

February 18, 2008

The Union County Board of Commissioners met on Monday, February 18, 2008, at 7:00 o'clock p.m., in the Commissioners' Board Room on the first floor in the Union County Government Center, 500 North Main Street, Monroe, NC. The following were

PRESENT: Chairman Allen Baucom, Vice Chairman Kevin Pressley, Commissioner Roger Lane, Commissioner A. Parker Mills, Jr., and Commissioner Lanny Openshaw

ABSENT: None

ALSO PRESENT: Richard Black, Interim County Manager, Lynn West, Clerk to the Board, Matthew Delk, Assistant County Manager, Ligon Bundy, attorney for the County, Kai Nelson, Finance Director, interested citizens and members of the press

The Chairman convened the meeting and welcomed everyone.

OPENING OF MEETING:

Invocation: Chairman Baucom recognized the Rev. Jack Hildreth, pastor of Emmanuel Baptist Church. The Rev. Hildreth explained that he had been given the opportunity to pastor this church since it was a small mission church, and it now has approximately one thousand members. He expressed his pleasure at being able to live in North Carolina and Union County and stated that he thought Union County has wonderful citizens, but stressed that everyone needs God's help. The Rev. Hildreth presented the invocation.

Pledge of Allegiance: Girl Scout Troop #1993 led the Commissioners and audience in reciting the Pledge of Allegiance to the United States flag. He recognized Fannie Clements, Troop Leader, and Joyce Burroso.

Informal Comments: The Chairman recognized the first speaker, Tim Connair, who had registered to speak about arsenic in wells.

Mr. Connair stated that he is employed by American Water Service located in Union County at 5001 Smith Farm Road. He presented a brochure to the Board detailing the history of the business and outlining some of the water quality solutions it has provided to residences and businesses since 1991.

He said that he thought what had been discussed with the Commissioners was a cluster of homes in the Fairview area that has higher arsenic levels in its drinking water. Mr. Connair stated that Commissioner Openshaw had recommended to him that he address the Board on this issue. He said, according to a May 29, 2003, article in *The Charlotte Observer*, a resident in Union County has a fifty-fifty chance of having arsenic in his water. He pointed out that in the article Dr. Rudo from the North Carolina State lab had stated that American Water Services sells a unit that removes both types of arsenic. He explained the system used by his company to remove the arsenic is reverse osmosis, which is a standard four-stage system. Within the written description provided, the main heart of the system was described with it being noted that it reduces up to 99 percent of total arsenic for both III and V. He assured that State tests are run pre and post installation on all wells that his business treats to assure that the system is clearing the well of the arsenic.

Vice Chairman Pressley asked Mr. Connair if the cost of the five-stage arsenic reverse osmosis is approximately \$1,000. Mr. Connair agreed. Vice Chairman Pressley next asked if he is looking at the quote correctly that it costs about \$50 to replace the membrane every three to five years. Mr. Connair agreed and stated the filter would need to be replaced annually at a cost of \$97.30 plus \$89 per hour for labor. He assured that if there is a need for additional testing, it would be accomplished at no cost to the county or homeowner.

Commissioner Openshaw asked if the County requires arsenic testing for wells. David Cunningham representing the County's Environmental Health Division confirmed that his department does test for arsenic levels in all new wells. He reminded that was one of the issues discussed when his department was requesting an increase in fees.

The Chairman next recognized Werner Thomisser who registered to speak about the Union County Public Works Advisory Board. Mr. Thomisser, gave his address as 2018 Kings Manor Drive, Weddington, and stated his comments were directed toward the Union County Public Works Advisory Board which recently has received an enormous amount of front page news coverage in all local newspapers. He reviewed articles that had been written about this board starting in August of 2007 when its Chairman resigned because he was worried that his position on that board could conflict with his work for developers. He reminded that later in 2007 another member resigned and recently this past member has been very outspoken calling for an immediate dismantling of that board because he thought it is ineffective and lacks authority. Mr. Thomisser stated that recently Chairman Baucom requested a third

member to resign from the board while another Commissioner reported that the majority of the members of the Public Works Advisory Board have jobs related to construction, development, and/or real estate, and this Commissioner likened the Board to a phone company controlling the Federal Communications Commission. He said yet another Commissioner has demanded financial disclosures of all persons who serve on all county boards; a motion that was deferred. Mr. Thomisser said that with all this press coverage, an ethics government expert recently weighed in stating that “boards which attract only members who have a personal or financial interest in the board’s activity should be abolished since the value of accomplishing the public interest is highly doubtful.” Mr. Thomisser encouraged the Board of Commissioners to disband the Public Works Advisory Board and move on. He said only then would the Board regain the confidence of Union County’s citizens and taxpayers.

The next speaker recognized was Mr. Roland Bibeau of Presbyterian Healthcare System. Mr. Bibeau announced that Presbyterian Healthcare is bringing the Presbyterian Community Care Cruiser, which is a doctor’s office on wheels, to travel to places of worship to provide primary and preventive medical care to youth in need. He said this vehicle would support programs and clinics to help serve uninsured and underinsured children in this community. Mr. Bibeau noted in North Carolina that one in nine children lacks quality medical care. He said this cruiser provides quality medical care for children between the ages of 0-17 in low-income areas. He stressed that the Cruiser, equipped with private exam rooms, will bring hope to Union County by providing primary care, immunizations, initial prenatal care, preventive education, and community resource referrals. Mr. Bibeau reported that the team providing care on the cruiser will be a medical director, pediatric nurse practitioner, registered nurse, social worker, and interpreter. He further stated that the cruiser was a collaboration of efforts between Presbyterian Healthcare’s Foundation and the Charlotte Bobcats and is now located at Presbyterian Hospital downtown Charlotte but it does go throughout Mecklenburg County and currently visits eight locations. He said that within the first six weeks of operation, there were over 170 children treated.

Mr. Bibeau said that Presbyterian Healthcare wants to bring the cruiser to Union County to help meet the healthcare needs of those children without insurance or without adequate insurance and to collaborate with public officials, schools, and local physicians to bring healthcare to the community where it is needed. He explained that demographic studies will be completed to determine the key locations for the uninsured and underinsured children. Mr. Bibeau stated that Presbyterian Healthcare wants to duplicate the services in Union County that it has in Mecklenburg County and is pleased that the Bobcats have taken notoriety to assist in this cruiser.

Dr. Garrett Maharajh, Pediatrician, added that there is a greater need now for more pediatricians. He noted that one of the more popular pediatricians in the area had been terminated without cause and that dismissal created an overflow to other pediatricians, including him. He stressed there is now an even larger need for the cruiser to help the children and youth of this area.

The Chairman recognized Robert Davis, who declined to comment.

Attorney Tom Caldwell was the next speaker recognized. Mr. Caldwell said this was the third meeting in a row that he had been before the Board on the Woods Subdivision. He said that because of the large attendance on another subject at the Board's last meeting, he asked that it be pulled from the agenda and transferred to tonight's meeting as an item of discussion. He said he had learned that the subject is not on tonight's agenda, and requested the Commissioners to include the item on their agenda for discussion and action. He said he thought at this time all the facts are known, and if more facts are needed, Engineer Robert Davis is here to answer these questions. Mr. Caldwell stated that if the Board chooses not to include this item on the agenda, he would call to the Board's attention, Section 12.1.6 of the Sewer Allocation Policy, which provides that any pump station that is going into the Six Mile Creek Basin must be approved by the Board of County Commissioners – "in determining whether to approve a new pump station under this sub-section, the Board **shall** consider among other things – it doesn't say may consider but says shall consider – and then lists a number of things with the first being overall economic benefit to the County." Mr. Caldwell submitted to the Board that from a legal standpoint when the word shall is used, it is mandatory and is something you must do, and, if the Board chooses not to follow its policy, he would argue that is arbitrary and capricious and is subject to judicial review. He said they would like for this item to be on the agenda for a vote tonight, and if they do not get on the agenda, they will treat it as though it has been a request of The Woods for a pump station that has been turned down, and they will proceed accordingly.

