research Consultants, awarded 109 excellence in healthcare awards in 2009.

They assured that Presbyterian is available to support the needs of the community.

Commissioner Mills stated that there had been three incidents where the AED's were used to save lives. He asked that the Board request Brett Vines, Public Information Officer, to locate those persons who had used the AED's, one of whom was a Sheriff's deputy, and invite them to come to a Board of Commissioners' meeting to be recognized.

Vice Chair Rogers expressed appreciation to Presbyterian Healthcare for what it has been doing for the County and the schools. She said that she appreciated the physicians coming to the meeting tonight and sharing what Presbyterian is doing in the county.

UPDATE BY PHILLIP TARTE, HEALTH DIRECTOR, REGARDING H1N1 FLU VIRUS:

Mr. Tarte stated that he was joined tonight by Amy Parker and Lydia Lyons from the Union County Health Department. Mr. Tarte provided an update regarding the H1N1 flu virus and reviewed local activities by the Health Department, including working with the schools to immunize middle school aged children, and working with community partners hosting flu webinars at the Health Department.

Mr. Tarte and Ms. Lyons answered questions of the Board members.

CONSIDERATION OF ECONOMIC INCENTIVE GRANT AWARD – IMO PUMP IN A TOTAL AMOUNT NOT TO EXCEED \$18,000:

This item was removed from the agenda at the request of IMO Pump.

UNION COUNTY ENERGY EFFICIENCY AND CONSERVATION STRATEGY PLAN:

Matthew Delk, Assistant County Manager, stated that the Americans Recovery and Reinvestment Act of 2009 allocated an energy efficiency conservation block grant from which Union County Government was allocated a formula grant of \$751,800. Mr. Delk reminded that in prior Board action, County staff was authorized to submit an application to the Department of Energy for the grant, and the grant has been approved pending the execution and submittal of the Energy Efficiency and Conservation Strategy Plan, which was a requirement of the allocation.

Mr. Delk introduced Jason Wager and Rich Deming involved with Centralina Council of Governments.

He stated that on May 18, 2009, the Board directed staff to work with Centralina Council of Governments as the lead contractor to assist in the preparation of the grant application. He said that the completed Energy Efficiency and Conservation Strategy Plan is included in the agenda package which includes a lengthy document prepared by REFRESCO, a business that primarily conducts energy audits on specified facilities.

Mr. Delk explained that the work group designed the process to provide the largest benefit possible through savings in simple payback terms to the County based on what it spends on utilities. He said that the process outlined in the plan monitors utility savings on an annual basis. He stated that it is anticipated that the utility savings can be measured annually to reinvest in other conservation projects that will also be prioritized on simple payback terms.

Vice Chair Rogers referred to Page 12 of the document included in the agenda package which lists the energy costs per square foot. She asked why the cost for the animal shelter was so much higher in energy cost per square foot than some of the other facilities.

Barry Wyatt, General Services Director, responded that the primary reason that the energy costs per square foot is higher at the animal shelter than at the other facilities is the crematorium for the animals because of its high use of natural gas.

Vice Chair Rogers referred to Page 15 of the document regarding total water usage. She asked why the Sheriff's Office/Jail and the Judicial Center costs are so much higher.

Mr. Wyatt stated that the Sheriff's Office and Jail is a 24-hour per day operation housing 250 inmates with a kitchen. He said the higher water usage at the Judicial Center is probably due to traffic volume in that building.

Vice Chair Rogers referred to Appendix A of the document. She said that she had reviewed the projects. She asked since the Sheriff's Office, Animal Shelter, and Judicial Center are such large users of these resources, are there enough projects outlined in the document to better the situation.

Mr. Wyatt said that they are considering solar hot water particularly for the Sheriff's Office. He explained that use of solar hot water would not conserve water necessarily but would save heating cost of the water. He said that in most buildings they were looking at changing the aerators going from 2 to .5 aerators which will conserve water.

Chairman Openshaw commented that he was very impressed with the payback numbers and how quickly the expenses can be recouped.

Following the presentation, Vice Chair Rogers moved to approve the Union County Energy Efficiency and Conservation Strategy Plan and direct staff to submit the plan to the United States Department of Energy. The motion passed unanimously.

Mr. Delk expressed appreciation to the Board for its action and explained that much like the Dodge City water project, this project has multiple steps, and it is anticipated that at a future meeting there will be a grant agreement on an agenda for the Board's consideration.

SHORT-TERM WATER ALLOCATION PLAN:

Chairman Openshaw asked if there were a motion in regards to the Short-Term Water Allocation Plan.

Commissioner Mills stated this plan is somewhat different than the original plan proposed for which a public hearing was held. He asked if it is necessary to hold a second public hearing since it is different than the purpose for what the public hearing was held.

Mr. Crook responded that it would be at the Board's discretion, but a public hearing was not required legally for either of the two times that a public hearing was held.

Commissioner Kuehler moved to adopt the Short-Term Water Allocation Plan dated September 21, 2009 (Amended and Restated) as presented. She asked to add in Section 6.1.2 to clarify that the projects that would be eligible under the Plan would have to have sewer permits.

Al Greene, County Manager, commented that there is broad language in the proposed plan that allows the Public Works Department to require information that they believe appropriate. He said that it might be wise to add specific language to require documentation of an approved means of a public or private wastewater disposal. He suggested that Jeff Crook, Senior Staff Attorney, could offer comments on that, and, if he is agreeable with that, offer a place in Section 6.1.2 where he thinks the language might be appropriate.

Mr. Greene asked Mr. Crook if he had any concerns about adding language to Section 6.1.2 as suggested. Mr. Crook responded that this plan has been a collaborative effort, and explained he did have some concerns with this and requested a short recess to discuss this matter.

At approximately 8:25 p.m., Chairman Openshaw called for a short recess in the meeting. The meeting was reconvened at approximately 8:35 p.m.

Commissioner Kuehler repeated her original motion to adopt the Short-Term Water Allocation Plan dated September 21, 2009, (Amended and Restated) with the additional bullet point under Section 6.1.2 to read as follows: "Certify to UCPW that adequate sewer service can be provided to the proposed Project through a public or privately operated wastewater system or through a private septic system."

Chairman Openshaw offered an amendment to the motion to amend the second paragraph of Section 10.0 Directions to County Staff to read as follows: “Within 90 days from the Effective Date, County Staff will present to the Board of Commissioner an action plan for how water demand will be managed in the event that water demand in the CRWTP service area exceeds 17.5 mgd.”

He said if language needed to be inserted in Section 10.0 about staff being able to come back to the Board with extenuating circumstances, he would be agreeable with that also.

Mr. Greene stated as a reminder that staff was instructed at the Board’s last work session to develop a response plan in the event the peak demand does exceed 17.5 million gallons per day and was asked to bring that plan to the Board within 90 days.

Commissioner Kuehler agreed to accept the amendment offered by Chairman Openshaw as a friendly amendment to the motion.

Commissioner Mills said that he was not going to support the motion and has not supported the plan since the beginning. He stated that he understood the work that has gone on with this plan. He said that he still believes that the plan that was put in place was put in place to meet the needs that were on the books from letters that were given out or issued, whether they were right or wrong, and the Board was trying to meet those obligations. He said it was known that if all of the projects came in at the same time for water, there would not be enough water to meet those needs, but it is not realistic that all of the projects would come in at the same time. He stated that he fully recognized that there has been over allocation and the way it was trying to be resolved was to bring in additional water. He said that this proposed policy goes for 18 million gallons per day and does not take into effect the three million gallons per day that is being received from Lancaster for a year. Commissioner Mills stated that he believed it was very short sighted of the Board not to accept the two million gallons per day for two years that Lancaster graciously worked on with Union County. He said that he thought delaying the Anson County water line is another issue that needs to be addressed tonight. He stated that he would hate to see the County lose the bid window and the savings of \$2.8 million dollars plus in connection with the Anson County water. He said that he thought the County needed to move forward with the bids regardless of whether there is a long-term contract.

He stated that he appreciates all the hard work that staff has done on this plan, and it was no reflection on any of the staff or Board members when he voted no on the motion tonight. He further said he thought this was the wrong approach, and the current policy has had no legal challenges.

Chairman Openshaw asked Mr. Greene if he would address the e-mail sent to the Commissioners today.

Mr. Greene stated that staff had e-mailed a memo to the Board regarding the Anson County process. He said that Chairman Openshaw, Commissioner Kuehler, Ed Goscicki, the Public Works Director, and he have been invited to Anson County to meet informally to discuss that agreement. He stated the actual expiration of the Anson bids is September 30 rather than October 2. Mr. Greene said staff is hopeful that there will be progress with Anson County, but there is very little time to work on it. He stated that it might require a special meeting of the Board in the near future. He agreed that the Anson project is critical and time is critical as well.

Commissioner Mills commented that was very good news. He said that he was prepared to move forward with the bids knowing that Anson County is the mother of this county. He said he would move forward without a long-term contract knowing that the contract could be worked out after the fact if necessary.

Mr. Greene said that staff has talked about the Anson bids at staff level, but it does not have a recommendation to move forward tonight. He stated that staff hopes within the next week or so there will have been enough progress that the bids will not have to be awarded without a more long-term agreement in place. However, he said that might be a potential that would be considered in the coming days.

Commissioner Baucom said that he also appreciates all the efforts that staff has put into this plan. He stated that he would also be voting against the motion tonight. He said that when the current policy was put in place it was brought forward to resolve issues coming from a prior Board over extending water. He said the present policy has not been challenged, and it does its job. He stated that the current policy takes into consideration additional water that is currently being brought in. He said at the August 31, 2009, meeting the Board voted against bringing two million gallons of additional water from Lancaster County, and this action was after the Board instructed staff to bring back a written agreement.

Commissioner Baucom stated that Anson County has been a real friend to Union County, and he thought Anson would continue to be a friend to Union County. He said that the onus is upon Union County to negotiate with Anson County favorably to obtain a contract extension to obtain an additional water supply for an additional period of time. He stated that if Union County does not do that, it is Union County's fault. He said that normally he would be in agreement with Commissioner Mills, but given this Board and its actions, he thought that the County's delegation on the Anson project should meet with Anson County before moving forward with the bids. He said he too wanted to save the \$2.8 million, and he wants to get the additional water now.

Chairman Openshaw said that as has been discussed they are working on trying to set a meeting with Anson County. He said that to give Commissioners Mills and Baucom some credit, he along with Commissioners Baucom and Mills met with the Anson County Board of Commissioners in October of 2008. He said that there has been the ability for Union County to receive four million gallons of water per day from Anson, but Union County has never invested in the infrastructure on its end to be able to receive the extra two million gallons. He stated that the one study he had read indicated that it was not cost effective at the time.

The Chairman said that he believed Commissioner Baucom had asked Anson County at that meeting in October 2008 if they would be willing to provide Union County with an extra two million gallons per day. He said that they were willing to consider that but it would take a longer period of time. He stated that this is one of the issues that will be negotiated when Union County's representatives meet with the Anson representatives.

He said that in the meantime he had found an old report dated 2005 that said Anson has 8.6 million gallons of water per day that it could provide Union County. He stated that may not be the case any more. He said that he has been told if Union County does the improvements, there will be the capacity to transmit more water beyond the six million gallons per day if Anson can provide it.

The Chair addressed the Lancaster County matter. He said that he had been the one who had suggested that Commissioner Mills and Commissioner Kuehler talk with them about getting Union County a long-term water commitment or until the two million gallons per day were received from Anson County. He stated that then he found out that Union County owes the City of Monroe two million gallons per day of Catawba water by April 30, 2014. He said that there are penalties in the contract with Monroe if Union County does not provide the water. He stated that would be two million gallons per day of the Anson water unless there is another source. Chairman Openshaw said he has had conversations with staff about extending it out until the point where the Catawba Water Treatment Plant is expanded by 50 percent and the timeframe for that expansion ranges from three years at the low end and six years on the high end. He questioned how the County could allocate water for two years and then say the water is gone. He explained that this is why the proposal to lease two million gallons of water per day from Lancaster did not work. He said if the County could work out an arrangement with Lancaster to lease capacity from them until the plant could be expanded, then the County would be covered and the demand could be met.

Chairman Openshaw said that there are 4,000 homes included in the water allocation plan that have water and sewer or septic. He compared the current allocation plan to saying you are going to win a triathlon by just competing in the first event. He said if you

read the old plan, it says that it is 1.7 million gallons short but the County is going to give water permits anyway. He asked if this was not the same mentality that got the County in trouble in the first place. He said that the bottom line is that it is time to move forward. He stated that Union County got into the position it is in because it over promised in the past, and in his opinion that is what the current policy does, and it also guarantees that if the County got to the point where it had to, there would be no irrigation. He said that he had one other suggestion for staff. He said that the proposed plan mentions when it gets to the first-come, first-serve for the remaining capacity. He suggested that first-come, first-serve be done on a daily basis. He said that in order to avoid having people camp out, he would suggest that first-come, first-serve be done on a daily basis. In other words, he explained that it would not necessarily be the first one there but everyone can submit their information, and the staff would make their recommendations based on the qualifications. He asked if staff had a problem with this suggestion. He asked for the definition of first-come, first-serve.

Mr. Greene explained that this meant the first project to submit a completed application to include all the information requested including the construction contracts. The Chair asked if it would be more beneficial for staff to avoid the potential hassle of having to deal with that by having a timeframe that each day qualifies as that first come, first serve. Mr. Greene responded that he was not certain what Chairman Openshaw was asking but explained that staff has worked out a process that it believes is workable by requiring, beginning on the effective date, a sign-up sheet at a certain time in Public Works where applicants will have to come in. He said that the first one on the sign-in sheet presents its information, and if it is complete and answers the question contemplated by Section 6.1.2, then they would be first in line.

Chairman Openshaw pointed out that roughly one-quarter of the people on the list receive three-quarters of the water.

