

Minutes of Regular Meeting of  
Monday, May 5, 2008

The Union County Board of Commissioners met in a regular meeting on Monday, May 5, 2008, at 7:00 p.m. in the Commissioners' Board Room, first floor, Union County Government Center, 500 North Main Street, Monroe, North Carolina. The following were

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

ABSENT: Commissioner Roger Lane, who was out of state

ALSO PRESENT: Richard Black, Interim County Manager, Lynn G. West, Clerk to the Board of Commissioners, Matthew Delk, Assistant County Manager, Jeff Crook, Senior Staff Attorney, Kai Nelson, Finance Director, members of the press, and interested citizens

**OPENING OF MEETING:**

Chairman Baucom convened the regular meeting and welcomed everyone present.

***a. Invocation***

Reverend Al Lewis, Jr. offered the invocation.

Following the invocation, Reverend Lewis stated that when he had presented an update on April 7, 2008, regarding the Life Skills program, he had made an error when he stated that he did not believe there was a 10 percent recidivism rate. He said that the program is tracking 91 people, but only 50 of those are back in the community and out of those 50 people, eight returned to jail. Reverend Lewis said that there is a lot of discussion about the recidivism rate, but using the conservative figure for North Carolina, nationwide that figure is 65 percent, 50 percent is the figure that is used most often. He stated if 50 percent of the 50 persons went back to jail, that would be 25 people at a cost of \$20,000 per year which would cost the County \$500,000. He said that when only

eight of the 50 people go back to jail, it is easy to see the savings. However, he stated that the program did not have a ten- percent recidivism rate. Reverend Lewis said that he had promised the Board last year when he had asked for a recommendation letter for the Governor’s Crime Commission grant, that his goal was a 30 percent recidivism rate. He said the recidivism rate is now 16 percent.

In appreciation for Reverend Lewis offering the invocation, Chairman Baucom presented him with a Certificate of Appreciation, a Union County lapel pin, and a writing pen engraved with the words “Union County.”

***b. Pledge of Allegiance***

Members of the OTOMI Y-Guides led the body in reciting the Pledge of Allegiance to the flag of the United States. Following the Pledge, Chairman Baucom presented Certificates of Appreciation and Union County lapel pins to the following: Tony Vinzant, Leader; Anja Kitzmiller, McKenzie Kitzmiller, Ivy Stalling, Megan Fava, Louise Mills, Elizabeth Bueche, Megan Polzin, McKenzie Polzin, Jada Dillner, Jenna Sparacio, Hannah Klovstad, and Victoria Vinzant.

**PUBLIC HEARING – RE: RENAMING TO OLDSTONE FOREST DRIVE THAT PORTION OF WAXHAW PARKWAY WHICH IS LOCATED IN THE UNINCORPORATED AREAS OF UNION COUNTY:**

At approximately 7:19 p.m., Chairman Baucom opened the public hearing to receive comments regarding the renaming to Oldstone Forest Drive that portion of Waxhaw Parkway which is located in the unincorporated area of Union County. He stated that no one had registered to speak either in favor of or in opposition to the renaming of that portion of the Waxhaw Parkway located in the unincorporated area of the County. He recognized Gary Thomas, Director of Communications for Union County, to address this item.

Mr. Thomas stated that there are residents present who reside within the Oldstone Forest Subdivision, but they had not registered to speak during the public hearing. He located on a map the portion of Waxhaw Parkway which is located within the town limits of Waxhaw and the portion of the parkway located in the unincorporated area of Union County. He said that it was his understanding that the Oldstone Forest Drive name had been applied for originally, but it was denied because the two roads were to connect. However, he pointed out that this had changed, and the Town of Waxhaw has realigned the Waxhaw Parkway. Mr. Thomas said that he has spoken with Chief Glen Hasty and Greg Mahar of the Planning Department of Waxhaw, and there are duplicate addresses on both segments of the parkway. He stated that in speaking with the developer, Mr. Papworth, it is believed that it would be in the best interest to rename the portion of the parkway located in the unincorporated area of Union County, which is the

residential section. He said that there are four homes currently occupied in this section, and everyone appears to be in agreement with the name change.

Mr. Thomas noted that the information in the package lists “Old Stone” as two words but corrected the spelling of “Oldstone” to be one word.

With there being no one registered to address the Board during the public hearing either in favor of or in opposition to the renaming of that portion of the parkway, the Chairman closed the public hearing at approximately 7:21 p.m.

### **INFORMAL COMMENTS:**

Werner Thomisser stated that he wanted to preface his comments by assuring that he understands the importance of giving the children of Union County the best education available. He said that there is no substitute for great teachers doing great work in the classroom. Further, he said those great teachers should be compensated accordingly. Also, he stated that he understands the positive impact that a good school system has on residential real estate appreciation. Mr. Thomisser stated that he did have a concern with the sandbagging approach that the school system has to the budget process. He explained that sandbagging is a corporate term used to define the budget process where more money is requested than is actually needed. He said that the schools have asked for an operating budget of \$79 million, which is an increase of \$8.6 million or 12 percent. However, he stated that the original request was for \$95 million, an increase of \$25 million or 35 percent.