The Chairman recognized Marie Fish, business owner in downtown Monroe, who invited the Commissioners to the grand opening of Sweet Tea's Bakery and Tea Room. She said the business will be opening to the public on Saturday, February 23.

Chairman Baucom recognized Jim King of 3514 Waxhaw-Marvin Road who registered to speak on changing lot setbacks. He noted that the developer has been given bonuses for clustering by allowing him to develop 25,000 square foot lots rather than 40,000 foot lots. He said this has the potential of allowing the development to have an increase in the number of lots depending on the lay of the land. Mr. King noted that this development is in R-40 zoning not R-20 zoning; he said it doesn't matter how good this particular development is, because once it is changed, the amendment is applicable to every piece of land in Union County. Mr. King reported there are already two other items before the Planning Board now that would give the developer a little more relaxed ordinance.

Mr. King next questioned the Commissioners on where they were on February 14, 2008, when there was a meeting advertised for them to attend. He noted there were many department heads there eating; no business, and he thought this a waste of taxpayers' money and resources. He further stated that he had not heard an apology to the taxpayers, which he thought was due.

The third item Mr. King mentioned was a quote in the newspaper this weekend that he took personally because it said it would be difficult to find anyone that does not have connections to the homebuilding industry to put on the Union County Planning Board. He said that was not true and reminded that there had been a board in Union County called the Union County Planning Board that the majority members were not connected to the home building industry and because of an act of this Board, it was disbanded.

Mark DiBiasio was recognized to speak about the cluster ordinance. Mr. DiBiasio stated his address at 4708 Toms Creek Court outside of Wesley Chapel. He said that in a 1974 US Supreme Court Case, Justice Marshall said that zoning may indeed be the most essential function performed by local government and, for this, it is one of the primary means by which the government protects the sometimes difficult concept of quality of life. Mr. DiBiasio reported that the text amendment before the Commissioners is an action by the developer and is not an amendment put forth by the Board of Commissioners nor by the Planning Board but by a developer who has the right to apply for a change to the text ordinance. Mr. DiBiasio noted the developer has asked to have the setbacks reduced in the County's only cluster division. He stated the reason for this is to cull more lots out of the subdivision property. Mr. DiBiasio stressed there is no other way to look at it because he has asked to have it reduced and to have flexibility. He further noted that there has been discussion about issues with fires with houses too close together and reminded that in a subdivision on New Town Road, the fire department was unable to traverse the roads because people were parked on the streets and the cul-de-sacs were too small for the department's equipment to make a turn. He said that this was all in an extremely similar subdivision as what is being discussed with the proposed text amendment. He stated that he opposed the weakening of the ordinance not only because of this particular subdivision but also because every subdivision from this point forward could use these setbacks and make smaller, tighter subdivisions.

Mr. DiBiasio stated it was unfortunate that Union County has a one-size fit all subdivision ordinance, and it is not fair to the development community because it has only one way to do something. He suggested a need for more subdivision ordinances that would use a conditional use whereby the developer would be working with the Planning Board and the Board of Commissioners to develop a good plan. He emphasized that Union County's Land Use Ordinance is the law of the land literally and mentioned one of the amendments, Section 325, titled "Ultimate Issue Before the Board Concerning Amendments" which states "in deciding whether to adopt a proposed amendment to this ordinance, the essential issue before the Board is whether the proposed amendment advances the public health, safety, or welfare;" all other issues are irrelevant.

The Chairman recognized Kevin Graham. Mr. Graham identified himself and gave his address as 413 Deer Brush Road. Mr. Graham offered to clarify any confusion that there might be in respect to the modification of setbacks and how that might influence

density. Mr. Graham noted that Mr. DiBiasio's comment was that he did not want to weaken the ordinance, and he assured that neither he nor his company wanted to weaken the ordinance but wanted to strengthen the ordinance. He said he is primarily interested in creating a better streetscape. Mr. Graham reported that the way the ordinance is written and open space is calculated, it is very difficult to understand until you go through the calculation with your engineer. Until a person goes through that process, Mr. Graham suggested an individual might not have a full understanding of how it works. He briefly described the process and assured that a 20,000 square foot lot does not increase density because the remaining 20,000 square feet goes to open space. He reiterated that it does not increase density.

Commissioner Openshaw noted that Mr. Graham had not identified himself as being the developer, Newland Communities, who made the application.

Mr. Graham stated he was with Newland Communities and was the applicant.

The Chairman next recognized Fern Shubert to address the Board on water and sewer issues. Mrs. Shubert stated that she lives in Marshville, North Carolina, and that she had been talking about water and sewer for so long she hardly knew where to begin. However, she said she would begin by hoping that the Commissioners had read the column that she had written in *The County Edge* last week concerning the proposed policy that is on the agenda tonight for consideration. She stressed that the process that brought the policy to the Board is so tainted that she thought it would be ill-advised to consider it. Mrs. Shubert stated that when she wrote the column, it was written at the beginning of the week and things have only gotten worse since that time. She reminded that in March 2006 she wrote a column entitled "Sucking Air or What Happens When there is a Drought" and the week before that she had written a column about how sewer subsidies encourage growth. Mrs. Shubert assured that she had nothing against development and has many friends who work in that industry. She stressed that it does not help anyone to have a moratorium and all the questions about how much allocation is there. She said the questions arising is not about management but is a gross miscarriage of justice to the people of this county. She reported that the Sewer Policy before the Board tonight scares her. She said things have appeared in it that are contrary to county policy and asked the Board to question the staff on who authorized them to devote time and effort into putting together a package contrary to county policy that they want adopted to change county policy.

Mrs. Shubert stated that she has filed several public information requests for Public Works' information and these have not been responded to – one was about the interbasin transfer consultant. She said she did learn that he had been paid \$25,000 down and \$4,000 a month, but none of the information beyond the contract document has been provided. She reported she also requested

information about the County Manager telling the consultants not to look into sewer allocation policy and was given only a response by Brent Vines, PIO, that it did not happen.

She also noted that it is being stated that the Public Works Advisory Board unanimously endorsed certain items but assured that certain members waited until members in opposition were not present before taking a vote. She said there are some good people on that board and it is not fair to tarnish everyone's reputation with the actions of a few.

ADDITIONS, DELETIONS AND/O ADOPTION OF AGENDA:

The Chairman asked if there are any changes to the agenda.

Commissioner Openshaw requested and moved to pull the minutes from the Consent Agenda to the Regular Agenda for a modest correction and the second addition is discussion and possible action on the dissolution of the Public Works Advisory Board.

The motion passed unanimously.

Motion was made by Commissioner Lane that the agenda be adopted as amended and that the minutes be transferred from the consent agenda to the regular agenda. The motion passed unanimously.

The Vice Chairman stated there was a request to add The Woods to the agenda tonight and questioned if the Board wanted to take this action. He said he had some issues about adding it to the agenda tonight since the public was not notified that this item would be included on this agenda.

Attorney Ligon Bundy responded that the proposal being considered from The Woods does not require a public advertisement, and it has already been on an agenda and pulled at the request of the developer. He said there was no action at the time it was pulled to place the item on tonight's agenda.

The Vice Chairman clarified that it would be proper for The Woods to make an application to be included on a future agenda and not carried forward to tonight's agenda.

The Vice Chairman moved that the agenda be adopted as modified. The motion passed unanimously. The Chairman announced that discussion and possible action for the dissolution of the Public Works Advisory Board will be 8A and the minutes will be Item 9.