Following the lengthy discussion, the Chair repeated the motion with amendments as accepted by Commissioner Kuehler. The motion 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.

**UNION COUNTY
SHORT-TERM WATER ALLOCATION PLAN**

DATE: SEPTEMBER 21, 2009 (AMENDED AND RESTATED)

PREFACE

In February 2008, Union County's Board of Commissioners adopted a resolution that, among other requirements, tasked the County Manager and Public Works Department with developing a Short-Term Water Allocation Plan. This resolution acknowledged that, at times, the Union County Water System's (UCWS) Peak Day Demand exceeded available water treatment capacity. As a result, the opportunity to provide water service to new customers is limited. The Short-Term Water Allocation Plan is intended to provide an action plan for the County as it seeks to continue to provide a high level of service to existing customers, and new water service connections for continued population and economic growth. When new treatment plant capacity is in-place, it is expected that this Short-Term Water Allocation Plan will no longer be required.

On October 20, 2008, a Water Allocation Policy was adopted by the Board of Commissioners and put into action by Union County Public Works (UCPW). Subsequently, changing economic conditions and a desire to maintain future water allocations within current, permitted, and contracted water treatment capacity led to the desire to revise the Water Allocation Policy. On January 20, 2009, the Board of Commissioners directed UCPW staff to stop applying for Water Permits under the previously adopted Water Allocation Policy (except for Government Facilities and Nonresidential Projects). On April 8, 2009, the Board of Commissioners directed County staff to draft revisions to the Water Allocation Policy to allow for new development, with a baseline of one-day-per-week outdoor irrigation for customers; to stop applying for all Water Permits; and to pursue recovery of capacity.

On August 4, 2009, the Permit Extension Act of 2009 was enacted into law, effective on that date. A few days thereafter, the Permit Extension Act of 2009 was amended. This Act, as amended, specifically allows Union County to recover and reallocate water allocation from projects that are not ready to proceed, but sets forth guidelines that must be followed in doing so.

During development of these revisions, it has now been determined that the number of residential lots with an existing Water Permit provides sufficient inventory for new residential construction until new water treatment capacity can be delivered, and that the limited remaining available water to be allocated should be provided to Nonresidential, Government Facilities, One Tap, and Self Help Projects. In addition, the name of this document has been revised from a Water Allocation Policy to a Short-Term Water Allocation Plan to better reflect its purpose and intent.

This Short-Term Water Allocation Plan (Plan) seeks to document current water use by UCWS customers and quantify the amount of capacity that is available for system expansion. As presented herein, the short-term available capacity for new customers to the UCWS is a function of the type of water use restrictions implemented on the current customer base. In developing this Plan, the County has sought to:

- protect public health and safety;
- maintain a high level of service to existing water customers;
- be fair and equitable in allocation of future water service;
- comply with the Permit Extension Act of 2009, as amended; and,

- eliminate excursions of Peak Day Demands above current allocated capacity.

The Union County Public Works Department is actively pursuing additional water treatment capacity, and is currently in the planning, permitting, engineering design, and/or construction phase of numerous projects that are intended to secure additional water supply and delivery capacity to current and future residents of the County. However, until several of these projects are completed, it is necessary to have this Plan in place to establish guidelines for allocating water treatment capacity.

TABLE OF CONTENTS

		<u>PAGE</u>
1.0	Definitions	4
2.0	Recitals	6
3.0	Scope	9
4.0	Purpose	9
5.0	Effective Date	9
6.0	Water Allocations	10
7.0	Reallocation of Water Capacity	12
8.0	Acceptance of New Engineering Plans and Water Permit Application Process	14
9.0	Notification Period for Omissions/Corrections	14
10.0	Directions to County Staff	14

List of Attachments

- Figure 1 - UCWS Service Area Map
- Figure 2 – UCWS Daily Water Demand from the CRWTP (5/07 – 8/09)
- Table 1 – Union County Water Allocation – Identified Future Development Projects

1.0 DEFINITIONS

Unless otherwise specified herein, or unless clearly required by context, the words and phrases defined below shall have the meaning indicated when used in this Plan.

- **Accessibility Letter** – refers to a letter issued by UCPW that describes the proximity of a proposed Development Project to existing UCWS water infrastructure and the requirements for obtaining water service.
- **Anson County Water Treatment Plant (ACWTP)** – refers to Anson County’s water treatment facility. The ACWTP has a rated capacity of 16 MGD. Union County has a contracted capacity for 4 MGD from the ACWTP. However, current hydraulic system limitations restrict the available water capacity to approximately 2 MGD from the ACWTP. Union County Public Works has several ongoing projects to eliminate these hydraulic restrictions and make fully available the 4 MGD contract capacity.
- **Average Day Demand** – refers to the annual average daily water demand (estimated or actual) placed on a single connection, portion, or all of the UCWS.
- **Catawba River Water Treatment Plant (CRWTP)** – refers to the water treatment facility that is jointly owned by Union County and Lancaster. The CRWTP has a rated capacity of 36 MGD. Union County has ownership rights to 50% of this capacity, or a total of 18 MGD.
- **County** – refers to Union County.

- **Development Project, or Project** – refers to an undertaking involving real property improvement, One Tap Projects, and Self Help Projects for which a new or expanded connection to the UCWS is requested.
- **Effective Date** – refers to twelve noon on September 28, 2009.
- **Government Facilities** – refers to facilities owned or operated by Union County, Union County Public Schools, or a municipality located within Union County, and facilities funded in whole or in part by Union County.
- **Lancaster** – refers to the Lancaster County Water and Sewer District.
- **Maximum Day (Max. Day or Peak Day) Capacity** – refers to the maximum day treatment capacity of a water treatment and distribution system. For the purposes of this Plan, the total Max. Day Capacity is 18 MGD. This value represents Union County’s contracted supply from the CRWTP.
- **Maximum Day (Max. Day or Peak Day) Demand** – refers to the highest daily water demand placed on a single connection, portion, or all of the UCWS.
- **MGD** – is million gallons per day.
- **Nonresidential Development Projects** – refers to all Development Projects other than Residential Development Projects and Government Facilities Projects.
- **Notice Period** – refers to the public notification period during which UCPW requested owners of any Development Projects, or others, who had received documentation from the County regarding the availability of water service to a potential site or parcel, to show evidence of the same. This correspondence may, but need not, be referred to as an Accessibility Letter. This notification period occurred between February 26, 2008, and March 27, 2008.
- **One Tap Projects** – refers to a Project where the owner of an existing parcel (as of October 20, 2008) requests a single residential tap by a service line from the UCWS. One Tap Projects shall include existing residences served by well.
- **Peak Day Demand** – see definition above for Maximum Day Demand.
- **Peaking Factor** – refers to the ratio of Maximum Day Demand to Average Day Demand.
- **Permit Extension Act** – refers to Session Law 2009–406 as amended, cited as the Permit Extension Act of 2009.

- **Plan** – refers to this amended and restated water allocation document. The use of the word “Plan” has replaced the word “Policy” as used in the original document to better reflect its purpose and intent.
- **Project** – has the same meaning as Development Project.
- **Residential Development Project** – refers to Development Projects for residences such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc., and their associated outbuildings including garages, storage buildings, gazebos, etc., and customary home occupations. For purposes of this Plan, a Retirement Community shall not be deemed a Residential Development Project.
- **Retirement Community** – refers to a housing development that is designed for and restricted to occupancy by households having at least one member who is fifty–five (55) years of age or older, and in which children under eighteen (18) years of age shall not reside for more than ninety (90) days per calendar year.
- **Self Help Project** – refers to a Project that is derived from the County’s Self Help Program. The Self Help Program targets residents who face an existing or imminent threat to public health or to the environment due to poor water quality or insufficient water supply.
- **UCPW** – refers to the Union County Public Works Department.
- **UCWS** – refers to the potable water system owned by Union County and operated and maintained by UCPW.
- **Water Permit** – refers to an Authorization to Construct permit for water system infrastructure secured for a Development Project from the North Carolina – Department of Environment and Natural Resources (NC-DENR). After approval by UCPW staff, Development Projects are typically submitted to NC-DENR for an Authorization to Construct permit by the County.

2.0 RECITALS

- 2.1 The UCWS is operated by UCPW and is supplied with potable water by the CRWTP and the ACWTP. Union County has ownership rights in the CRWTP that includes a Maximum Day Capacity of 18 MGD. Considering current hydraulic restrictions, the UCWS has a Maximum Day Capacity of approximately 2 MGD available from the ACWTP. While the current total Maximum Day Capacity available in the UCWS is approximately 20 MGD, water from each of these sources is isolated to distinct service areas of the UCWS. That is, water supply from the CRWTP cannot easily be utilized in the UCWS served by the ACWTP, and vice-versa. These service area boundaries are generally outlined as shown on attached Figure 1.

- 2.2 Given the location of population growth, proposed Development Projects, and increasing water demands within the County, this Plan applies to the allocation of available water treatment plant capacity from the CRWTP and the UCWS currently served by this water supply source. A review of historical water use data indicates that the Maximum Day Capacity from the CRWTP has been exceeded due to high Peak Day Demands associated primarily with outdoor irrigation in this service area.
- 2.3 The UCWS has interconnections with Charlotte-Mecklenburg Utilities and the City of Monroe. These interconnections are utilized for emergency purposes only and do not offer an increase in long-term available water treatment capacity to the County's water system.
- 2.4 Due to varying topography throughout the County, the UCWS operates on four distinct pressure gradients, or pressure zones. While these pressure zones are interconnected, universal movement of water throughout the UCWS is not possible.
- 2.5 For a number of years, high population growth, coupled with other commercial, industrial, and institutional growth, has placed increasing water demands on the UCWS, particularly in the western part of the County. These demands have stressed the limits of available water treatment capacity and the hydraulics of moving this water through the piping distribution network to the County's customers.
- 2.6 The UCWS has also observed significant peak demands in water use associated with a hot, dry climate and numerous drought years since 1998. These Peak Day Demands are indicative of water systems with a heavy residential component with high outdoor water use, particularly for irrigation.
- 2.7 Union County recently participated in Duke Energy's Federal Energy Regulatory Commission (FERC) relicensing process for the Catawba River. Union County was one of many regional governments who became a signatory stakeholder for Duke Energy's Comprehensive Relicensing Agreement (CRA). This CRA establishes rules and guidelines for how the Catawba River system will be operated for the next 50 years, ending in year 2058. One major element of the CRA is the implementation of a Low Inflow Protocol (LIP) that establishes a policy for how Duke Energy and other stakeholders will operate during periods of drought. This LIP requires regional water users to move through a series of staged water use restrictions during worsening drought conditions. It should be noted that the LIP establishes minimum requirements for water use restrictions. Each water utility has the flexibility to impose greater restrictions, if desired. Regional cooperation between Duke Energy and large water users along the Catawba River helped preserve and protect available water supply during the extreme drought of 2007 and 2008.
- 2.8 While UCWS customers were under no water restrictions and had unlimited water use available, the Union County Water System experienced eight days in May of 2007 where Peak Day Demand exceeded the Max. Day Capacity of 18 MGD from the CRWTP. The

highest daily usage measured was 21.3 MGD. To supply adequate water to meet these demands, UCPW had to utilize, on a temporary basis, water capacity from the CRWTP that is designated to Lancaster.

- 2.9 In June of 2007, UCPW instituted Stage 2 water use restrictions, which required its customers to limit outdoor water use (including irrigation) to two days per week. While under these water use restrictions, the UCWS experienced two days where Peak Day Demand exceeded the Max. Day Capacity of 18 MGD from the CRWTP, again reaching 19.5 MGD. To supply adequate water to meet these demands, UCPW again had to utilize water capacity from the CRWTP that is designated to Lancaster.
- 2.10 During the latter part of 2007 and through the first quarter of 2008, as the regional drought continued to worsen, UCPW instituted stricter Stage 3 water use restrictions including the elimination of outdoor irrigation. These restrictions showed a measurable reduction in water use by the County's customers.
- 2.11 In April of 2008, UCPW continued Stage 3 water restrictions, and modified provisions to require its customers to limit outdoor water use (including irrigation) to one day per week. Even under these water use restrictions, the UCWS experienced numerous days where Peak Day Demand exceeded the Max. Day Capacity of 18 MGD from the CRWTP, with the highest daily demand reaching 19.8 MGD. To supply adequate water to meet these demands, UCPW continued to utilize water capacity from the CRWTP that is designated to Lancaster.
- 2.12 The information presented in Articles 2.8 – 2.11 is illustrated in attached Figure 2.
- 2.13 Continued use of Lancaster's allocated water treatment capacity is not considered a viable alternative to increasing available water treatment plant capacity for the UCWS. Allowing additional customers to utilize Lancaster's allocated capacity in the CRWTP service area would put in jeopardy continued reliable service to the UCWS existing customer base.
- 2.14 Without water use restrictions, there would be no (0 MGD) additional water treatment capacity to allocate to new customers.
- 2.15 Prior efforts by UCPW to limit outdoor water use have typically included customer watering based on odd/even addresses – where approximately 50% of the customer base is given a weekend day to water (i.e., Saturday or Sunday) . A review of water use data indicates that, while this approach may reduce overall total water use, it increases the Peaking Factor between Maximum Day conditions and average conditions. Analysis of water use data indicates that spreading this irrigation demand will decrease the Peaking Factor. If Maximum Day Demand can be lowered below 18 MGD, additional water treatment capacity can be allocated to new customers.