Mr. Thomisser said that Dr. Davis had indicated that school enrollment will be increased by seven percent, and the schools have asked for a 35 percent increase. He stated that the chair person of the School’s Finance Committee had slashed the request to 12 percent. He commented that the Board of Commissioners needs to get the increase to under seven percent to fall in line with student enrollment decreases. Further, he said that the schools are asking for a CIP of \$447 million over a five-year period which represents \$95.4 million per year. Mr. Thomisser noted that recently a speaker had come before the Board and said that the County could reasonably support \$65 million per year without losing its bond rating. He asked that the Board remember during its budget deliberations for 2008-2009, that there was a 40 percent decline in building permits during the last quarter of 2007. He stated that the lack of water and sewer and a soft real estate market have slowed growth. He asked that the Board not be sandbagged on the budget and that it allocate to the schools only what is needed relative to the projected student growth over the next year.

In closing, Mr. Thomisser asked that the Board understand that all Union County taxpayers are faced with increased costs for gasoline, food, and healthcare costs. He said that this is not the year to hammer the citizens with a property tax increase in light of an average of 30 percent plus property revaluations.

**ADDITIONS, DELETIONS AND/OR ADOPTION OF AGENDA:**

Commissioner Openshaw requested that Item 5/2 on the Consent Agenda – Public Works: Potter Road and Forest Lawn Water Transmission Main Extension be moved to the regular agenda.

Chairman Baucom stated that there was an addition to the Consent Agenda as follows: Public Works – Purchase of 0.918 Acres Owned by Habitat for Humanity. He stated the action requested for this item is as follows: 1) Authorize the County Manager to Approve the Contract for Purchase of 0.918 acres owned by Habitat for Humanity, Tax Parcel #02-018-013, for the Purchase Price of \$30,000; and 2) Approve closing on this property.

Vice Chairman Pressley questioned the purpose for the purchase of the 0.918 acres by Public Works. Chairman Baucom responded that the property would be used for a pump station site for the additional water transmission coming out of Anson County.

With there being no further additions or deletions to the agenda, Vice Chairman Pressley moved adoption of the agenda as modified. The motion was passed by a vote of four to zero. Chairman Baucom, Vice Chairman Pressley, Commissioner Mills and Commissioner Openshaw voted in favor of the motion. Commissioner Lane was not present.

Chairman Baucom stated that Item 2a from the Consent Agenda would become Item 13b on the Regular Agenda.

**CONSENT AGENDA:**

Commissioner Mills moved approval of the items listed on the Consent Agenda as modified. The motion was passed by a vote of four to zero. Chairman Baucom, Vice Chairman Pressley, Commissioner Mills, and Commissioner Openshaw voted in favor of the motion. Commissioner Lane was not present.

**Contracts Over \$5,000:** Authorized the Interim Manager to approve the following: a) Renewal of Agreement with Logan Systems, Inc. to provide computerized indexing and recording services for the Register of Deeds' Office (Three-Year Agreement); and b) Task Order #8 with McKim & Creed, P.A., for design and bidding services for the Hemby Acres Area Water Main Replacement Project.

**Public Works Department:** Potter Road and Forest Lawn Water Transmission Main Extension – This item was moved to the regular agenda at the request of Commissioner Openshaw.

**Health Department:** Approved Budget Amendment #45 increasing Operating Expenses by \$250 and State Revenue by \$250 to appropriate additional state funds for Child Health.

**Finance Department:** Approved corrected March 2008 releases for a decrease to Springs Fire District Tax of two cents and an increase to Springs Fire Fee of two cents.

**Sheriff's Office:** Approved Budget Amendment #46 increasing Operating Expense by \$10,000 and Miscellaneous Revenue by \$10,000 to appropriate funds for grant received from Time Warner Cable used for the Helping Hands Hero Program.

**Amendment to Article III, Section II a) and b) of the Union County Personnel Resolution:** Accepted technical amendment to Union County Personnel Resolution, Article III, Section 11 (a) and (b) as recorded below:

## **SECTION 11**

### **Overtime**

(a) Overtime for employees other than law enforcement and detention employees is defined as time worked over 40 hours in a given seven-day work week beginning Friday midnight. All overtime worked in every department must have the prior approval of the County Manager, except in cases where emergency situations occur. Accounting for overtime for all departments shall be done on the official payroll time cards. Overtime for law enforcement and detention employees, however, shall be based on a 14-day cycle with overtime being any hours worked in excess of 86 hours for law enforcement and detention employees during the cycle. All overtime shall be paid or compensated for in accordance with the FLSA.

(b) The payment in cash for overtime will be made only for hours worked over and above a 40-hour, seven day work week for other than law enforcement and detention employees. Overtime payment for covered nonexempt law enforcement and detention employees will be made only for hours worked over and above **86 hours** during a **14-day** cycle.

**Public Works – Purchase of 0.918 Acres Owned by Habitat for Humanity:** 1) Authorized the County Manager to approve the contract for purchase of 0.918 acres owned by Habitat for Humanity, Tax Parcel #02-018-013, for the purchase price of \$30,000; and 2) Approved closing on the property.