CONSENT AGENDA:

Vice Chairman Pressley moved that the items on the consent agenda as modified be approved. The motion passed unanimously.

Contracts Over \$5,000: Authorized the Interim County Manager to approve and execute contracts as listed and adopted Budget Amendment #33 associated with Item a.

- a.) Rural Economic Development Center, Inc. – Purchase of Video and Editing Equipment for the Government Channel and Budget Amendment #33 to appropriate to the Board of Commissioners’ budget \$13,756.50 received from e-NC Authority State Grant Agreement and to transfer \$13,756 from Personnel Expense to the Operating Expense Budget for a total of \$27,513.
- b.) Hydrostructures, P. A. – Water System Mapping and Data Base Development Task Order #9 in the amount of \$392,500
- c.) Amendments to current Criminal Justice Partnership Program (CJPP) Contract to reduce overall treatment timeframe and Recoupment of Medical Exams (funding provided by State)
- d.) Carolina Recording Systems – Maintenance agreement for Telephone/RadioRecorder Renewal in the amount of \$7,900 (Communications Department)
- e.) Tax Reduction Specialists, a Division of Utilities Reduction Specialists, Inc – Audit of Sales Tax Refunds

Register of Deeds: Authorized the Office of the Register of Deeds to open an hour late (9:00 a.m.) on March 3, 2008, to facilitate the final move of that office that date.

Cooperative Extension: Authorized the Interim County Manager to submit a grant application for the Urban Forestry Position with the agreement to match the grant in the amount of \$32,893 for Fiscal Year 2008-2009.

Amendments to the County’s Pay and Classification Plan: Add to the Sheriff’s Office a Civilian Crime Scene Technician position, Pay Grade 65; and add to the Social Services Department a Business Officer I position at Pay Grade 71 and delete an Administrative Officer II position at Grade 68.

Finance: Approved Motor Vehicle Tax Refund Overpayments for January 2008 in the amount of \$4,443.03.

Finance: Approved Budget Transfer Report for December 2007 through January 2008.

Tax Administrator: Approved Seventh Motor Vehicle Refund Register for the period of January 1, 2008 – January 31, 2008 in the Net Grand Total of \$1,861.75-

Tax Administrator: Approved Seventh Motor Vehicle Release Register for the period of January 1, 2008 –January 31, 2008, in the Net Grand Total of \$22,392.82-

Social Services: Approved Budget Amendment #32 to appropriate additional Federal funds in the amount of \$35,586 in the Crisis Intervention Program

Social Services: Approved Budget Amendment #30 to appropriate additional State funds in the amount of \$16,312 for ROAP grant

North Carolina Association of County Commissioners: Adopted a Joint Resolution Celebrating 100 Years of the County Unity in Recognition of our Association's Centennial

Joint Resolution in Celebration of 100 Years of the County Unity in Recognition of our Association's Centennial

WHEREAS, the North Carolina Association of County Commissioners is an advocacy and service organization made up of all one-hundred (100) North Carolina counties; and

WHEREAS, the active participation and engagement of all 100 counties have directed, strengthened and enhanced our association; and

WHEREAS, the dedication and talents of individual county commissioners and county staff have led our Association's success in advocacy, county-centered services and educational programs; and

WHEREAS, an informal agreement to form our Association was made by a handful of county commissioners who, at the behest of Craven County Commissioner C. E. Foy, met in New Bern in 1908, to discuss county issues of common interest; and

WHEREAS, the first session of our unofficial Association was held at the Atlantic Hotel in Morehead City on August 19, 1908, where C. E. Foy was elected as president; and

WHEREAS, the North Carolina General Assembly passed an act on March 8, 1909, establishing our Association on behalf of the counties;

NOW, THEREFORE, BE IT RESOLVED that the North Carolina Association of County Commissioners and each Board of County Commissioners jointly recognize and celebrate “100 Years of County Unity” in tribute to our Association’s Centennial.

FURTHER BE IT RESOLVED that the Association communicate its copy of this joint resolution to each Board of County Commissioners.

FURTHER BE IT RESOLVED that the Union County Board of Commissioners communicate its copy of this joint resolution to the North Carolina Association of County Commissioners.

Minutes: January 7, 2008 - moved to regular agenda

Information Only/No Action Required: Department of Inspections’ Report for January 2008 and Personnel Report for January 2008.

TEXT AMENDMENT TO ARTICLE XII, Section 187(g) OF THE UNION COUNTY LAND USE ORDINANCE – Setback Requirements for Cluster Developments

Richard Black, Interim County Manager/Planning Director, explained that there was a public hearing conducted on this amendment on September 17th and, after discussion, the Board directed that it be taken back to the Planning Board for specific discussion on fire safety, building code, and septic tank usage. He reported that it was taken back to the Planning Board and Don Moore from Building Inspections, Neal Speer from the Fire Services, and David Cunningham from Environmental Health were present to participate in the meeting, if needed. Mr. Black said the Planning Board by a vote of six to three approved the text

amendment as requested. The Interim County Manager reminded that the text amendment changes the front setback, which is presently 40 feet in the R-40, R-20, RA-20 and RA-40 to 25 feet and the rear setback would go from 40 feet to 30 feet. He said that the side yard setback is already 12 feet in R-20, but the recommendation was for R-40 which is 15 feet to go to 12 feet.

For purposes of discussion, motion was made by Commissioner Mills that the Text Amendment to Article XII, Section 187(g), be approved as recommended by the Union County Planning Board.

The Vice Chairman stated that an issue he had with the proposed amendment in September had to do with fire safety. He said he had thought that the 2008 Building Code required a fire wall. Mr. Speer responded that the 2008 Building Code requires a fire wall if the structures are three feet or less from the other.

Vice Chairman Pressley said that he had also public heard at the hearing concerns expressed about the turn-around for fire trucks within the cul-de-sacs.

Mr. Black assured that the amendment would not change street width requirements and all cul-de-sacs are constructed according to the Department of Transportation's standards and reiterated the amendment would not change these State requirements.

Mr. Speer stated that the code does not address houses in these developments but said the fire issue is relevant in that the closer homes are built, the more likely it is for nearby structures to also burn. He noted that there is currently zoning that allows the 12-foot offset and some offsets are allowed even closer in some districts.

Commissioner Mills clarified that the proposed text amendment changes the R-40 side requirement from 15 feet to 12 feet. He asked if this was the problem in St. John's Forest Subdivision when there was a fire in that development. He asked the side setback in that development.

Mr. Black responded that when that subdivision was built, the developer could establish the setbacks. He noted that in some cases, he thought within this development, the houses are as close as six feet from the property line. He reiterated that at the time of the construction of these homes, the developer could set the distance. He said he could not state the distance exactly but would get the information, if the Board requested him to do so.

Mr. Speer stated that in a fire in St. John's Forest Subdivision there were houses across the street that were damaged by radiant heat, not burned but damaged from the heat.

In response to a comment from Commissioner Openshaw, Mr. Speer agreed that distance is relative and the closer the houses are constructed, the more likely the houses are to be damaged.

Commissioner Mills said that those who had spoken to him thought the houses were to be 12 feet apart rather than the houses built 12 feet off the property line, which would provide a distance of 24 feet between homes.

The Vice Chairman stated that he still has a problem with the fire issue but he knew local government could not control the State Building Code. Mr. Speer agreed that local modifications to the Building Code are extremely hard to acquire. The Vice Chairman stated he did not have a problem with clustering homes and acquiring more open space but understood and agreed with some the arguments made about the safety issues. He questioned how far is enough or how close is too close.

Mr. Speer said that he could not answer that but agreed that it is all relative. He said that under the current residential Building Code, construction can be as close as three feet off the property line without a rated separation being required. Mr. Speer further noted that under the current ordinance, a developer can build as close as 12 feet off the property line.