- 2.16 In August 2008, UCPW established a revised water rate structure to promote water conservation among its highest use customers. It is likely that this rate change will reduce Peak Day usage within the County, thereby extending available water treatment capacity.
- 2.17 With outdoor water use restrictions set at a 1-day per week requirement – and spread over a 7-day period of use – it is estimated that, during periods of peak demand, approximately 2.4 MGD of Average Day Demand is available for allocation to new customers. It should be emphasized that these values are estimates based on analytical evaluation of limited historical data.
- 2.18 Peak Day Demand depends on many variables including time of year (i.e., season), temperature, recent precipitation patterns, other climatic conditions, economic conditions, water rates, and other factors. As such, the Union County Manager and UCPW will monitor these variables and Peak Day Demand trends and make recommendations to the Board of Commissioners regarding adjustments in water use restrictions for customers. Any recommended adjustments will be made in accordance with the provisions outlined in the County’s Water Conservation Ordinance. Historical trends, coupled with other factors (e.g., recent water rate adjustments, recent changes in irrigation distribution among customers), indicate that there exists a strong likelihood to maintain outdoor irrigation for customers at 2-days per week or greater.
- 2.19 The County will continue to cooperate with Duke Energy and other regional water utilities to implement and comply with the LIP as required.
- 2.20 In recognition of the changing economic conditions and current inventory of Residential Projects with Water Permits, it was determined that Nonresidential and Government Facilities Projects should receive the limited remaining water allocation. Current data to support these changing conditions is outlined below:
- Residential building permit applications have declined significantly.
 - In April 2009, over 4,000 vacant residential building lots in the CRWTP service area without building permits have both Water Permits and existing water infrastructure in place.
- 2.21 The Peaking Factor associated with Nonresidential Development Projects is typically lower than the Peaking Factor associated with Residential Development Projects. As such, the impact on the UCWS is lessened during future Peak Day Demand conditions as it relates to Nonresidential Projects.
- 2.22 The Plan set forth herein is intended to provide guidelines for allocating, in a fair and equitable manner among competing interests, the available water treatment capacity. Subject to approval of the County Manager, the UCPW Director may authorize a departure from these guidelines when strict adherence would frustrate the purpose of these guidelines or endanger the health and safety of the citizens of Union County. The County Manager shall report any such departure to the Board of County Commissioners immediately.

2.23 This Plan creates no legal right to receive, nor any legal duty on the part of Union County or UCPW to provide, any amount of existing or future water treatment capacity from the CRWTP, or other sources.

3.0 SCOPE

This Plan applies to the allocation of approximately 2.4 MGD (Average Day Demand) that is estimated to be available using the water use restrictions described in Section 2.17 above. Except as otherwise stated herein, this Plan applies to all Development Projects located in the CRWTP service area served by the UCWS for which the owner or developer requests a new or expanded connection. Nothing in this Plan shall prevent residential customers from securing an irrigation tap and meter.

4.0 PURPOSE

This Plan is intended to establish a plan for allocating the existing limited water treatment capacity in a fair and equitable manner, and to reallocate water treatment capacity from Development Projects that are not ready to proceed, to Development Projects that are ready to begin construction, consistent with the provisions of the Permit Extension Act, taking into consideration, among other things:

- The need to fulfill outstanding legal obligations Union County has, if any, to provide water system service;
- The need to reserve capacity to serve public school facilities, County projects, and other Governmental Facilities;
- The desire to provide a high level of service to existing customers;
- The desire to treat alike all Development Projects that are similarly situated as to: (i) type of Project; and (ii) stage of progress in the procedures required to connect to the Union County Water System;
- The desire to determine actual capacity and to distribute the remaining capacity in a fair and equitable manner;
- The desire to reallocate capacity from Development Projects that are not ready to proceed with construction to Development Projects that are ready to begin construction;
- The desire to prevent allocation or reallocation of capacity in excess of what UCWS can reliably provide;
- The desire to promote Nonresidential Development Projects among multiple owners or developers. These Nonresidential Development Projects will reduce the impact on Peak Day Demands as compared to Residential Projects. These Nonresidential Development Projects will also support

an increase in the County's employment and property tax base while imposing fewer demands than those imposed by Residential Development Projects (e.g., overburdened schools); and,

- The need to protect public health and safety.

5.0 EFFECTIVE DATE

The original Water Allocation Policy became effective upon adoption by the Union County Board of Commissioners on October 20, 2008.

The Amended and Restated Plan shall become effective at noon on September 28, 2009, and may be repealed or modified at any time, without notice.

A public hearing was held on October 6, 2008, regarding the Water Allocation Policy. A second public hearing was held on July 20, 2009, regarding proposed revisions.

6.0 WATER ALLOCATIONS

The attached Table 1 provides a summary of Projects identified during development of the Short-Term Water Allocation Plan where existing water permits have been secured. Many of these projects also have water infrastructure in-place. Table 1 also outlines the estimated Average Day Demand for each Project. Residential flow allocation is based on a calculated average use for the UCWS of approximately 250 gallons per day (gpd) per unit. Nonresidential and Government Facilities were assigned flow either from actual flow estimated by the Development Project, or from the calculated average use for current UCWS Nonresidential customers of approximately 1,500 gpd per connection.

The following sub-sections provide a more detailed explanation of category level assignments.

6.1 Category A Projects

Category A Projects include:

- | | |
|--|-----------|
| ▪ Government Facilities Projects | 0.057 MGD |
| ▪ Nonresidential Projects | 0.315 MGD |
| ▪ Residential Projects | 1.748 MGD |
| ▪ One Tap Projects | 0.080 MGD |
| ▪ Self Help Projects | 0.047 MGD |
| ▪ Future Health and Safety Project Reserve | 0.010 MGD |

▪ Nonresidential/Government Facilities Project Reserve	0.143 MGD
<hr style="width: 10%; margin: auto;"/>	
TOTAL	2.400 MGD

These Category A Projects account for an estimated total of approximately 2.4 MGD of Average Day Demand. This Plan directs UCPW to provide water allocation capacity to these Projects, and allocates all of the remaining available capacity.

6.1.1 Category A – One Tap Projects

Once a One Tap Project is approved by UCPW for existing residences, owners will have 60 days to complete installation of a service connection and pay all associated tap fees before expiration of this water allocation.

Once a One Tap Project is approved for existing vacant residential lots, owners will have to comply with the following:

- Confirm that existing water lines are contiguous to the vacant residential lot to be served directly or through an existing right-of-way.
- Confirm proper land use permitting (including zoning) from all applicable jurisdictions to allow the proposed tap to occur.
- UCPW staff may, if desired, request additional information from the owner in order to make a final determination. If approved, UCPW will issue, in writing, a water allocation for the proposed dwelling. Failure to obtain a building permit for the dwelling within 180 days from written approval of the Project shall result in termination of the water allocation for the dwelling. If a building permit is issued within 180 days from written approval of the Project and thereafter expires, or is otherwise terminated without issuance of a certificate of occupancy, it shall result in termination of the water allocation for the dwelling that is subject of the expired or terminated building permit.

6.1.2 Nonresidential/Government Facilities Project Reserve

It is the intent of this Plan to award allocation under the Nonresidential/Government Facilities Project Reserve to multiple owners or developers. This allocation will be utilized for Projects that are estimated to use 20,000 gpd or less (as determined by UCPW) and are located in the CRWTP service area. This allocation shall be assigned to Nonresidential/Government Facilities Projects on a first come, first serve basis. An applicant for water allocation under this section shall not be considered an active applicant until they demonstrate to the satisfaction of UCPW the ability to begin construction as set forth in this section. The amount available is estimated at 143,000 gpd plus the amount of water allocation secured from other Category A Projects that fail to move forward as outlined in Section 7.0 below.

In order to receive a water allocation, the owners or developers of Projects receiving water allocation under this section shall demonstrate the ability to begin construction by doing the following:

- Certify to UCPW that existing water lines are contiguous to the Project site directly or through an existing right-of-way, and that sufficient hydraulic capacity exists in the UCPW system to meet the needs of the Project. The requirement that existing water lines are contiguous to the Project site directly or through an existing right-of-way shall not apply to public schools since public schools have the right of eminent domain.
- Certify to UCPW the issuance of all applicable land use permits and approvals from all applicable jurisdictions to allow the proposed development to occur. These land use permits and approvals include, but are not limited to, zoning, major development permits, special use permits, conditional use permits, and preliminary plat approval.
- Certify to UCPW that adequate sewer service can be provided to the proposed Project through a public or privately operated wastewater system or through a private septic system.
- Submit a detailed written description of the Project to UCPW for approval (including type of project, projected number of employees, building use, building square footage, number and type of plumbing fixtures, average day water demand, irrigation demands, fire flow needs, and any other special conditions). Such written description shall include sufficient detail to enable UCPW to make a reasonable determination of the requested water demand and that it is more likely than not that the Project will proceed within the time constraints for obtaining a building permit, as outlined below.
- Demonstrate that the owner or developer of the Project has the ability to begin construction of the Project by furnishing a signed copy of a construction agreement, or other document that is satisfactory to UCPW, showing a date of commencement of construction of the utility infrastructure within 270 days of receipt of the water allocation, and containing a construction schedule that demonstrates that the construction will be diligently prosecuted to its completion within a reasonable period of time after commencement. The construction agreement or document may contain a provision that it is contingent upon receiving a water allocation for the Project.
- UCPW staff may, if desired, request additional information from the Project's owner in order to make a final determination. If approved, UCPW will issue, in writing, a water allocation for the proposed Project.
- Failure to obtain a building permit for all facilities associated with the Development Project within 270 days from written approval of the Project shall result in a termination of the water allocation for those facilities for which a building permit has not been obtained. If a building permit is issued within 270 days from written approval of the Project and thereafter expires, or is otherwise terminated without issuance of a certificate of occupancy, it shall result in termination of the water allocation for the facilities that were subject to the expired or terminated building permit.
- UCPW shall have administrative authority (e.g., sub-metering) to ensure that all Projects receiving water allocation are not likely to exceed that allocation.

6.2 Future Development Projects

All other Development Projects will be considered future Development Projects. UCPW will establish procedures to track future Development Projects that are brought forward for consideration of water service.

6.3 Adjustment of Water Allocations

UCPW will continually update water use trend data and other variables to determine the effectiveness of the Plan. Should sufficient data become available to support revisions to the water allocations as outlined herein, the County Manager shall make amendment recommendations to the Board of Commissioners for approval.

7.0 REALLOCATION OF WATER CAPACITY

When a Water Permit has been issued for a Development Project; and,

- (i) an engineer’s certification of completion has not yet been submitted to NC-DENR; and,
- (ii) the expiration of the Water Permit has been suspended under the Permit Extension Act; and,
- (iii) it has been 24 months since the issuance of a Water Permit,

the County may reallocate the water allocation associated with that Project to applicants for new or additional allocations in accordance with this Section.

7.1 Requirements of Union County Public Works to Recover Capacity

In order to reallocate capacity, UCPW shall:

- Mail a notice to the owner or developer of the Development Project by certified mail on or after 20 months from issuance of a Water Permit.
- Include in the notice the following information:
 - (a) that UCPW believes that the owner or developer is not ready to proceed or continue with the Project by beginning construction under the Water Permit within 120 days of the notice;
 - (b) that, in order to retain the water allocation associated with the Project, the owner or developer must demonstrate the ability or intent to begin construction under the Water Permit within 120 days of the date of the notice by actually beginning construction within 120 days of the date of the notice; and
 - (c) that, in order to further demonstrate that the owner or developer has a bona fide ability or intent to begin construction within 120 days of the date of the notice, the owner or developer must provide UCPW with a signed copy of a construction agreement, or other document satisfactory to UCPW, containing a commencement date of construction under the Water

Permit within 120 days of the date of the notice, and also containing a construction schedule that shows that the construction will be diligently prosecuted to its completion in a normal manner customary and common in the trade.

- Mail the notice:
 - (a) to the owner's address listed by the Union County Tax Assessor's office;
 - (b) to the address of the owner or developer's engineer, if the identity and address of the engineer for that Project is contained on the engineering plans that were submitted to NC-DENR in order to obtain the Water Permit; and,
 - (c) to the last known address of the owner or developer of the Project, if the identity and address of the owner or developer is contained in the records of UCPW concerning that Project.

7.2 Requirements of Owner or Developer to Retain Capacity

In order to retain the water allocation, the owner or developer shall, within 120 days of the date of the notice, demonstrate the ability or intent to begin construction under the Water Permit by:

- actually beginning construction under the Water Permit within 120 days of the date of the notice; and,
- demonstrating that the owner or developer has a bona fide ability or intent to begin construction under the Water Permit within 120 days of the date of the notice by providing UCPW with a signed copy of a construction agreement, or other document satisfactory to UCPW, containing a commencement date of construction under the Water Permit within 120 days of the date of the notice, and also containing a construction schedule that shows that the construction will be diligently prosecuted to its completion in a normal manner customary and common in the trade.

In the event that the owner or developer fails to demonstrate the ability or intent to begin construction under the Water Permit within 120 days of the date of the notice, UCPW shall reallocate the capacity associated with that Project in accordance with the provisions of Section 6.1.2, above.

In the event that the owner or developer of a Project:

- (i) retains capacity by beginning construction under the Water Permit within 120 days of the date of the notice; and,
- (ii) thereafter fails to continue or proceed with construction in a normal manner customary and common in the trade for a period of 120 days; then,
owner or developer shall be deemed to have abandoned or terminated the Project.

In the event of termination or abandonment as defined herein, the water allocation that is associated with that Project will again be subject to reallocation, in accordance with the procedures of this section.

8.0 ACCEPTANCE OF NEW ENGINEERING PLANS AND WATER PERMIT APPLICATION PROCESS

UCPW shall continue to accept new engineering plans and make application for Water Permits for Projects requiring connection to the Union County Water System in the Anson County Service Area.

In the CRWTP service area, effective August 12, 2008, UCPW shall not accept any new engineering plans or make any application for Water Permits for Projects other than Category A Projects. UCPW shall not accept any new engineering plans for Self Help Projects other than those listed as Category A Projects. For Projects where engineering plans have been received, but application for a Water Permit has not been made, UCPW staff shall provide comments on the proposed Project, but shall not apply for a Water Permit.