Commissioner Mills said that one of the comments made at the Planning Board was that the Sheriff was opposed to this change. He said that he had not heard from the Sheriff and asked if anyone had heard from Sheriff Cathey. Mr. Black responded that one of the members of the Planning Board is an employee of the Sheriff's Office. He said this member related an incident in one of the towns where the houses are extremely close together, he did not know the exact distance, but explained that in that area there were some problems deploying the SWAT team. Commissioners Mills and Openshaw stated that they remembered that episode.

Commissioner Lane said that he does not accept the argument that the amendment does not allow more homes to be built on 100 acres depending upon the lay of the land. He further said that if this amendment is approved tonight that it will effectively dismantle the typical R-40 zoning. Commissioner Lane said that it was not surprising that many of the municipalities are requesting ETJ to be able to control what goes on within their periphery, and said, if this is adopted tonight, it looked to him that Union County is not too concerned about safety and the potential fire problems.

Commissioner Mills asked, “does this or does this not increase density?”

Mr. Black responded that there is a legal allowable density, which is taking a piece of property regardless of its topography or shape, and determining, based upon the size of the lot, legally how many units can be built on the property. He said that whatever that number is, the developer cannot exceed it. He further explained that what everyone is talking about tonight is that by going to smaller lots and different setbacks, it allows the developer flexibility so he can get closer to that legal, allowable number. The legal, allowable number is not increased but agreed that by having the cluster provision and the setbacks, the developer has some flexibility so he can get closer to the number allowed. He further illustrated that technically with R-40 and 100 acres, the developer could build 100 units but, technically, he might be able under regular zoning to get 80 or 85 lots, but with clustering and adjusting the setbacks, the developer could get closer to the 100 lots. Mr. Black emphasized that it is not increasing the legal allowable density, but does allow the developer some flexibility so he can get closer to the 100 allowed lots.

Commissioner Openshaw pointed out that this particular developer, as Mr. DiBiasio mentioned, applied for this amendment and that this project has the potential to yield over 800 houses; he said he thought there were 726 acres, but part of the property is within an R-20 zoning district. He said he thought this number would create a tremendous impact on the taxpayers and, secondly, this particular development was put forth under the guise of septic lots, if the Commissioners can remember the first time the developer’s attorney addressed the board. Commissioner Openshaw reported that when Russell Cox of the Planning Board asked the developer if this would keep septic out of the common, open space, he received a non-answer. Commissioner Openshaw said that this particular project ironically has sewer allocated to it.

The Chairman asked Commissioner Openshaw if his comments were relative to the proposed text amendment or about the particular development.

Commissioner Openshaw stated that in this case it is the developer of this particular subdivision that has requested the text amendment.

The Chairman asked Mr. Bundy for an opinion. Mr. Bundy replied that it was a text amendment and relates on a countywide zoning ordinance so the Board must consider how it will influence zoning throughout the county and not just look at one particular development.

Commissioner Openshaw agreed, but said that he was using this one as an example. He asked why the reductions in setbacks and noted that for all the reasons he mentioned during the January 8th meeting, that reducing the front, rear, and side setbacks violate the spirit of Union County R-40 zoning – one house per acre – which is more rural zoning and the proposed amendment is more of a citified zoning.

During discussion, the Interim County Manager stated that there have been some changes in the setbacks since the first proposal. Commissioner Pressley asked the Manager to clarify for him the setbacks that the Board is being asked to approve tonight. Commissioner Pressley noted that the Commissioners have in front of them three different setbacks. The County Manager stated that the single page attached to the Agenda abstract is the proposed text amendment.

Commissioner Openshaw reported that the attorney for the developer even stated that this would be the type of zoning that would be good within towns. Commissioner Openshaw further said these more narrow yards would make it more likely that a septic failure will also become the problem of the neighbor also with spillovers. He said Mr. Graham also brought up the issue of density versus yield and that is really the crux of the problem as mentioned by Commissioner Lane and as the County Manager just described. The developer is proposing this because he wants more yield and lots per property. Commissioner Openshaw stated that it was his opinion that the methodology for determining the yield of a project is too liberal; it should be based on the submission of a valid R-40 plan based on buildable area. He said that at this point what they get from the plan would be the maximum yield for the project.

Commissioner Openshaw further stated that it is the contention of the developer that this amendment will enhance the amount of open space available. He stressed if that contention is true, then increase the minimum amount of open space significantly. Commissioner Openshaw pointed out that there is no guarantee of more open space with this amendment and cluster zoning. He asked "Why is Union County well served with having spaghetti and candlepin lots when most communities try to eliminate these types of lots?" He stated most communities these days try to eliminate those lots. He pointed out there is no minimum lot width required; this is left to the developer to determine. Commissioner Openshaw said he didn't know what Union County's ordinance requires, but that many municipalities determine their lot width as 120 feet in an R-40 zone as 120 feet determined from the setback of the front building line. He pointed out that this was not included in this amendment. He stressed health, safety and welfare and pointed out that two of these are not met by the proposed ordinance amendment. Commissioner Openshaw reminded that the Fire Marshal had agreed that fire safety is a relevant issue, but also noted that there are already some developments with houses built twelve feet apart. Commissioner Openshaw argued that just because there are some houses built that close, it would not be beneficial to have more. He also noted that the Planning Board's rationale for this significant change is that it may allow for more efficient use of the property which implies a financial benefit to the developers but not to the citizens and taxpayers who the Commissioners are

supposed to protect. Commissioner Openshaw said that statement did not rise to the standard required for approval; the Planning Board did not stipulate how this amendment is in the public interest. Therefore, he said he would assume that its motion is invalid. He said if the Board of Commissioners wished to ignore the financial impact to the taxpayers and ignore Section 325 of the Land Use Ordinance to protect the safety and welfare of the County's citizens, he asked the other commissioners to look into the camera and tell the citizens of Union County that residential growth pays for itself and then tell them why their taxes have gone up and why the taxes will continue to rise. He noted that in May of 2006, one of the Commissioners said that the County needed to get a handle on residential growth. Commissioner Openshaw questioned how this change would affect that and asked how another developer subsidy would not be a tax increase to the citizens. He agreed with Commissioner Lane that this type of proposed amendment is why municipalities want to obtain ETJ.

The Chairman called Commissioner Openshaw to the point.

Commissioner Openshaw said that Union County needs to hold the line and instead of working for the developers, the Board should be working for its citizens and hold the line at R-40 zoning. He asked the Commissioners to vote down this amendment and the change in the yield formula. He said the cluster zoning is already a great benefit to the developers, and they are only asking for more.

The Chairman stated there is a motion on the floor and asked if there were any further discussion.

Vice Chairman Pressley said that he came to the meeting with one understanding but, after hearing the comments tonight, he has some issues and would like to have these answered before he votes on the proposed amendment.

Commissioner Mills withdrew his motion.

Wes Hinson, Attorney for the applicant, interjected that he would amend their proposal to leave the side setbacks at 15 feet as they are now stipulated in the R-40 Zoning District. He pointed out that there does not seem to be debate on the benefits to the County, homebuyer, or the developers of the rear and front setbacks.

Commissioner Lane called for a point of order. He asked the Chairman if these two gentlemen were requested to come tonight to address the Board.

In response to the Chairman's statement that they were not, Commissioner Lane said he thought they were out of order.

Vice Chairman moved that the Board table until the first meeting in March consideration of the Text Amendment to Article XII. The motion passed unanimously.

SEWER ALLOCATION POLICY AMENDMENT:

The Chairman recognized, Christie Putnam, Director of Public Works, who presented an amendment that outlined that excess capacity had been identified in the first priority projects that is not required to meet existing contractual requirements. She stated that if it is the Board's desire to allocate that capacity at this time, she has a proposal for Board consideration.