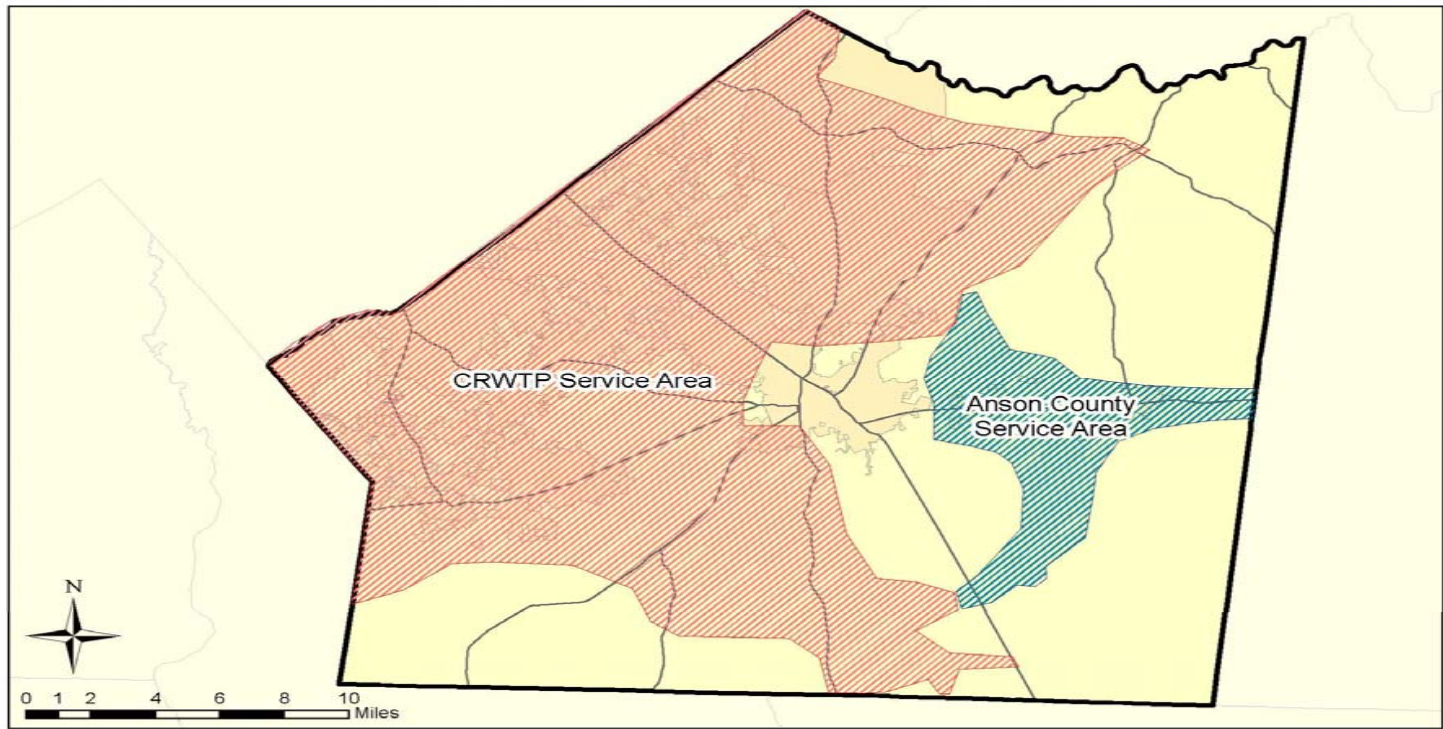
9.0 NOTIFICATION PERIOD FOR OMISSIONS/CORRECTIONS

The owner or developer of any Project not appearing in Table 1 but for which UCPW has issued correspondence regarding water availability prior to August 11, 2008, had an opportunity within 30 days of the original adoption of the Policy (i.e., October 20, 2008) to submit written documentation of the same to the UCPW Director. The owner or developer of any Project listed in Table 1 that contended that the information listed to be in error had an opportunity within 30 days of the original adoption of the Policy (i.e., October 20, 2008) to submit written documentation of the proposed correction to the UCPW Director.

10.0 DIRECTIONS TO COUNTY STAFF

County staff shall notify the Board of Commissioners on a quarterly basis regarding water use trends. Staff shall also notify the Board of Commissioners when 100,000 gpd has been assigned. These updates shall include a summary of new connections and estimated capacity consumed by the new connections.

Within 90 days from the Effective Date, County staff will present to the Board of Commissioners an action plan for how water demand will be managed in the event that water demand in the CRWTP service area exceeds 17.5 mgd.



Existing Service Areas
Figure 1

Figure 2 - Union County Water System - Daily Water Demand from the Catawba River WTP (05/07 - 08/09)

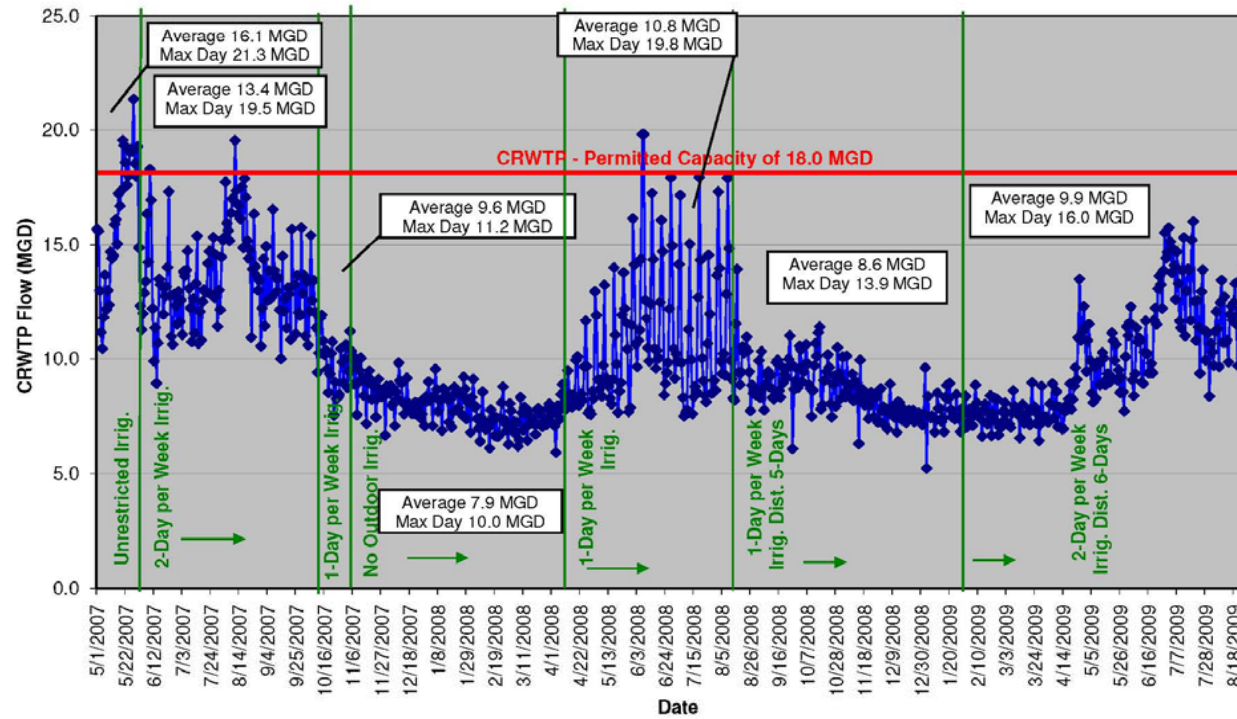


Table 1 - Union County Water Allocation - Identified Future Development Projects (Category A)
(Updated: August 2009)

Ref. Proj. ID	Project/Development	River Basin C-Catawba Y-Yadkin	Sewer Conveyance	Water Permit Approval Date	for Residential Est. Number (of Units Built- Out)	for Residential Est. Remaining Units (as of Aug. 2009)	Water Allocation (gpd)	Infrastructure Installed	Lots with no infra- structure (as of July 2009)	Flow Assoc. with no infra- structure (as of July 2009)	Jurisdiction	Land Use Approval
Government Facilities Projects												
01 483	MSRS #1 Henry Bridge (School)	C	TBD	-	-	-	38,400	No	-	-	County	No
02 775	Waxhaw Regional Library	C	TBD	-	-	-	5,000	No	-	-	Waxhaw	No
03 -	Bus Depot - UCPS Transpo Facility	C	TBD	-	-	-	4,400	No	-	-	County	No
04 -	Future Public ES	C	TBD	-	-	-	9,600	No	-	-	TBD	No
	subtotal						57,400					
Non-Residential Projects												
01 28	Austin Village Phase III	C	Permit	6/16/08	-	-	23,702	Not completed	-	-	Indian Trail	Yes
02 95	Cahill Office Park	C	Permit	2/12/08	-	-	1,100	Yes	-	-	Indian Trail	Yes
03 113	Carrington Square Office Park	C	Permit	6/23/08	-	-	7,600	No	-	7,600	Waxhaw	Yes
04 140	CHS Curston-Waxhaw	C	Permit	sat - 10/18/07	-	-	27,500	Yes	-	-	Waxhaw	Yes
05 245	Fieldstone Farms Armenty	Y	Permit	1/17/06	-	-	700	Yes	-	-	Indian Trail	Yes
06 324	Holly Park Commercial (Ph. 3A&3B)	C	Permit	09/26/08	-	-	10,000	Yes	-	-	Indian Trail	Bd Apr
07 -	Jackson Station	C	Permit	04/05/02	-	-	19,442	Yes	-	-	Waxhaw	Yes
08 366	Lake Park Sewer Extension A,B,G	Y	Permit	-	-	-	9,175	No	-	9,175	County	PUD
10 408	Lowes of Waxhaw	C	Permit	03/28/07	-	-	26,915	Yes	-	-	Waxhaw	Yes
11 474	Newtown Market	C	Permit	04/18/08	-	-	2,076	Yes	-	-	County	SUP
12 491	Old Hickory Industrial Park	Y	Permit	02/27/07	-	-	5,205	Yes	-	-	Indian Trail	Yes
13 -	Rea Road Development	C	Permit	01/12/04	-	-	14,699	Yes	-	-	County	PUD
14 -	Rea Road Flats Ph II	C	Permit	08/03/05	-	-	23,040	No	-	23,040	County	PUD
15 629	Shoppes at Wesley Chapel 2	C	Permit	05/12/08	-	-	5,641	Yes	-	-	Wesley Chapel	CUB2
16 679	Sun Valley Commons Ph II	Y	Permit	10/19/07	-	-	17,467	Yes	-	-	Indian Trail	Yes
17 681	Sun Valley Retail Center	C	Permit	06/30/04	-	-	1,500	Yes	-	-	Indian Trail	Yes
18 -	The Grove	C	Permit	04/25/06	-	-	27,878	Yes	-	-	Stallings	Yes
19 734	Union West Business Park	Y	Permit	02/12/06	-	-	603	Yes	-	-	Stallings	Yes
20 751	Village Commons @ Wesley Chapel 2	C	Permit	10/24/05	-	-	8,273	Yes	-	-	Wesley Chapel	CUB2
21 752	Village Commons @ Wesley Chapel I	C	Permit	10/20/06	-	-	36,084	Not completed	-	-	Wesley Chapel	CUB2
22 -	Waxhaw Commons	C	Permit	sat - 5/31/07	-	-	3,250	Yes	-	-	Waxhaw	Yes
23 773	Waxhaw Medical Center	C	Permit	sat - 12/18/07	-	-	2,188	Yes	-	-	Waxhaw	Yes
24 774	Waxhaw Park Shopping Center	C	Permit	sat - 6/16/06	-	-	1,500	Yes	-	-	Waxhaw	Yes
25 -	Sun Valley Commons Phase I	Y	Permit	08/23/05	-	-	39,618	Yes	-	-	Indian Trail	Yes
	subtotal						315,156					
Residential Projects												
01 10	Anklin Forrest	C	Permit	07/11/05	179	95	29,750	Yes	-	-	Waxhaw	Yes
02 11	Annandale	Y	Permit	06/10/05	181	51	12,750	Yes	-	-	Indian Trail	Yes
03 -	Arinecy	C	Septic	01/02/09	49	49	12,250	No	49	12,250	Weddington	Yes
04 12	Armitton Grove	C	Septic	03/30/04	86	55	13,750	Yes	-	-	County	Yes
05 -	Ashcroft	Y	Permit	02/27/92	-	9	2,000	Yes	-	-	Indian Trail	Yes
06 36	Bard Property	C	Permit	07/06/09	16	16	4,000	No; permit exp.	16	4,000	Weddington	Yes
07 37	Barrington Ridge	C	Permit	12/08/04	153	78	19,500	Yes	-	-	Waxhaw	Yes
08 51	Bicket Ridge	Y	Permit	02/17/05	81	20	5,000	Yes	-	-	County	Yes
09 56	Blanchard Estates - water only	C	Septic	03/28/07	6	6	1,500	No	6	1,500	County	No
10 60	Bonner Oaks Estates - water only	C	Septic	09/13/07	10	10	2,500	Yes	-	-	Weddington	Yes
11 61	Bonterra (All Phases)	Y	Permit	7/9/03 & 11/18/03	454	255	63,750	Yes	-	-	Indian Trail	Yes
12 68	Brandon Oaks	C	Permit	05/19/05	949	104	26,000	Yes	-	-	County	Yes
13 73	Briarcrest North Phase 1	C	Permit	09/21/05	82	48	12,000	Yes	-	-	County	Yes
14 74	Briarcrest North Phase 2	C	Permit	09/23/05	70	42	10,500	Yes	-	-	County	Yes
15 84	Bromley	C	Permit	05/22/07	121	115	28,750	Not completed	45	11,250	Weddington	Yes
16 96	Callonwood	C	Permit	03/07/00	157	61	16,250	Yes	-	-	Indian Trail	Yes
17 -	Chatelaine	C	Permit	12/08/03	-	18	4,500	Yes	-	-	County	Yes
18 128	Chatsworth	C	Permit	12/02/04	37	12	3,000	Yes	-	-	County	Yes
19 134	Chestnut Place	C	Permit	12/27/05	45	29	7,250	Yes	-	-	Stallings	Yes
20 165	Crane Valley	C	Permit	02/23/06	108	1	250	Yes	-	-	County	Yes
21 172	Crimark - water only	Y	Septic	3/14/02 & 9/21/01	996	391	97,750	Not completed	51	12,750	Indian Trail	Yes
22 173	Crooked Creek Estates	Y	Permit	02/15/05	89	26	6500	Yes	-	-	County	Yes
23 176	Crossbridge - water only	Y	Septic	08/13/03	26	3	750	Yes	-	-	County	Yes
24 -	Crown Estates at Lochaven	C	Septic	06/07/07	19	19	4,750	No	19	4,750	Weddington	Yes
25 183A	Curston (total for all phases)	C	Permit	4/13/2006	724	366	91,500	Not completed	8	2,000	Waxhaw	Yes
26 195	Deerstone Comm. (Germans Cross.)	C	Permit	04/25/06	60	57	14,250	Not completed	59	14,750	Indian Trail	Yes
27 229	Ezzell Hill	C	Permit	12/05/06	55	52	13,000	Not completed	13	3,250	County	Yes
28 230	Ezzell Valley	C	Permit	08/07/08	103	103	25,750	No	103	25,750	Marvin	No
29 230A	Fincher Valley	C	Permit	10/13/03	91	4	1,000	Yes	-	-	County	Yes
30 234	Fairhaven Phase 1	Y	Permit	09/07/05	968	166	41,500	Yes	-	-	Stallings	Yes
31 -	Fairhaven Phase 2	Y	Permit	08/07/08	15	15	3,750	No	15	3,750	Stallings	Yes
32 238	Falcon Place	C	Permit	04/19/06	37	37	9,250	No	-	-	Weddington	Yes
33 244	Fieldstone Farm Subdivision	Y	Permit	1/17/06	501	285	71,250	Not completed	193	48,250	Indian Trail	Yes
34 -	Gardens on Providence	C	Permit	10/28/03	-	2	500	Yes	-	-	Weddington	Yes
35 -	Grayson Park Subdivision	C	Permit	01/17/02	-	70	17,500	Yes	-	-	County	Yes
36 -	Green Meadows 2nd Avenue	C	Permit	03/13/01	5	20	5,000	Yes	-	-	Indian Trail	Yes
37 -	Hadley Meadows	C	Permit	04/30/04	-	19	4,750	Yes	-	-	Weddington	Yes
38 288	Harrison Park	C	Permit	09/19/01	-	7	1,750	Yes	-	-	Waxhaw	Yes
39 318	Highgate	C	Permit	4/7/00 & 12/8/04	235	57	14,250	Yes	-	-	Weddington	Yes
40 -	Hoitlar	C	Permit	07/18/04	205	158	39,500	Yes	-	-	Weddington	Yes
42 -	Innesbrook	C	Permit	01/21/03	-	2	500	Yes	-	-	Marvin	Yes
43 -	Jackson Ridge S/D	C	Permit	10/12/00	-	1	250	Yes	-	-	Waxhaw	Yes
44 -	Jacobs Pointe	Y	Permit	1/1/19/99	-	1	250	Yes	-	-	Indian Trail	Yes
45 -	Longford Village	Y	Permit	08/26/08	5	5	1,250	Yes	-	-	Indian Trail	Yes
46 355	Kings Grant	Y	Permit	06/09/04	19	8	2,000	Yes	-	-	Wesley Chapel	Yes