Vice Chairman Pressley moved that the identified excess capacity not be allocated, but be held for later discussion and allocation.

Commissioner Openshaw asked the capacity of the line that is going to pump to the McAlpine Treatment Plant. Ms. Putnam responded that she does not know the total capacity of the line, but knows that the County has contributed capital cost that would carry the County's three mgd contractual capacity, but does not know the capacity to cover the entire Six-Mile Creek Basin. Commissioner Openshaw asked for the information to be presented at the next meeting. She said she could provide the information but assured the County's three mgd was taken into consideration in the design. Commissioner Openshaw next asked the cost structure for the three million gallons flowing to that facility with CMUD. Ms. Putnam said she did not know the cost off the top of her head, she said she had asked for additional cost information but had not received it yet. Commissioner Openshaw pointed out that if it is at a higher cost, it will be an increase to the taxpayers and users of the sewer system.

Ms. Putnam responded to another question from Commissioner Openshaw by stating that the County's permitted sewer capacity is based on 285 gallons per day for the Twelve-Mile Creek facility and at the CMUD facility the permits are based on 190 mgd. She explained there are a lot of factors in determining how many gallons to permit for a home. Ms. Putnam explained the procedure and reported that the condition of the infrastructure must be taken into account when setting a number on which to permit a house.

Commissioner Openshaw said that earlier tonight he had asked Mr. Bundy the legal definition of shall, which is essentially must. He pointed out that the ordinance is riddled with shall/must when Union County is not sure where it stands on some of the

information. Commissioner Openshaw asked the Board to give that fact some consideration. He next moved to page 13 of the ordinance pertaining to schools. He said it is good to see that the schools are contemplating rolling back some of their accelerated building plans; however, in the ordinance, the County defines the allocated sewer capacity that the schools now have in their five-year CIP. Commissioner Openshaw asked what happens to their sewer commitments if these schools are moved back a year or two. Ms. Putnam responded that would be a decision of the Board of Commissioners and would require a modification to its policy to reserve the capacity for any other use. She assured if it is not used for schools, it is not automatically used for something else. Commissioner Openshaw asked the Board to consider as a policy issue what the County would do with the schools' allocation.

Commissioner Openshaw next addressed Excess Capacity on page 18 of the Ordinance. He noted that this section gives a list of criteria that the Board of Commissioners SHALL consider in determining excess capacity and how it is to be used. He asked what was meant by the wording "other material factors". He assured he was not trying to put Ms. Putnam on the spot as that statement is a toss up.

Commissioner Openshaw addressed the Allocation of the Six-Mile Collection System on page 19 by stating that since the County has not heard what the number is per house in this system and the County is using 285 gallons per day as its allocation number, he questioned if the 190 mgd is sufficient. He noted that he and his wife, living alone, hit a low of 185 gallons per day and that he found it difficult to believe that an average family, which would be significantly larger than his, would use only 190 gallons per day. He said since the Board does not have these numbers or historic data, the County could not know if its usage is ratcheting up as the water use did in the five year plan. He said to promise houses sewer at 190 gallons per day strikes him as fraud. Commissioner Openshaw said that in his opinion the County is promising something that it does not have. He said if the gallons required per house is 240, then Union County is over promising by 20 percent; that for every 1500 homes, 300 homes essentially would not have sewer if the County uses the 240 gallons a day number. Commissioner Openshaw said he thought this policy is seriously flawed.

Commissioner Openshaw next moved his discussion to page 23 and said that instead of the use of the word shall, the county should consider an aggregate. He further stated that if the County's attorney does not feel comfortable discussing this issue now, he would accept it. He asked if this trumps page 33, Chapter 5, of the County's Water and Sewer Extension Policy where it basically says if there is no pump station, see if you can gravity feed.

Mr. Bundy replied he did not have the Water and Sewer Extension Policy with him.

Commissioner Openshaw said that as was questioned by Mrs. Fern Shubert, why the County is changing existing policy without it being brought before the public. He then compared some statements within the ordinance.

Mr. Bundy responded that he would have to compare the two policies side by side and determine how they were drafted before he could address the questions raised.

Ms. Putnam addressed the Chair pointing out that the subject before the Board tonight does not reflect upon the language within the policies, but was brought to the Board for it to address excess capacity and how the Board wants it distributed. She said that if the Board wants a modification of the policy addressing any of the previously approved sections, she would be glad to draft such an amendment.

The Chairman directed his question to the attorney seeking clarification that the only question to be considered tonight is excess capacity and everything else is moot and has been previously approved.

Commissioner Openshaw said that he has a slight amendment to Vice Chairman Pressley's motion and questioned what about the small builder and asked why there is not any provision to reserve capacity for the smaller builder who is building five or fewer lots.

Mr. Bundy assured that is something the Board could consider, but he and the staff had thought it was the Board's goal to put more priority on non-residential construction.

Commissioner Openshaw said he understood and his question had been somewhat rhetorical, but he thought it is something that should be considered when the Board makes its determination in the future on what to do with excess capacity.

Vice Chairman Pressley said he did not want the County to go back to where it was when it did not know what capacity was available, but said if there is something that comes up such as a hospital or doctor's office, he would be inclined to look at it individually, but he did not want anything done with the excess sewer capacity at this point.

The Chairman asked Ms. Putnam and Mr. Bundy to address excess capacity and how it is determined and how much assurance is there that there is excess capacity, and it won't be reduced to a negative capacity in the future.

Ms. Putnam stated that she hoped that what the staff and Commissioners have learned is that there are no guarantees. She said that she also hoped that everyone had learned from their mistakes and stated that she agreed with Commissioner Openshaw that the figure of 190 gallons per day is too low for an average family. She said she thought that most of the numbers have some safety factors built in; the current permits on the books are permitted at 360 gallons per day. She said that no tap gets installed not even on a single residence without an allocation and permit for fear of being where the County was in the past. She cautioned the Board about asking for individual applications because she thought the Board would be flooded with them because everyone thinks their projects are worthy and agreed that in some respects they are.

The Vice Chairman said he was not talking about every development but was looking at sewer capacity and, if it turned into something else such as a development that is now getting only a pro-rata share, should they be given more at this point. He said he had a problem with taking any action at this time to allocate the excess capacity.

Chairman Baucom stated that this Board had said in the past that non-residential is important and the rhetorical question of Commissioner Openshaw was straight to the point. He asked what the County would say to any industry, commercial or industrial, that comes to the county right now for an allocation. Chairman Baucom said the County could say “come back later” or “sorry”. He said the County has identified that the residential – industrial tax base is completely skewed and, if there is excess capacity, that non residential is a fair place to put it. He said it’s fair to the taxpayers and the citizens of this county. The Chairman noted that as Mr. Carver told the Board in Chapel Hill at its Visioning Conference that with a governance policy, it is paramount to the Board to establish good policy. He said he thought this was an opportunity to establish such policy.

Commissioner Lane said he thought the salient point that has been brought out is that the County is not really sure – depending on which numbers are used – if the County has excess capacity, and he thought it was time to take a vote on the motion on the floor.

The Vice Chairman asked Ms. Putnam how much capacity she thought the County had at this time.

Ms. Putnam stated that she thought the County had over allocated to the contracts’ status 35,000 gallons.

The Chairman asked how she determined that number. Ms. Putnam said that one of the contracts that her office had counted in the allocation had actually sold and was accounted for in another part of the allocation policy.

The Chairman asked if it were double allocated. Ms. Putnam concurred with that statement.

At the request to repeat his motion, the Vice Chairman stated his motion is not to take action to allocate the excess.

During discussion, Commissioner Mills stated that he thought it should be studied because he has two fire departments that have requested a small amount of allocation.

The Chairman stated that there is a veterinary surgical hospital that needs another 1300 to 1400 gallons, and it is an eight to ten million dollar project with expansion opportunities. He said he was not saying the Board needs to be specific, but is saying that the Board needs to be expedient in doing whatever it is going to do because the people who are waiting need to know.

Ms. Putnam asked the Board to prioritize assignments for her because the same staff working on the water allocation policy that now has the top priority will be revisiting the sewer allocation policy. She said they would need priority as to which to work on first or will work on both concurrently, but they will not come before the Board at the same time and would slow down the process.

The Chairman said his point is that it is disheartening not to have 1400 gallons to allocate to an eight to ten million dollar project. He said if there is excess capacity, to the fairness of the taxpayers of this county, the County should avail that to get an additional ten million dollars in tax base.

Commissioner Mills asked is that something that could be approved during this meeting, and he would get the information from the fire departments.

Mr. Bundy stated he would recommend against that action because it is not consistent with the current policy.

Chairman Baucom stated for that reason he would be very reluctant to take action.

Commissioner Mills responded that he would recommend the Board get together to study this issue and determine solutions.

Chairman Baucom said he was only using the veterinary surgical hospital as an example because it is one project that he knows needs capacity and has been patiently waiting while not asking for anything else.

Commissioner Openshaw stressed the County needs real sewer numbers – not 190 numbers. After brief comments, he moved that the County hire an auditing firm to look at these numbers if the Public Works Department is understaffed.

Ms. Putnam assured that they had gone through all the building permits and counted all the lots in all the neighborhoods that have been permitted. She asked if the Board would want to review these numbers or if the Board wanted her to recalculate them at a different number. Ms. Putnam agreed that she could do so.

Chairman Baucom asked Ms. Putnam if she is saying that the numbers she is using are the actual numbers. She replied that the County does not measure the discharge from each house, but measures the overall inflow. She said the outstanding permits are calculated at 360 gallons per day. She assured that she could recalculate at another number, if the Board so directed. She reported there would never be a definitive in-gallon number; inflow and infiltration changes with rain.

Commissioner Openshaw reiterated that he thought the 190 gallons per day is a glaring defect and, if she is comfortable with 240 gallons per day and if she wants to use that number to get some real world estimates, it would be fine with him. He next asked her how many houses are permitted at 360 gallons per day. Ms. Putnam responded that there are roughly outstanding 5,000 homes permitted at that number. Commissioner Openshaw clarified with Ms. Putnam that this would mean there are 13,000 homes outstanding per the allocation policy.

Chairman Baucom asked if the allocation amendment sets aside any excess capacity for first priority non-residential and the non-residential is at the discretion of the Commissioners. He said he understood the process that an application has to be made on an approved form to the County Manager or the Public Works Director and that it is then brought to the Commissioners. Chairman Baucom suggested that the policy amendment be approved as submitted tonight as this policy allows the County to take excess capacity and allow any non-residential project to apply for it. He said if the Board wants to further study the policy, it could do so, but there is a policy that stipulates how non-residential opportunities could be addressed. He stressed that without doing this he did not see there is anyway the Board could allocate the excess capacity.

The Vice Chairman asked Ms. Putnam how many non-residential projects the County has turned down. She said there have been more than 10 or 12 projects which would require more than the 35,000 excess gallons available. He said his point is that as much as he would like to, that if the Board turns this lose tonight, tomorrow morning there would be applicants saying they are non-residential and want their allocation. He asked where would the Board draw the line and said, in his opinion, the Board should be

more specific in choosing the project. He assured that he knew the County could not pick and choose projects, but asked how the Board could handle this.

Mr. Bundy said the way he and the staff contemplated this policy when it was drafted was that the County has 35,000 gallons of unallocated capacity, and they realized that when the policy was adopted that there would be a stampede to the Public Works office to apply for this 35,000 gallons. He said at this point the established criteria would be used to determine how to allocate that 35,000 gallons. After that, the excess would be gone. He assured that this draft policy does not allow the Board to reserve any of the 35,000 gallons. He recommended that when the applications are in, the staff would review, add the gallons, and the number of gallons requested by each project and the staff would then consider the factors and appropriate the 35,000 gallons.

During additional discussion, Ms. Putnam responded that there is some excess capacity in the six-mile project that is not allocated, but said she was waiting to see how many appeals were granted and then that excess capacity would be discussed with the Board. She noted to Commissioner Openshaw that it would be at this point that the County would need to account for those permits that go into the Six-Mile Creek basin and if that number needs to be altered.

Commissioner Mills agreed with the Vice Chairman that this was such a small percentage that the County needs to hold on to it for the time.

In response to the Chairman's question about holding capacity, the attorney reiterated the policy is not drafted to reserve capacity. He said his concern is that the animal hospital will only need 1,300 gallons, and then someone else wants 5,000 gallons for a car wash and that is not approved. He said then someone else might come in and want 5,000 gallons for a medical clinic. He noted that the gentleman turned down would say the County did not have a rationale basis or a legal reason to give the allocation to one and not to the other. He said there would then be a lawsuit, and it would be difficult to justify the Commissioners' decision. He emphasized that the County cannot cherry pick projects – if they are all non-residential, he would be concerned that the Board could not pick and choose by using its discretion.

Commissioner Mills stated that he was not sure the Board should be making this decision because the County has outstanding commitments to people who are only getting a pro-rated share so it could be argued that any excess allocation should go to satisfy the pre-commitments set forth.

Mr. Bundy replied that was a policy decision of the Board. It was the position of the staff that the people in the third priority did not have nearly as strong a legal claim for the capacity as would the people in the first priority. He stressed that the 35,000 would remain in the first priority. Mr. Bundy said that he had been taught in government school that it is not necessary to make a motion to do nothing; to take no action is basically endorsing the existing policy.

After additional discussion, the Vice Chairman withdrew his motion.

Commissioner Mills moved to defer action until such time a work session is held to examine some of the issues mentioned tonight such as actual flow – 190 to 285, moving flow from priority one to another, or a determination is made on what to do with the excess allocation.

The Vice Chairman said that what he did not want to get into is the third priority group receiving flow and wanted assurance that the motion in only to discuss the excess capacity and allocation of 35,000 gallons per day.

Commissioner Mills said he did not see the work session creating any problem to those now receiving flow.

The motion passed unanimously.

Mr. Nelson pointed out that the county discussed allocation to governments including flow to the schools CIP and pointed out that the flow needed by the schools would not be known until April or early May.

The Chairman stated that he did not see the need for a rushed meeting and stressed his belief that all information should be received prior to the work session.

Mr. Nelson explained that there were at least one elementary and high school every year of the CIP and it could be an impact on the excess flow.

Commissioner Mills agreed it would be best to delay the work session until all information is received.

CITY OF MONROE WASTEWATER TREATMENT PLANT REPORT:

The Chairman again recognized Ms. Putnam, Public Works Director. She explained that the County had previously directed the staff to await the study that the City of Monroe was conducting to determine the feasibility of providing wastewater treatment services at its current location that would also serve some of the needs of the County. Ms. Putnam said the City had finished the report and that it's very favorable. The City's existing facility is 10.4 million gallons per day of which the County currently has a contract allocation of 2.65 million gallons per day that serves the Marshville and Wingate area. She reported the study looked at constructing a 28 million gallons per day facility which would serve Monroe's build-out needs of all lands currently contained in the Monroe Land Development Plan and co-locating for Union County an additional 16 million gallons per day for a total of 44 million gallons per day. She noted that the 44 million gallons per day plant can be housed on their location and the City of Monroe has a speculative limits letter from the State for discharging the 44 mgd into Richardson Creek. She said the letter contains a caveat that if future conditions warrant a change or show a change in the stream quality, the State will require pumping to Rocky River but currently the City and State propose allowing the entire discharge into Richardson Creek.