Ref.	Proj. ID	Project/Development	River Basin C-Catawba Y-Yadkin	Sewer Conveyance	Water Permit Approval Date	for Residential Est. Number of Units (@ Build- Out)	for Residential Est. Remaining Units (as of Aug. 2009)	Water Allocation (gpd)	Infrastructure Installed	Lots with no infra- structure (as of July 2009)	Flow Assoc. with no infra- structure (as of July 2009)	Jurisdiction	Land Use Approval
47	-	Kingston on Providence	C	Permit	04/27/05	-	4	1,000	Yes	-	-	Washaw	Yes
48	363	Lake Forest Preserve	C	Permit	6/6/2005	211	71	17,750	Not completed	64	16,000	Weddington	Yes
49	-	Lake Park Phases	Y	Permit	07/10/00	-	10	2,500	Yes	-	-	County	Yes
50	368	Lake Park Town Center, Phase 3	Y	Permit	10/19/02	120	38	9,500	Yes	-	-	County	Yes
51	-	Laurel Creek	Y	Permit	08/03/02	-	18	4,500	Yes	-	-	Indian Trail	Yes
52	366A	Lawson (total for all phases)	C	Permit	10/23/07	589	259	64,750	Not completed	239	59,750	Washaw	Yes
53	403	Longview (all phases)	C	Permit	1/22/02 & 6/27/07	340	174	43,500	Not completed	12	3,000	County	Yes
54	420A	Marvin Creek (all phases)	C	Permit	06/29/05	360	12	3,000	Yes	-	-	Marvin	Yes
55	427	McGee Valley	C	Permit	05/05/04	99	39	9,750	Not completed	6	1,500	County	Yes
56	443	Milbridge	C	Permit	4/24/06, 11/15/06, 6/27/07, 6/27/07, 6/ 27/07, 10/24/07, 1/ 14/08	1087	1019	263,250	Not completed	674	143,600	Washaw	Yes
57	-	Oak Brook - water only	C	Septic	08/01/08	47	47	11,750	No, self help	-	-	County	Yes
58	501	Park Grove Meadows, Steybrook II	Y	Permit	07/08/08	15	15	3,750	Yes	-	-	County	Yes
59	520	Ponds at Brandywine - water only	Y	Septic	03/04/08	40	40	10,000	No	40	10,000	County	Yes
60	-	Poplar Glen	C	Permit	09/14/93	-	5	1,250	Yes	-	-	County	Yes
61	531	Potters Creek Estate - water only	C	Septic	09/08/06	22	22	5,500	Yes	-	-	Weddington	Yes
62	-	Prescott Residential	C	Permit	04/26/05	-	105	26,250	Yes	-	-	Washaw	Yes
63	539	Preswick	C	Permit	04/27/06	101	12	3,000	Yes	-	-	County	Yes
64	544	Providence Downs	C	Permit	12/29/01	327	6	1,500	Yes	-	-	County	Yes
65	545	Providence Downs South	C	Permit	06/22/04	62	18	4,500	Yes	-	-	County	Yes
66	550	Providence Grove	C	Permit	04/05/04	145	20	5,000	Yes	-	-	Washaw	Yes
67	566	Quinlessia	C	Permit	06/25/02	89	43	10,750	Yes	-	-	Wesley Chapel	Yes
68	-	Ridgefield Ph. II	C	Permit	03/22/96	-	10	2,500	Yes	-	-	County	Yes
69	587	Rosehill	C	Permit	03/10/04	47	13	3,250	Yes	-	-	Weddington	Yes
70	597	Sarsfield - water only	C	Septic	08/19/05	225	200	50,000	Yes	-	-	County	Yes
71	615	Shadow Lake, Spring Creek	C	None	08/27/08	48	48	12,000	No	48	12,000	County	Yes
72	619	Shannon Vista	C	Permit	02/04/04	182	98	24,500	Yes	-	-	County	Yes
73	622	Sheridan Phase I	C	Permit	08/24/05	159	159	39,750	Not completed	57	14,250	Indian Trail	Yes
74	623	Sheridan Phase II	C	Permit	08/14/06	86	81	15,250	Not completed	37	9,250	Indian Trail	Yes
75	-	Sliversdt	C	Permit	03/19/04	-	142	35,500	Yes	-	-	County	Yes
76	636	Smith Field Subdivision	Y	Permit	07/29/05	68	16	4,000	Yes	-	-	Unionville	Yes
77	650	St. John's Forest	C	Permit	08/25/06	93	93	23,250	Yes	-	-	County	Yes
78	-	St. John's Forest 4B	C	Permit	01/18/07	5	5	1,250	No	5	1,250	County	Yes
79	-	St. John's Forest 4C	C	Permit	05/12/08	10	10	2,500	No	10	2,500	County	Yes
80	-	Stonebridge Parcel 4	C	Permit	06/06/03	65	22	5,500	Yes	-	-	County	Yes
81	664	Stonebridge Parcel 5	C	Permit	04/11/06	46	46	11,500	No	46	11,500	County	Yes
82	-	Stonebridge Parcel 6	C	Permit	07/22/04	-	57	14,250	Yes	-	-	County	Yes
83	-	Stonebridge Parcel 7 & 8	C	Permit	03/07/07	125	125	31,250	No	125	31,250	County	Yes
84	-	Stonebridge Parcel 8	C	Permit	10/19/04	42	19	4,750	Yes	-	-	County	Yes
85	671	Stratford Hall	C	Permit	10/25/01	34	16	4,000	Yes	-	-	Weddington	Yes
86	675	Sugar Magnolia Estates - water only	C	Septic	08/28/08	12	12	3,000	No	12	3,000	Weddington	Yes
87	685	Taylor Glen	C	Permit	06/22/04	511	45	11,250	Yes	-	-	Indian Trail	Yes
88	688	The Chimneys of Marvin	C	Permit	07/25/05	283	137	34,250	Yes	-	-	County	Yes
89	695	The Grove	C	Permit	04/25/06	15	15	3,750	Yes	-	-	Stallings	Yes
90	699	The Oaks at Camden - water only	Y	Septic	02/04/08	5	5	1,250	Yes	-	-	County	Yes
91	-	The Retreat	C	Permit	06/13/07	-	9	2,250	Yes	-	-	Weddington	Yes
92	710	The Woods	C	Septic	11/19/07	200	200	50,000	No	200	50,000	Weddington	Yes
93	-	Tuscany 1A	C	Permit	08/22/08	17	17	4,250	Not completed	9	2,250	County	Yes
94	725	Tuscany Phase 2B	C	Permit	03/09/07	74	74	18,500	Yes	-	-	County	Yes
95	726	Tuscany Phase 2A	C	Permit	08/26/05	62	48	12,000	Yes	-	-	County	Yes
96	731	Twelve Oaks	C	Permit	04/21/06	24	20	5,000	Yes	-	-	County	Yes
97	-	Victoria Lake	C	Permit	12/03/03	-	10	2,500	Yes	-	-	County	Yes
98	757	Wedsworth	C	Permit	08/23/04	13	10	2,500	Yes	-	-	Indian Trail	Yes
99	758	Wedsworth Phase 2	C	Permit	01/18/06	13	10	2,500	Yes	-	-	Indian Trail	Yes
100	778	Waybridge (Eaglechase) - water only	C	Septic	06/27/05	45	14	3,500	Yes	-	-	Weddington	Yes
101	-	Weddington Forest	C	Permit	11/04/04	-	2	500	Yes	-	-	County	Yes
102	-	Weddington Heights	C	Permit	07/16/01	-	16	3,750	Yes	-	-	Weddington	Yes
103	792	Weddington Trace Subdivision	C	Permit	9/13 & 12/20, 04	238	140	35,000	Not completed	37	9,250	County	Yes
104	802	Wesley Chase (Laney Subdivision)	C	Permit	11/01/05	30	30	7,500	Not completed	26	6,500	Wesley Chapel	Yes
105	-	Wilkinson Farms	C	Permit	05/28/02	-	7	1,750	Yes	-	-	County	Yes
106	823	Williamsburg	C	Permit	08/08/01	63	44	11,000	Yes	-	-	Weddington	Yes
107	-	Willow Creek	C	Permit	07/17/01	-	37	9,250	Yes	-	-	County	Yes
108	843	Woodciff	C	Permit	03/09/07	10	10	2,500	Yes	-	-	Marvin	Yes
109	851	Worthington - water only	C	Septic	07/09/07	13	7	1,750	Yes	-	-	Unionville	Yes
110	854	Wyndham Hall Plantation	C	Permit	07/21/04	77	14	3,500	Yes	-	-	Marvin	Yes
Subtotal								6,990	1,747,500	2161	580,065		
Subtotal - Identified Projects with Water Permits								2,120,000					
Residential Reserve - One Taps¹						320		80,000					
Self Help Taps²								47,000					
Non-Residential/Government Facility - Reserve Allocation³								143,000					
Future Health and Safety Projects (Reserve)⁴								10,000					
TOTAL ALLOCATION								2,400,000					
Notes													
1. Assume allocation is estimated for 4 years w/approximately 80 residential accounts added per year, with a baseline date of August 2009.													
2. Current pending self-help projects represent total allocation of approximately 70,000 gallons per day.													
3. Allocation is limited to ≤ 20,000 gpd per project.													
4. Reserve allocation for health and safety based on 10 residential taps per year for 4 years.													
										Self Help Projects			
										Oakbrook See 57 Above			
										Wellington Woods I		7,000	
										Polk Mountain		11,000	
										Dodge City		6,500	
										Lake Providence East		4,500	
										Grayland		8,750	
										Wellington Woods II and III		9,000	
												48,750	

CAPITAL PROJECT ORDINANCE (CPO) #126 TO APPROPRIATE FUNDS FROM UNALLOCATED FUNDS PREVIOUSLY TRANSFERRED FROM THE GENERAL FUND AND THE WATER & SEWER OPERATING FUND TO THE WATER & SEWER CPO FUND, AS WELL AS APPROPRIATE CUSTOMER CONTRIBUTIONS FOR THE CYRUS LEE LANE, LAKE PROVIDENCE EAST, GREYLAND, AND WELLINGTON WOODS II & III SELF-HELP PROJECTS:

Al Greene, County Manager, explained that there are a number of self-help projects that have been working with the County’s Public Works Department for some time. He said that there have been two hurdles in connection with the approval of these projects, the first of which was the allocation of water, which has now been resolved. He stated that the second hurdle was the allocation of funding and explained this is the item before the Board for consideration. He said that the Finance Officer has prepared a Capital Project Ordinance Amendment that would cover the cost of the projects. He noted that staff has provided the Board with a map included in the agenda package showing the location and data for all three projects.

Mr. Greene pointed out for the benefit of the public that the projects are Lake Providence East, Greyland, and Wellington Woods II & III.

Vice Chair Rogers asked if this information includes future projects and the capacity for Dodge City. Mr. Greene responded that there is sufficient capacity in the Allocation Plan (Amended and Restated) as just approved under the self-help allocation to cover Dodge City. He said that any funding issues regarding Dodge City will be brought to the Board if and when a grant is approved, and it is hoped that these would be very minimal financial implications if the grant is approved. He clarified that the action being requested tonight is adoption of Capital Project Ordinance Amendment #126 to cover the costs associated with the three self-help projects.

Vice Chair Rogers asked when referencing future projects and Dodge City, was it referencing it in regards to the 47,000 gallons per day. Mr. Greene responded that this was correct, and said this amount covers all identified projects including Dodge City.

Following the explanation, Vice Chair Rogers moved adoption of Capital Project Ordinance #126. The motion passed unanimously.

CAPITAL PROJECT ORDINANCE AMENDMENT											

BUDGET	Water and Sewer CPO Fund			REQUESTED BY	Kai Nelson		
FISCAL YEAR	FY 2009-2010			DATE	September 21, 2009		
PROJECT SOURCES				PROJECT USES			
Source	Project	Requested	Revised	Project	Project	Requested	Revised
Description and Code	To Date	Amendment	Project	Description and Code	To Date	Amendment	Project
IFT from General Fund	150	201,850	202,000	Self Help Projects	150	591,597	591,747
IFT from W&S Oper Fd	-	224,220	224,220				
Misc Rev: Customer Contr.	-	165,527	165,527				
	150	591,597	591,747		150	591,597	591,747
EXPLANATION:	Appropriate funds from unallocated funds previously transferred from the General Fund and the Water & Sewer Operating Fund to the Water & Sewer CPO Fund, as well as appropriate customer contributions, for the Cyrus Lee Lane, Lake Providence East, Greyland, and Wellington Woods II & III Self Help Projects.						
DATE:				APPROVED BY:	Bd of Comm/County Manager Lynn West/Clerk to the Board		
FOR FINANCE POSTING PURPOSES ONLY							
PROJECT SOURCES				PROJECT USES			
Source	Project	Requested	Revised	Project	Project	Requested	Revised

Description and Code	To Date	Amendment	Project	Description and Code	To Date	Amendment	Project
Self Help Proj: Cryus Lee Lane				Self Help Proj: Cryus Lee Lane			
IFT from General Fund	150	23,850	24,000	Architectural & Engineering	150	10,186	10,336
64471400-4010-SH003				64571400-5594-SH003			
IFT from W&S Oper Fd	-	26,640	26,640	Construction	-	51,411	51,411
64471400-4061-SH003				64571400-5595-SH003			
Misc Rev: Customer Contr.	-	11,107	11,107				
64471400-4845-SH003							
Self Help Proj: Lake Providence East				Self Help Proj: Lake Providence East			
IFT from General Fund	-	36,000	36,000	Architectural & Engineering	-	15,663	15,663
64471400-4010-SH006				64571400-5594-SH006			
IFT from W&S Oper Fd	-	39,960	39,960	Construction	-	102,085	102,085
64471400-4061-SH006				64571400-5595-SH006			
Misc Rev: Customer Contr.	-	41,788	41,788				
64471400-4845-SH006							
Self Help Proj: Greyland				Self Help Proj: Greyland			
IFT from General Fund	-	70,000	70,000	Architectural & Engineering	-	21,081	21,081
64471400-4010-SH007				64571400-5594-SH007			
IFT from W&S Oper Fd	-	77,700	77,700	Construction	-	138,209	138,209
64471400-4061-SH007				64571400-5595-SH007			
Misc Rev: Customer Contr.	-	11,590	11,590				
64471400-4845-SH007							
Self Help Proj: Wellington Woods II & III				Self Help Proj: Wellington Woods II & III			
IFT from General Fund	-	72,000	72,000	Architectural & Engineering	-	33,647	33,647
64471400-4010-SH008				64571400-5594-SH008			
IFT from W&S Oper Fd	-	79,920	79,920	Construction	-	219,315	219,315
64471400-4061-SH008				64571400-5595-SH008			

Misc Rev: Customer Contr.	-	101,042	101,042				
64471400-4845-SH008							
							591,747
	150	591,597	591,747		150	591,597	
Prepared By	bl						
Posted By							
Date						Number	CPO – 126

FINANCIAL ADVISOR PROPOSALS:

Al Greene, County Manager, provided the Board with background information in regards to this matter stating that staff had reached the conclusion several months ago that the firm that had assisted the County in reviewing the proposed lease extension with Carolinas Healthcare System and CMC-Union had a significant potential conflict with regards to the expanded scope of the goal of the current effort. He said as a result Mr. Nelson, the County’s Finance Director, prepared a Request for Proposals and distributed that request to 11 firms that he had identified as having the needed qualifications. Mr. Greene stated that five firms had responded, and Mr. Nelson reviewed each of the proposals in detail and provided the Manager and the Senior Staff Attorney with a matrix. He shared that the three of them had met to discuss the proposals and narrowed the proposals to three firms believed to be best suited, based on the proposals, to provide ongoing services to the County. He stated that Mr. Nelson, Mr. Crook, and he had conference calls with the three firms, and the recommendation that Mr. Nelson will present tonight is a result of that process.

Commissioner Kuehler said that this is a lot of information. She moved to table this matter tonight and refer it to a work session of the Board. She said that the scope of the Request for Proposals is confusing to her and maybe she needs an explanation regarding the scope and why it is needed. She stated that in reading through the Request for Proposals, it seems that some of this has already been done in conjunction with other actions taken by this Board or by prior Boards. She said that this involves a lot of money, and she thought that it deserved some more discussion.

Mr. Nelson suggested that staff began this evening to answer questions in regards to the scope of services being requested.

Chairman Openshaw said that he would like for some of these firms' representatives to come in and meet with the Board and work with them from that point.

Mr. Greene stated that staff recommended that this effort begin with the Kaufman Hall firm based on staff's review. He said that staff believes this is the best firm, but after spending time with one firm, the Board might want to move ahead rather than meeting with all three or five firms.

Commissioner Mills commented that in reading over the request for proposals, there are three series of payments to be made for the services. He questioned the source of that money.

Mr. Nelson responded in regards to the three phases of services, most of the respondents in terms of providing responses to the Request for Proposals indicated three distinct phases. He said that this was consistent from all of the proposals. He stated that the last two phases are where the moneys are paid. He explained that the second to the last phase is bringing the partner to the table. He said that particular phase involves identifying the Board's objectives and then essentially trying to identify partners with whom the Board might be interested in forming a long-term relationship. He stated that phase two is really the process of formulating some form of a definitive agreement – mergers and acquisitions. He said that the third phase occurs once the definitive agreement has been executed moving on to the sale, and it is probably the single largest compensation component of these kinds of fee structures. He reviewed that the first phase is really related to insuring that the Board's objectives, whether they are clinical, financial, or governance objectives, in structuring this particular sale are met, and insuring that the partnership is consistent with the Board's objectives; this is the assessment phase and will probably take most of the Board's time in terms of articulating its objectives.

In response to Commissioner Mills' question about the source of money for payment of the contract, Mr. Nelson said all the money would ultimately come from the general fund. He said that the Board could structure the contract so that before entering into the next phase, each phase would be priced separately, and the Board might decide after Phase 1 or Phase 2, not to proceed to the next phase. He stated clearly once the Board gets to the second phase which is the definitive agreement, it would not stop. He said that if the County signs the definitive agreement in the second stage, and moves on to the third stage, then it would involve penalties for the County's failure to act on that transaction. He stated that Stages Two and Three would mean that the County is doing the transaction, and the money would come from the general fund; but, ultimately, it would come from the sale of the proceeds or whatever action the Board takes.

Mr. Greene offered that there were a variety of reasons why staff concluded that Kaufman Hall is the best qualified firm to perform this service for the County. He said that one of the reasons relates to the question that Commissioner Mills had asked. He stated that all of the other firms that had presented either had stated that they would perform the services on a percentage basis or would strongly prefer that they perform the services on a percentage basis. He said that Kaufman Hall is the only firm when asked that question stated that they do not work on a percentage basis, because they want the Board to know what their objectives are. He stated that they submitted a proposal for a finite fee without any preconception of a percentage of sales.

Mr. Nelson interjected that in staff's research it was found that by far the most common form of compensation in this form of transaction is a success fee. He said that the staff acknowledges that it was indicated in the request for qualifications relative to the proposal for the firms to state both a fixed fee and a percentage fee recognizing the percentage fee was by far the most common form of compensation. Mr. Nelson said to the Manager's point, Kaufman Hall is the only one of all the firms that said it would not propose essentially a success fee. He stated that there were those firms that responded to the request for proposals that provided both compensation alternatives, but they generally expressed a preference in terms of a percent of the transaction.

Commissioner Mills asked if the \$250,000 in the first phase would have to be paid initially upfront to begin the process. Mr. Nelson responded negatively and that the first phase fees for all of the firms responding were on a monthly basis, so the fee would not be paid upfront. He said that in reference to the fee to Kaufman Hall, the firm that staff is recommending, staff believes the fee would be structured in such a fashion that it is paid over two to three months. He stated that the process would not move to the second or third phase unless the Board is convinced it is time to move forward with some kind of partner arrangement which would ultimately result in a definitive agreement.

Vice Chair Rogers asked if the three firms would be involved strictly for a possible sale of the hospital and not in any negotiation of a lease. Mr. Nelson responded that he thought it might be very possible that they could be, because the Board might conclude after Phase I and moving into Phase II, that the partner, based on the responses received, would be a long-term lease which may not be with the current provider but with another provider.

Vice Chair Rogers asked if there were a lease transaction, would a new agreement with Kaufman Hall be put into place. She questioned how the fees would be structured. She said that with a lease transaction the same phases would not be followed as with a sale, and asked if it is foreseen that a new contract would be negotiated with Kaufman Hall. Mr. Nelson responded that even with a lease with a percentage basis, which staff would not recommend, it is calculated based on the gross consideration of what the lease is

over and whatever period of time. Vice Chair Rogers asked if the County were to try and negotiate a lease, would this be an expense that would be incurred regardless.

Mr. Greene responded that he thought this would need to be fleshed out in contract negotiations. He said that in the conversation he was hearing, it led him to believe that it would be good for at least one of the companies to come in and meet with the Board to talk about the Board's objectives, because that would assist in the contract negotiation phase.

Vice Chair Rogers said that she thought it would be better for the County to negotiate those possible options. Mr. Nelson commented to the Manager's point and perhaps to the points of several Commissioners that perhaps the place to start is to bring Kaufman-Hall in to have a discussion with the Board about its qualifications, expertise, and the process.

Vice Chair Rogers said she would request that two firms come in so that the Board can ask similar questions. She stated that it would be up to the firms to decide whether to talk with the Board face to face or via teleconference.

Mr. Nelson said that he thought if the Board wanted to have two firms come in, it would be appropriate to set the ground rules relative to the two. Further, he said if they were going to do a teleconference with one, then there should be a teleconference with both, and there would not be an option of whether to have a face to face meeting or a teleconference.

Commissioner Mills said that he assumed that in staff's discussions with the firms, the firms knew the conditions and parameters now with the current lease structure. Mr. Nelson responded "absolutely." He said these firms understand the challenges with the current lease.

Mr. Greene offered that when staff interviewed the firms, staff had a list of questions and the same questions were posed to each firm and some of those questions involved the existing lease and how it might complicate things. He assured that the firms were very well aware of the existing lease.

Commissioner Baucom asked what would be the anticipated cost to go to fruition in the process however it would occur. Mr. Nelson responded to go to the ultimate end and close on a transaction could easily be in excess of one million dollars.

Commissioner Baucom questioned how much in excess of one million dollars would be the cost. Mr. Greene responded that any number that staff would suggest would be only an estimate. He said with the amount of legal work involved, he would assume that it could easily be \$1.3 to \$1.5 million.

Mr. Nelson addressed the amounts for out of pocket expenses. He said that several firms had proposed different kinds of engagement costs, but generally they all excluded out of pocket expenses, such as travel, and some indicated that out of pocket expenses also included travel and back office support.

Commissioner Baucom asked how much staff time was anticipated to be allocated to the process. Mr. Greene stressed that this is a lengthy and complex undertaking. He said that he did not know if staff could answer the question any more precisely than that. He said it would be a very massive undertaking.

The Chairman reminded that Commissioner Kuehler had made a motion to table action on this item tonight and refer it to a work session. Commissioner Kuehler said that she would withdraw her motion.

Chairman Openshaw asked Mr. Greene how staff would like to handle this matter. Mr. Greene said that staff would like to begin with bringing Kaufman Hall in to talk with the Board and then perhaps it could recommend bringing a second firm in to talk with the Board at a later date.

Mr. Nelson asked for clarification whether the preference was for the Board to talk with the firms in person. He reiterated that he thought it should be consistent with both firms. Mr. Greene stated he would recommend bringing the firm representatives to talk with the Board in person.