Ms. Putnam further explained that the cost estimates presented looked at a first phase of ten million gallons per day for a co-located facility with Union County and the City of Monroe at a cost of \$100 million which is about \$10 a gallon and is the going rate at this time for a wastewater treatment site. However, she noted that this does not include land cost or engineering cost for the development. She said as the plant expands to the 44 million gallons per day, the cost actually goes down on a per-gallon basis. She said there is some economy to scale that the county could benefit from but noted that the estimates do not include pumping to Rocky River, if that should be required.

In response to a question from the Chairman about additional expansion acreage across the creek from the wastewater treatment plant, Ms. Putnam stated that the study addressed this issue and determined that the additional land was not needed.

She said that if the County changed its need and requested more than the 16 million gallons per day, it would require many months to move it through the State level review and the City would not wait on the county to get these answers because they are moving forward to meet their time limit and needs.

The Vice Chairman asked the bottom line on additional capacity and costs, Ms. Putnam said that if the County receives half, it would be approximately 5 million gallons in five years for completion and at a cost of roughly \$50 million.

The Chairman noted that the next phase would be less. She also pointed out that the county is not looking at an equal amount of capacity in this plant so she would not anticipate the cost being split 50/50.

Ms. Putnam stated that the County's Master Plan had looked at 16 million gallons per day for the area that it was planning to serve. She said that if the County wanted to expand future areas or change density of development that would need to be done in the scope of a Master Plan.

The Chairman asked how much industrial capacity was allocated in relationship to the By-pass. She replied that it was considered that the By-pass would be in place and there would be an industrial park capacity/reservation considered in the Marshville/Wingate area and allocated as part of the 16 million gallons per day.

Commissioner Lane asked how much of the capacity would Union County need. Ms. Putnam stated that of the 44 million gallons per day, 28 million gallons per day would be for the City of Monroe and 16 million gallons per day for Union County. She noted the 28 mgd includes the 2.65 mgd that is currently under contract with the City. She further responded that based on the County's defined service area, as was identified in the last Sewer Master Plan, 16 mgd is the amount that the County needs. She said that as the land use plan is being updated, it is necessary to look at what areas of the county warrant service and areas where the County is interested in providing service.

In response to a question from the Vice Chairman, Ms. Putnam said the cost for the proposed Grassy Creek Plant was \$80 to \$85 million. She stressed that it was not fair to compare the Monroe cost figures to the Grassy Creek Plant that was estimated many years ago. Ms. Putnam pointed out that the total for the initial five million gallons per day is \$83 million, but the total for the ten million gallons per day is the \$83 million plus the \$20 million for about \$100 million of which the County's portion would be about half. She said one of the reasons the City was willing to discuss the partnership is because they would also benefit from the economy of scale especially in the first phase.

The Chairman asked why the County would not get 7.5 million gallons per day from the 15 million gallons. Ms. Putnam replied that is one area that action would need to be discussed to determine how much Union County is willing to invest and how much it could afford to invest initially knowing that the flow that the County has to send there today is approximately one million gallons. She noted that Phase I of the City's sewer expansion does not include Union County; only the second phase includes capacity for Union County. She clarified that Phase II at the cost of \$83 million includes both Phase I and Phase II and Union County must participate in that cost; however, Phase I is not an option for both entities.

Commissioner Lane asked if the effluent would have to be pumped from Stallings into Monroe. Ms. Putnam responded in the positive. She interjected that was included in the Master Plan and the County knew that a pump station would be required for the eastern service area and one for the western service area; two regional pump stations because everything can't be drained by gravity.

Commissioner Mills moved that Union County pursue working with the City of Monroe for joint expansion of the Monroe Sewer Plant.

Commissioner Openshaw stated that one of the lines in the documentation states "if Alternative 2 is implemented via renegotiation of existing water and sewer contracts," he asked how extensive are the existing water and sewer contracts. He said he knew that they say Union County will get 2.65 million gallons of sewer capacity but noted the County is also giving them five million gallons of water.

Ms. Putnam stated that the County is currently contracted to give them 1.99 million gallons of water in 2014.

Commissioner Openshaw next asked when Union County would receive the 2.65 million gallons of sewer capacity. Ms. Putnam responded that Union County has that today. She explained that is the capacity used to treat the flow from Marshville and Wingate.

Commissioner Openshaw stated he had noticed in the study that going to Rocky River is not the most desirable alternative because of the cost involved, but it is noted that at that point, the plant is designed for a peak flow of 70.8 million gallons per day. He further stated his concern is the timeline that indicates that 20.4 million gallons of capacity would be available in 2019.

Ms. Putnam stated that she would also bring to the Board any cost comparisons of this plant to others that have been considered.

With there being no additional discussion, the motion was passed unanimously.

The Vice Chairman asked for a brief update on an article he had read today that CMUD was expanding its Six Mile Creek Plant at McAlpine Creek. Ms. Putnam responded that she knew CMUD had started working on the environmental assessment for expanding the McAlpine plant and their representatives have said that as soon as they knew where the expansion would occur, Union County could discuss with them additional treatment capacity in that plant.

INTEREST RATE SWAP IN CONNECTION WITH 2006 SCHOOL CERTIFICATES OF PARTICIPATION:

The Chairman recognized the Finance Director. Mr. Nelson stated that the Federal Reserve has been kind in lowering the short-term interest rate, and it appears that the County may be able to reduce its interest costs on the transaction by approximately \$4.3 million through 2032. He emphasized that market rates change on a day-to-day basis and if interest rates move in another direction, the County might not have the savings.

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

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE
COUNTY OF UNION, NORTH CAROLINA, APPROVING THE
FINANCING TEAM FOR AN INTEREST RATE SWAP
AGREEMENT FOR THE COUNTY**

WHEREAS, by Section 159-193 et seq. of the General Statutes of North Carolina, the Board of Commissioners (the “*Board*”) of the County of Union, North Carolina (the “*County*”), is authorized to enter into interest rate hedging instruments for the purpose of managing interest rate risk on or interest rate costs of the County’s obligations, subject to the approval of the North Carolina Local Government Commission;

WHEREAS, the Board has previously adopted a policy setting forth the guidelines on which the County will enter into interest rate hedging instruments;

WHEREAS, consistent with the Board’s policy, the Finance Director recommends that the Board proceed with the implementation of one or more interest rate swap agreements, including agreements commonly referred to as a basis swap and swaption (the “*Swap*”), with Wachovia Bank, National Association (“*Wachovia*”), for the purpose of achieving debt service savings with respect to a portion of the County’s installment payment obligations related to the Certificates of Participation, Series 2006 (the “2006 Certificates”);

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the County of Union, North Carolina, as follows:

Section 1. That the County Finance Director is hereby authorized and directed to proceed with the implementation of the Swap with Wachovia Bank, National Association, as swap provider, that Parker Poe Adams & Bernstein LLP is hereby retained to serve as special counsel to the County for the Swap and that First Southwest Company, Inc. is hereby retained to serve as swap advisor to the County for the Swap.

Section 2. All resolutions or parts thereof of the Board in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

Section 3. This Resolution is effective immediately on the date of its adoption.

On motion of Commissioner Mills, the foregoing resolution entitled “**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA, APPROVING THE FINANCING TEAM FOR AN INTEREST RATE SWAP AGREEMENT FOR THE COUNTY**” was duly adopted by the following vote:

AYES: Chairman Baucom, Vice Chairman Pressley, Commissioner Lane, Commissioner Mills and Commissioner Openshaw

NAYS: None

PUBLIC WORKS ADVISORY BOARD:

Commissioner Openshaw stated that he had asked this item be placed on the agenda for discussion of disbanding or suspending the Public Works Advisory Board.

Motion was made by Commissioner Openshaw that the Board suspend the Public Works Advisory Board.