Commissioner Baucom stressed that this is a major, major effort. Vice Chair Rogers reminded that video conferencing capabilities are available.

Chairman Openshaw questioned the advantages of having the representatives meet with the Board in person versus video conferencing. Vice Chair Rogers said that she could only comment on her experiences in the private sector, when they had used video conferencing, and it was just like face to face meeting.

Mr. Greene said that this is such a significant step for the County, he thought there might be some benefit to having the first meeting with the firm to be in person, so the interaction could be more free and informal.

Following further discussion, Chairman Openshaw suggested and moved that the first meeting be a face to face meeting. He stated that the motion is to authorize staff to invite representatives of Kaufman-Hall to meet with the Board face to face to discuss Kaufman-Hall's qualifications. The motion passed by a vote of three to two. Chairman Openshaw, Vice Chair Rogers, and Commissioner Kuehler voted in favor of the motion. Commissioner Baucom and Commissioner Mills voted against the motion.

COMMUNITY BENEFIT ORGANIZATION DISCUSSION:

Chairman Openshaw moved to authorize staff to move forward with inviting representatives of the organizations (one per regular Board of Commissioners' meeting) from the list provided, and recorded below, to attend a specified Board meeting and speak for approximately three minutes at the beginning of the Board meetings to appeal to the public for their organization.

American Red Cross - Supports Emergency Management functions.

The Arc of Union County – Supports the Developmentally Disabled.

Council on Aging in Union County – Assistance to the Aging Community.

Union County Crisis Assistance Ministry – Emergency assistance for the needy.

Friendship Home – Provides assistance for self-help substance abuse programs.

Habitat for Humanity – Provides housing assistance for the needy.

Fresh Start of Union County – Provides Transitional Housing to needy women and children.

Legal Aid of North Carolina – Provides legal assistance to victims of domestic abuse.

Literacy Council of Union County – Provides literacy programs to the illiterate.

Turning Point – Provides services to victims of domestic abuse.

Union County Community Shelter – Assists homeless persons.

United Family Services – Assists child abuse victims and non-offending family members.

Health Quest – Provides free pharmaceutical services to the needy.

Union Diversified Industries – Developmentally disabled vocational program.

Union County Library Foundation – Supports UCPL with construction/renovation funds.

Union County Community Arts Council – Supports art programs in Union County.

Andrew Jackson Historical Foundation – Supports historical programs, maintains historical site.

Union County Historic Preservation Commission – Supports local history, manages artifacts.
Union County Job Ready Partnership – Scholarships and programs for students.
Covenant Prison Ministries – County Jail inmate education and rehabilitation.
Union County Crime Stoppers – Crime prevention programs and strategies in underserved areas.
4-H Foundation – Supports 4-H activities in Union County.
Union County Veterans Council - Works with Veterans Services, represents Veterans groups.
Union County Christmas Bureau – Supports needy during holiday season, coordinated by DSS.
Hospice of Union County – Programs and family resource for those facing life limiting illnesses.
March Forth with Hope Foundation Inc. – Cancer patient cancer assistance.
Hometown Heroes of Union County, NC – Supporting children with medical needs.
Loaves and Fishes of Union County Inc. – Distribution of food to the needy.
Friends of the Union County Animal Shelter Inc. – Veterinary support for the Animal Shelter.
Vital Interventions Accessible Inc. – Autism assistance to families.

Vice Chair Rogers offered a friendly amendment to the motion to consider allowing the community benefit organization representatives to speak for a longer period of time than three minutes.

Chairman Openshaw agreed to amend the motion to change the time allowed for the community benefit organization speakers to have five minutes to speak about their organizations.

The motion as amended passed unanimously.

Chairman Openshaw clarified that he was suggesting that a Community Benefit Organization be included on every regular meeting if they desire to come and speak.

RECOMMENDATIONS BY COUNTY ATTORNEY – RE: ATTORNEYS AND RATE:

Keith Merritt, County Attorney, stated that at the August 31, 2009, meeting of the Board of Commissioners, he was tasked with locating attorneys to recommend to the Board to conduct an investigation pursuant to Commissioner Kuehler’s motion with respect to a vote that was taken by a prior Board relating to reimbursement of legal fees. He said that he has provided the Board with information for three attorneys that he has spoken with and who are willing to be considered for that assignment by the Board

(William H. Sturgis, James P. Cooney, III, Leon Killian). He offered to discuss with the Board any of these attorneys, and said that he believed all three to be competent to perform the task that has been requested by the Board.

Commissioner Kuehler responded that she was not on the Board at the time that the ethics policy was adopted or when it was amended. She noted that the State has now mandated that Boards of Commissioners adopt an ethics policy. She said that the Board's policy states that if there is a perceived or alleged violation of the policy, the way to investigate the alleged violations would be to turn it over to the County attorney who could either bill the County to conduct the investigation himself or at his discretion could bill it out to another attorney. Commissioner Kuehler said that while she did not like the thought of having an investigation, it is the only avenue available to her at this point based on the Board's current policy. She stated that what she would like to see if any of the attorneys would look at some form of the complaint or the minutes from the meeting where the vote was taken relating to reimbursement of legal fee and estimate how long they think it might take to conduct the investigation and provide a flat fee.

Mr. Merritt said that in the e-mail response from Attorney Bill Sturgis, he declined giving a flat fee for the reason it is very difficult to determine whether such an investigation would require two hours or two months of time. He stated that until getting into these types of investigations, it is very difficult to make any kind of determination on the time required to conduct the investigation. He offered to talk with each of the three attorneys recommended to determine if they are willing to provide a flat fee. He said that he anticipated that probably all of them would decline to give a flat fee given the nature of what they are being asked to do.

Commissioner Kuehler said that she failed to see having a policy in place where the only way to enforce the policy is to increase the expenditure and then having a big deal about the expenditure. She stated she was the one that brought the complaint, and she is willing to move forward or she would not have brought the allegations.

Commissioner Mills said that he understood the attorneys' hesitancy to provide a flat rate. He stated that he thought this was a waste of time and money and did not believe there was any ethics violation or State violation at all, but questioned as the investigation proceeds and other ethics violations are found by other Commissioners or past Boards, when does it stop. He said that right now he could say, if this investigation moves forward, it will be found in the investigation that there is at least one former Commissioner that perjured himself during his deposition in the Shalati matter. He asked where that would lead.

Mr. Merritt responded that he thought if the instructions to the attorney retained by the Board would be to investigate a discreet ethics violation, the attorney would remain within that realm and give an answer to the question with respect to the violation. He stated that certainly if there are other matters that come to the attorney's attention during the investigation, and the Board says it wants

those matters to be part of the report to the Board, then this could be part of what the attorney looks at. Mr. Merritt stated his understanding of the Board's task is to look at this specific vote and to make a determination as to whether or not it violates the Board's ethics policies or any state statute that might exist that would be relevant and that would be the scope of what the attorney is being requested to do.

Commissioner Mills asked if any other ethics violations are discovered in the scope of his work, would they be overlooked. Mr. Merritt said the attorney would only investigate the Board's task.

Commissioner Mills asked if Mr. Sturgis is the current Board of Adjustment attorney. Mr. Merritt responded that he is currently the Board of Adjustment attorney for Union County. In response to a question by Commissioner Mills, Mr. Merritt stated that pursuant to the ethics rules, there would not be a conflict of interest if Mr. Sturgis were retained by the Board to conduct the investigation. Commissioner Mills stated that he had not voted in favor of Mr. Sturgis' appointment as the Board of Adjustment Attorney, and would not feel comfortable with retaining him for the investigation.

Mr. Merritt explained the process that he had gone through in finding attorneys in the area that would be qualified to conduct an ethics investigation. He said he had spoken with Mr. Sturgis in part because he was familiar to the Board members and would hope that the Board would be comfortable with Mr. Sturgis. He said that this might give a comfort level with respect to retaining Mr. Sturgis to conduct an ethics investigation. He said that was also why he had provided the names of three attorneys for the Board to consider, so if there is any one of the attorneys that the Board is not uncomfortable with, then there are other choices. He noted that one of the choices is an attorney whose law office is in Raleigh. He stated that this attorney would be very detached from this Board and the community. He reiterated that he has tried to give the Board a range of names who he thought would be competent to accomplish the task that the Board has set forth. He said who the Board chooses is up to the Board, but these are attorneys that he is comfortable with their objectivity and their competence to perform the task.

Mr. Merritt reviewed the rates proposed by the recommended attorneys to be: 1) Mr. Sturgis - \$275/hour; 2) Jim Cooney - \$375/hour; and 3) Mr. Killian - \$340/hour, and he would also have travel cost. He said that Mr. Killian stated that he would bill his travel time at one-half of his normal hourly rate which would be \$170/hour for travel time. In response to a question by Commissioner Kuehler, Mr. Merritt said that he did not specifically discuss with Mr. Cooney or Mr. Killian whether or not they would be willing to conduct an investigation for a flat fee. He said he would be glad to ask Mr. Cooney and Mr. Killian if they would be willing to perform the work for a flat fee.

Chairman Openshaw said he would like for Mr. Merritt to make that inquiry and that would give him time to think about the scope of this matter. He stated he was somewhat unique in the majority in that he was present at the time of the March 10, 2008, meeting. He said that Commissioner Kuehler has done an incredible job in researching the matter. He noted that at the last meeting he had made an incorrect statement in that he said that he was a hostile witness in the Shalati matter. He stated that he was not a hostile witness but was someone that was pointed out in his deposition who was not being represented. He shared that he has wrestled with this matter, because he understands the expenditures and also what the Board's rules state. He said when he starts to put a dollar value on it, then he thinks what is the dollar value of ethics? He stated it is pretty tough to put a price on something like ethics. He stated that this is all public record for now, and there is a cause to ask and, if nothing else, perhaps it makes people be a little more careful in the future, one way or another.

He said one argument he has heard is what is the point of having a policy if the Board is not going to enforce it. Chairman Openshaw said that he would like to correct Commissioner Kuehler—the Board's ethics policy goes back to the early 90's and is pretty well written compared to most ethics policies that he has seen. He stated that he would like to hear back from Mr. Merritt at the next meeting about what the attorneys had to say about a flat fee.

Commissioner Baucom stated that Commissioner Kuehler had said at the last meeting, before she made her motion, that the agenda item of March 10, 2008, was one of the reasons that she ran for Commissioner. He said that meeting occurred on March 10, 2008, and he thought filing for the Office of Commissioner had already closed at that time. He stated that during this past three weeks, he has received an overwhelming number of calls or comments from good citizens of this county in support of him. He said that prior to that he had determined that he would not seek re-election, but because of all of these calls, comments, and statements, he is strongly reconsidering those prior thoughts. He said that Union County deserves better than what it is getting.

He stated to that point, he would move that any investigation of prior Board members, Baucom, Mills, and Pressley, caused by the allegations and accusations of the motion of Commissioner Tracy Kuehler and placed into action by a majority vote of the Board of Commissioners consisting of Commissioner Tracy Kuehler, Chairman Lanny Openshaw, and Vice Chair Kim Rogers on August 31, 2009, include all members of the prior Board, including Chairman Lanny Openshaw and former Commissioner Roger Lane. He added as a part of this motion that any violations found during this investigation be determined and become part of the process, whomever these violations are found to occur with. He stated that he agrees and pledges to repay to Union County any dollar amount that a court determines because of this investigation that he owes if summarily the individuals, Tracy Kuehler, Kim Rogers, and Lanny Openshaw voting to conduct this investigation agree to pay Union County individually and severally any and all costs to the taxpayers of Union County associated with this motion upon the findings that he has not violated any State statues. In addition, he

said upon the failure to find violation of State statutes, the aforementioned individuals, Tracy Kuehler, Kim Rogers, and Lanny Openshaw, having voted as a majority agrees to render immediately and appropriately a public apology for the reckless, unsubstantiated, egregious and ridiculous accusations, allegations, and innuendos made against him in this matter. Furthermore, he said if an investigation is not conducted against him, he expects and demands that the aforementioned individuals, Tracy Kuehler, Kim Rogers, and Lanny Openshaw, having voted as a majority to initiate this personal investigation immediately and appropriately render a public apology to him for the reckless, unsubstantiated, egregious, and ridiculous allegations and innuendos made against him. He stated that was his motion.

Chairman Openshaw stated technically that is contrary to the motion that is on the table; therefore, it is not in order.

Commissioner Kuehler repeated her motion was to have the County attorney go back and discuss with the other two attorneys, Mr. Cooney and Mr. Killian, whether or not they could offer a flat fee to conduct the investigation.

Commissioner Baucom stated that he would offer his motion as a friendly amendment; and, if it was not accepted as a friendly amendment, then he would offer it as a substitute motion.

Chairman Openshaw asked guidance from the attorneys. Mr. Crook responded that he was not sure that the two motions are entirely inconsistent, and he thought the second motion would constitute an amendment to the first. He said if it is accepted as an amendment, then it would be voted on as a single motion, and, if it is not, it is a procedural motion to be voted on first.

Commissioner Mills asked if Commissioner Baucom had any objection to including Commissioner Mills' name in his motion. Commissioner Baucom responded that he had no objection to amending his motion to include Commissioner Mills' name in the motion.

Commissioner Kuehler said that if the investigation reveals that she was incorrect, she would apologize to both Commissioner Baucom and Commissioner Mills. She stated that she did not believe that was the case, but she was big enough, she would do that. She said that she would have no problem offering her apology if, in fact, the investigation found that Commissioners Baucom and Mills did nothing wrong. She said that she was not sure if that was what Commissioner Baucom was looking for. Commissioner Baucom said he was looking for a quid pro quo here—he agrees to pay, she agrees to pay. He said that was all it is.

Commissioner Kuehler said if a court finds that Commissioner Baucom has to pay, then he has to pay and it has nothing to do with whether she pays or not. She said that was not how it works.

Vice Chair Rogers commented that with her having gone through an ethics investigation when she served on the school board, it was not an easy matter and not one to undertake lightly, but it is a matter that the Board should expect its elected officials to take. She said that if you think this county is in trouble, this country is in trouble, because there are ethics violations going on all across America. She stressed that she is not saying that there was an ethics violation, but said it is her duty as an elected official to investigate whether there was or was not a violation. She said she was not accusing anyone, but there has been a question that was raised and pursuant to the Board's ethics policy that was adopted prior to her becoming a member of the Board, the Board is required to investigate whether there was an ethics violation or not. She said that Commissioner Baucom had talked about quid pro quo, and it could get into tit for tat on this current Board versus two years ago. She said all one had to do is go back two years and look at *The Enquirer Journal* and look at the year in review, and look at the things that occurred the first couple of months that the 2006 Board came on. She stated that Commissioner Baucom has every right to make the statement that he did, but she would not be voting for any amendment. She said that she has made no accusations but she is following the policy that previous Boards of Commissioners have passed and that is her duty as an elected official. She said if anyone has an issue with that, they are free to call or e-mail her, and she would talk with them. She stated all she has been hearing is "let's cleanup government all across this county, across this country, and if it needs to be cleaned up, they will, and if it does not, then they won't.

Following her comments, Vice Chair Rogers moved to call the question.

The Chairman called for a vote to call the question. The motion passed by a vote of three to two. Chairman Openshaw, Vice Chair Rogers, and Commissioner Kuehler voted in favor of the motion. Commissioner Baucom and Commissioner Mills voted against the motion.

Chairman Openshaw called for a vote on Commissioner Baucom's procedural motion. The motion failed by a vote of two to three. Commissioner Baucom and Commissioner Mills voted in favor of the motion. Chairman Openshaw, Vice Chair Rogers, and Commissioner Kuehler voted against the motion.

Chairman Openshaw stated that the original motion by Commissioner Kuehler was to ask the County Attorney to come back to the Board with a fee structure. The motion passed by a vote of three to two. Chairman Openshaw, Vice Chair Rogers, and Commissioner Kuehler voted in favor of the motion. Commissioner Baucom and Commissioner Mills voted against the motion.

Mr. Merritt asked if the Board were comfortable with the options for attorneys he has provided or if there is a desire for him to find other attorneys. He said that he wanted to make sure that he is providing the Board with attorneys that the Board is comfortable with. He asked if there were any questions about the names he has provided or if there are any changes the Board wants to make to the three names he has provided. He said that he wanted to take care of this at tonight's meeting rather than waiting until the next meeting and then finding out for some reason that the three choices provided are not acceptable for some reason.

Commissioner Mills stated that Mr. Sturgis would not be acceptable to him and was surprised that his name had been included in the list. Mr. Merritt asked that the Board understand that he does not look at the history or who voted for Mr. Sturgis, but his recommendation was based on his experience with him.

Commissioner Baucom asked if attorneys had a canon of ethics with one being not to become involved in a conflict of interest and another being not to become involved where there is any impropriety or appearance of a conflict of interest. Mr. Merritt stated that this was correct but stressed that he and Mr. Sturgis did discuss that in the role he has with the Board of Adjustment, it was not believed that his undertaking this investigation would cause any violation of the ethics rules under which they operate as attorneys. However, he said that he understood if there is a discomfort in having Mr. Sturgis as one of the choices, he is very comfortable with the other two attorneys he has recommended. He said if the Board's desire is that Mr. Sturgis be eliminated from consideration, then he is fine with that. He said that he can try to find someone to replace Mr. Sturgis as a third option, or if the Board is comfortable with Mr. Cooney and with Mr. Killian, he would talk with them about the fees and report back to the Board.

Chairman Openshaw said that he has a concern but would not make a final opinion on this, but he understands Commissioner Mills' reluctance. He stated that he particularly understood his reluctance in that he is the one that recommended Mr. Sturgis in the first place as the Board of Adjustment attorney. Mr. Merritt suggested that Mr. Sturgis' name be removed from the list.

Chairman Openshaw commented that he thought Mr. Sturgis is a great attorney, and he has seen him work on both sides of cases. He said that he trusted his integrity, but he wanted to get his comment out there and understands that it creates an awkward situation. He said he would like, if possible, for Mr. Merritt to bring back the names of one or two more attorneys. Mr. Merritt said that he would see what he could do between now and the next meeting in October.

ANNOUNCEMENT OF VACANCIES ON BOARDS AND COMMITTEES:

Chairman Openshaw announced vacancies on the following boards and committees:

- a. Adult Care Home Advisory Committee (6 Vacancies)
- b. Nursing Home Advisory Committee (4 Vacancies)
- c. Region F Aging Advisory Committee (1 Vacancy)
- d. Juvenile Crime Prevention Council:
 1. Member of Faith Community
 2. County Commissioner Appointees (3)
 3. Substance Abuse Professional
- e. Union County Industrial Facilities and Pollution Control Authority (2 Vacancies for Unexpired Terms Ending May 2014)
- f. Parks and Recreation Advisory Committee (1 Vacancy for Unexpired Term Ending in February 2011 Due to Resignation)

Vice Chair Rogers reminded that at an earlier meeting she had asked about getting the schools involved in publishing the vacancies in their newsletters. She asked about the status of this request.

MANAGER'S COMMENTS:

Al Greene, County Manager, had no comments.

COMMISSIONERS' COMMENTS:

Commissioner Baucom said that he owed an apology to the citizens of Union County. He said he sits on the Board of Commissioners and is ashamed of this Board, its actions, and its inactions. He stated that years ago it was a privilege and honor to serve as a County Commissioner in Union County, and there have been many great individuals to serve on this Board and they have done a lot of good things. He said he was sorry for what this Board is doing. He said it is a new low in County politics, and he has never seen anything brought to this level. He said it was shameful and he did not know any other way to say it.

Commissioner Baucom said that he had hoped early on that the Board would be able to work, not in step, because different opinions are good, but these are not just different opinions; they are hostile opinions that cut to the quick of the citizens of the County.

He said the County is not moving forward. He said that there are Board members that will say they are trying to move forward, but this is not occurring. He said it is petty politics and the citizens' money is being used to pay for a campaign. He stated he had used the word shameful and he would use it again. He said that he hopes things change, because the citizens of Union County deserve better.

Commissioner Kuehler stated that her decision to bring forth an official ethics complaint was not easy. She said that it might not be popular, but it certainly was not easy. She said the County has an ethics policy and, interestingly enough, the State has just passed legislation mandating that all local governments adopt an ethics policy and that all elected officials take an ethics course. She stated that obviously it is an extremely important issue in the State and as Commissioner Rogers earlier said also in our country.

She said that one speaker had said tonight, almost accusingly, that she is a stay at home mom, and he is right, she is a mom, and it is her most important job being a mom. She stated it is the job she does that she is the most proud of and she has two wonderful boys. She said she teaches her children every day to stand up for what is right and what they believe in, even when it is difficult. She stated to do nothing with the information that she had or to look the other way would have been a conscious decision to send the message to her sons that if doing what you believe in or doing what you believe is right is hard, don't do it or on the flipside teaching them that doing something wrong is okay as long as nobody finds out about it for an extended period of time. She reiterated that does not sit right with her, and she had made the statement that if the information she had is incorrect and the information she has compiled is wrong and this investigation shows that there were no ethical problems, she would apologize. She stated that she brought the allegations because it is what she believes, and it is the lessons she wants to teach her children. She said she was sure that everyone on the Board has had a rough week after what she decided to do, and for that she apologizes, but no one has had a rougher week than she, but she would still do it again. She stated that she ran on open, transparent government, and these things happened before the primary, so it was a driving factor in why she ran for Commissioner. She said she hoped the Board could move forward from here.

Commissioner Mills stated that the 20 year anniversary of when Hurricane Hugo came through the County is coming close, and many people have forgotten about when that happened. He reminded everyone that the County has a very large law enforcement, rescue personnel, and a number of fire departments. He said that are a lot of people when the siren goes off and those disasters happen run towards it. He stated that he would like for everyone to keep in mind the 20 year anniversary of Hurricane Hugo. He said there were a lot of people who went beyond the call of duty to help each other during that time. He stated that he wanted to make sure everyone remembered what took place and how the community came together during that time.

He said he took the ethics training class with Commissioners Openshaw and Kuehler, and one of the things he heard from Jim Blackburn, who is one of the attorneys at the School of Government, when people were asking questions, and he was giving examples, he said that the Commissioners' goal was to lead and make decisions. He said even if a conflict existed, and, by recusing yourself, you took away the majority of the Board and the Board was not able to act, Commissioners still had to vote. He stated that on the motion that everyone is talking about that occurred on March 10, 2008, that morning was the deposition of Roger Lane. He said that Mr. Lane walked out of the deposition because he wanted an attorney, and that was going to be provided for him on the Board's agenda that night. He stated that item was put on the agenda for Commissioner Lane who went through the County Attorney, as was recommended by the staff attorney, and the motion was put together on the agenda. He said that in that meeting, Mr. Lane wanted an open-ended contract and Commissioner Openshaw wanted \$50,000 or \$60,000 for legal fees per Commissioner and neither of them recused themselves and actually ended up benefiting also, because Commissioner Lane's legal fees were paid. He said if the three Commissioners had recused themselves, the meeting would not have taken place, and the hiring of the attorneys had nothing to do with the motion. He said that the record is on the website and they can read the depositions on the website. He stressed that the Commissioners still must lead and there are hard decisions to be made. He said he thought Mr. Blackburn had made a comment in one of the newspapers that if there is a conflict and the majority of the Board has to recuse themselves, they must still vote because the government must move forward.

Vice Chair Rogers said if thoughtful consideration of policies, if attention to facts and details, if listening to the taxpayers, if being fiscally responsible, if being accessible, open, and transparent are reasons to apologize, then she would apologize. She said that during public comments, Mr. Kerr talked about playing political games, and he talked about unethicness. She said that she found it ironic that he was speaking to the Commissioners since he was one of the three primary members of Union County 2020, an organization that was formed specifically for the purpose to make sure that she did not get elected. She stated that as reported in the papers, it was an unethical organization, and was an organization that skirted the boundaries of the law, and she had been told if she wanted to go after that organization, she had legal room and a lot of legal standing to do so. She said that she decided not to do that because she wanted to move on. She stated that another gentleman spoke tonight but she did not believe he had all of the facts. She said the impression she got from his comments was he was questioning this probe into the ethical behavior, and it was related to the outcome of the FBI investigation in that the Board would find something that the FBI did not find. She stated it has nothing to do with that. She said she thought Commissioner Kuehler had stated it before she stated it – it is the possible violation of an ethics policy that this Board is held to that previous Boards passed that the State has since said the Board has to have in place. She stated that is a question, it is not an accusation. She said that if, as some of her fellow Commissioners have stated, it happened in a certain way, that will come out and that will be the end of that, chapter closed.

Vice Chair Rogers said that gentleman also talked about Belk Tonawanda and all of the foolishness there. She said that the Board did not stop the negotiations regarding Belk Tonawanda, it is ready to negotiate. She stated that there were some things that the Board proposed that it was led to believe would be looked upon and the City would come back, and they did not. She said she could not negotiate from the standpoint of “no.”

She commented regarding the water policy that the speaker had referred to. She said that Chairman Openshaw made a couple of statements earlier to this effect, but the original water policy allocated water that the County did not have. She reminded everyone about the over allocation of sewer. She said that companies come here in good faith to build in this county and to make a life in this county and to provide jobs in the county, and they get to a certain point in their building and are told “sorry, we don’t have any more water.” She said if the County does not have water, it does not have it, and the previous policy was disingenuous at best. She stated it was overstated and no reserves were put in place. She said that the staff worked hard to address all of the Board’s concerns, and she thought the plan that is in place now is a step in the right direction, and it gets some movement going, and it can be revised as needed. Vice Chair Rogers said she thought it was always better to be responsible, and that is what the Board is trying to be, and if people are not concerned that there are safety measures in place in this government or any government that will insure that the taxpayers’ dollars are being spent in an ethical, honest manner and in a way that benefits the taxpayers that is not wasteful, then there is a problem in this country. She said that if it gets to the point that Commissioners are not allowed either as people or elected officials to go with their beliefs and to speak out what they think they need to speak out about without ridicule and without being labeled ridiculous, then it is a sad day in this country because that is what the people are fighting for and what people in the past have fought for. She said that she is sick and tired of people trying to take away her right to represent the citizens, to speak her mind, and to be in disagreement. She said that this can be done and on a professional level. She stated that she apologized to Union County that is not being done. She encouraged the Board to move forward and lead the County and get to a better place than where it is now.

Chairman Openshaw said he had nothing but positive comments to make. He said that the best defense is a good offense. He said in response to Commissioner Mills’ assertion about the March 10, 2008, meeting, one of the Board’s majority at that time said to Mr. Lane “if you didn’t do anything wrong, why do you need an attorney?” He stated that this was four days after the current majority had signed another legal contract with no approval from this Board. He said there were other examples.

Commissioner Mills asked that he be shown the signed contract. Commissioner Baucom said that he had not signed one.

Chairman Openshaw said he would be glad to retract his comment if that were the case.

Commissioner Kuehler clarified that Chairman Openshaw was referring to a letter of engagement.

Vice Chair Rogers called for a point of order at this time.

Chairman Openshaw commended the newly formed Library Association for Waxhaw for its fundraising event. He said they had done a great job to put that together to try and provide for their library. He congratulated Allvac for receiving a grant for research for making the process of working titanium more efficiently and more cost effectively. Lastly, he congratulated the City of Monroe for receiving a grant from the federal government for two million dollars for its airport expansion.

With there being no further discussion, at approximately 10:10 p.m., Chairman Openshaw moved to adjourn the regular meeting. The motion was passed unanimously.