Vice Chairman Pressley agreed and stated one of his problems was that the Advisory Board was organized to advise the Board on issues that it requested, but instead of that purpose, there have been people going to the Public Works Advisory Board for

approvals without the Board of Commissioners being informed of what is occurring. He agreed that he did not believe the actions of the Public Works Advisory Board are as it was originally intended when it was established.

Mr. Bundy interjected that Jeff Crook had anticipated this action from the Board and had prepared a resolution for the Board's consideration.

Commissioner Openshaw revised his motion to include adoption of the resolution as prepared by the attorney and recorded below:

RESOLUTION FOR THE SUSPENSION OF THE UNION COUNTY PUBLIC WORKS ADVISORY BOARD

WHEREAS, on December 18, 2006, the Union County Board of Commissioners adopted Guidelines establishing the Union County Public Works Advisory Board (the "Advisory Board"); and

WHEREAS, the Board of Commissioners now desires to suspend operation of the Advisory Board; and

WHEREAS, pursuant to Section 6.2, the Guidelines may be modified, amended or repealed by resolution of the Board of Commissioners as follows:

The "Guidelines for Union County Public Works Advisory Board" adopted by the Board of Commissioners on December 18, 2006, are hereby revised such that operation of the Advisory Board is suspended pending further action by the Board of Commissioners. Until operation is reinstated by the Board of Commissioners, the Advisory Board shall not meet, and members shall not otherwise conduct any activities on behalf of the Advisory Board.

Adopted this 18th day of February, 2008.

The Chairman asked the status of the reports from the IMG Group to the Public Works Advisory Board. Ms. Putnam stated that the final draft was given to and reviewed by the Advisory Board at its last meeting. She said she could supply the Commissioners with the comments of the Advisory Board and could have the IMG Group make its report to the County Manager or to the Board of Commissioners.

He further asked the status of the review of the self-help program. Ms. Putnam stated that the Public Works Advisory Board has made a recommendation on that but she was not prepared to bring it to the Board tonight. He asked would the Commissioners be able to receive the report if the advisory board is suspended.

Mr. Bundy asked if the Public Works Advisory Board adopted the recommendation. Ms. Putnam reported that it had been adopted by the Advisory Board and submitted to her and that she and the Chairman of the Advisory Board were to have met to make sure she understood the recommendation. She said she could bring it to the next meeting.

The Attorney responded to the Chairman that the Board could accept that recommendation from the Advisory Board.

Upon receiving confirmation from Ms. Putnam that these were the only items being worked on by that board at the request of the Commissioners, he called for a vote on the motion. The motion to adopt the resolution to suspend the Union County Public Works Advisory Board passed unanimously.

MINUTES:

The Chairman recognized Commissioner Openshaw who had asked this item be moved from consent to the regular agenda.

Commissioner Openshaw stated he had a small correction on page 11 to the sentence. *Commissioner Openshaw suggested that the remaining funds from the \$25,000 that Parks and Recreation earlier allocated for the recreational equipment at the Group Home be assigned to the Museum of the Waxhaws for the homestead project*, he clarified that he had said “some of” the remaining funds.... With there being no other changes, Commissioner Pressley moved that the minutes of January 7, 2008, be approved as amended. The motion was passed unanimously.

ANNOUNCEMENTS OF VACANCIES ON BOARDS AND COMMITTEES:

At the request of the Chair, the Clerk read the following list of vacancies on boards and committees:

- a. Juvenile Crime Prevention Council (1) District Attorney or his designee (2) Substance Abuse Professional (3) Two Persons under age of 18 (4) Juvenile Defense Attorney
- b. Farmers Market Committee – one member at large

- c. Union County Home and Community Care Block Grant Advisory Committee – two vacancies
- d. Nursing Home Advisory Committee
- e. Board of Health – Licensed Optometrist
- f. Planning Board – one member from Jackson Township, one member from New Salem Township, and one member from Sandy Ridge Township
- g. Board of Adjustment – alternate member

INTERIM COUNTY MANAGER’S COMMENTS:

The Chairman recognized Mr. Black for comments.

Mr. Black stated he was distributing the results of the visioning conference that was held in January. He reminded that the Board had started with approximately 50 projects and that these were narrowed to 18. Mr. Black said the staff had taken those 18 priorities and divided them into a format of time frame, costs, and the next steps for the Board of Commissioners. He asked the Board to accept it as information and assured the staff would be using these priorities as its work plan for bringing projects to the Commissioners.

The Interim County Manager reported that on the 26th of February at 7:00 p.m. at the Agricultural Center, the County would be holding a community-input session for the County’s Comprehensive Land Use Plan. He said the items to be discussed are growth trends, transportation, water and sewer, schools, park and open space, and goals for the plan. Mr. Black reported that this is an opportunity for the public to have input into all these topics. He assured that all 14 municipalities had been notified, all persons on the Sunshine list, and a notice in the newspaper.

He complimented Brett Vines for the Annual Report and asked the Commissioners and public to review this publication to learn what had been accomplished during the last year.

COMMISSIONERS’ COMMENTS:

Commissioner Lane said that he hoped that the numbers of residential permits versus commercial permits continue the path that they are going with residential permits being 70 percent and commercial permits being 30 percent.

Commissioner Openshaw reminded that he had requested at the last meeting that the order of comments for the Commissioners be rotated. He said that since Union County is still under water restrictions, he would request the Board review the fine structure for water dumping. He noted that some of the firms that fill pools find it simpler to dump 70,000 – 80,000 gallons at a time and pay fines than to adhere to the law. He asked the fine structure be studied to determine if the County wants to ratchet it up.

He stated the other thing he wanted to mentioned was a piece of information that he received from the President of the North Carolina Association of County Commissioners that said 16 percent of college graduates in the United States receive their degrees in science, technology, English or math and in China 50 percent of the college graduates get their degrees in those areas.

Commissioner Mills congratulated all the high school graduates who had received scholarships to play football at various colleges. He announced that the son of his good friend, Mark Ashcraft, received a full scholarship to play at Yale.

He further asked that the one-year old grandson of Don McGee be kept in everyone's prayer. He said the child is in a coma because of a stroke.

Commissioner Mills encouraged pastors to come forward to present invocations at Board of Commissioners' meetings and also asked for youth groups to lead the Pledge of Allegiance. He thanked Mrs. West for her fine job on the certificates and said that he hoped that some of these could be given to members of groups who had previously presented the pledge.

Mrs. West thanked Mrs. Harlow in Information Systems for her help in preparing these certificates.

Vice Chairman congratulated his niece, Lexie King, who went to Virginia in a national Speed Skating competition and won a Bronze medal.

Chairman Baucom stated that it had been mentioned in public comments tonight about a meeting he had called and that was not attended by any Commissioner. He stated that the meeting was to be held between 12 o'clock and 1 o'clock for the purpose of reviewing the agenda; no action was to have been taken. However, the Chairman pointed out that due to a breakdown in equipment, the notices were not sent 48 hours in advance. Chairman Baucom stated that it was determined that the meeting could not convene at 12 noon but would have to convene at 12:35, and he did not feel that a 25 minute meeting would be sufficient for the initial meeting and cancelled the meeting. He apologized for any inconvenience and assured that the future agenda meetings would begin at 12 noon on Thursdays prior to the Monday meetings.

He also said that he understands the televised meetings are still out of sync and that he hopes the new equipment approved on the consent agenda tonight will correct the situation.

Chairman Baucom stated that he noticed today that Julia Oliver has been promoted to report on the activities of the Charlotte City Council. He offered his congratulations.

Commissioner Lane congratulated Ms. Oliver for the excellent job that she had done during her short tenure in Union County.

Chairman Baucom adjourned the meeting at 9:40 p.m.