**ASSISTANT COUNTY MANAGER’S COMMENTS:**

Matthew Delk, Assistant County Manager, shared comments regarding the following:

- The Charlotte affiliate of Susan G. Komen for the Cure provided community grants of more than \$1.1 million to support breast health education and breast cancer screening and treatment programs for the medically underserved populations with seven other counties.
- Funding will be used for breast health education in the community and for mammogram screenings and diagnostic services for the uninsured or underinsured women of the county.
- Rabies clinics for dogs and cats will be held at 14 locations through May 21. He said that these clinics are being held on Saturdays with a couple of clinics being held on Wednesdays. He provided the County’s website location where citizens could visit online to learn more about the Rabies clinics. Mr. Delk stated that the clinics are being manned by the Sheriff’s Office.
- Water used from the Catawba plant two weekends prior to the watering amendment and three weekends since watering was allowed:
  - ✓ 3/29 – 7,831,000 and 3/30 – 8,044,300
  - ✓ 4/05 – 7,961,200 and 4/06 – 7,697,300
  - ✓ 4/12 – 7,954,000 and 4/13 – 9,486,200
  - ✓ 4/19 – 9,946,100 and 4/20 – 10,085,100

- ✓ 4/26 – 11,681,000 and 4/27 – 9,668,400
- ✓ 5/3 – 12,962,300 and 5/4 – 11,915,000

Mr. Delk shared that on Tuesday, May 6, 2008, beginning at 7:30 p.m., there will be a link for unofficial election results. He said that this information would remain on the website for awhile and would be linked to the State Board of Elections' website.

**POLICE WEEK PROCLAMATION 2008:**

Elizabeth Cooke presented a request to the Board for adoption of a Proclamation for Police Week. She stated that Police Week is May 11-17, 2008. She said that in 1962 President John F. Kennedy signed Public Law 87-26 designating May 15 as Peace Officers' Memorial Day and the week in which May 15 falls as National Police Week. Ms. Cooke said that the law was amended by the Violent Crime Control and Law Enforcement of 1994 – Public Law 103-322 signed by President Bill Clinton directing that the flags of the United States be displayed annually on May 15 at half staff on all government buildings.

She explained that National Police Week honors the men and women in law enforcement who risk their lives each day to protect and serve the citizens in their communities and that Peace Officers' Memorial Day, May 15, honors those who have paid the supreme sacrifice and lost their lives in the line of duty. She stated that an average of one officer is killed every 53 hours in the United States. Ms. Cooke said that this year the names of 181 officers, who lost their lives in the line of duty in 2007, would be added to the Law Enforcement Officers' Memorial in Washington. She noted that eight of those officers were from North Carolina with two of them being from Charlotte. Further, she said that there would be 177 names of officers, who lost their lives in the line of duty in previous years from 1816 to 2006, added to the Law Enforcement Memorial. She said that Union County has been fortunate to have lost only two officers in the line of duty, John Pierce from the Monroe Police Department, who was killed in 1888, and Edgar Williams of the Wingate Police Department in 1917.

Ms. Cooke encouraged everyone to burn a candle with a blue bulb 365 days a year and to put a blue ribbon on their car antennas during Police Week to show their support. She read the proposed Proclamation into the record.

She requested that the Board adopt the proposed Proclamation proclaiming May 11-17, 2008, as Police Week for Union County and May 15 as Peace Officers' Memorial Day. She further requested that all flags be flown at half staff on all Union County Government Buildings not only on May 15 but also May 11-17, 2008. She also requested that together with the City of Monroe that

the third annual Police Week ceremony be held at 10 a.m. on Friday, May 16, 2008, in the courtyard of the Judicial Center near the flag poles.

Following Ms. Cooke's presentation, Commissioner Mills moved adoption of the Police Week Proclamation 2008 as recorded below:

## ***Police Week Proclamation***

***May 11 – 17, 2008***

***Union County, NC***

***Whereas***, The Congress and President of the United States have designated May 15 as Peace Officers' Memorial Day, and the week in which May 15 falls as National Police week; and

***Whereas***, the members of the law enforcement agency of Union County play an essential role in safeguarding the rights and freedoms of Union County; and

***Whereas***, it is important that all citizens know and understand the duties, responsibilities, hazards, and sacrifices of their law enforcement agency, and that members of our law enforcement agency recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression; and

***Whereas***, the men and women of the law enforcement agency of Union County unceasingly provide a vital public service;

**Now**, therefore, the Union County Board of Commissioners calls upon all citizens of Union County and upon all patriotic, civic and educational organizations to observe the week of May 11 - 17, 2008, as Police Week with appropriate ceremonies and observances in which all of our people may join in commemorating law enforcement officers, past and present, who, by their faithful and loyal devotion to their responsibilities, have rendered a dedicated service to their communities and, in so doing, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

The Union County Board of Commissioners further calls upon all citizens of Union County to observe Thursday, May 15, as Peace Officers' Memorial Day in honor of those law enforcement officers who, through their courageous deeds, have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty, and let us recognize and pay respect to the survivors of our fallen heroes.



**In witness thereof, we have hereunto set our hands and caused the Seal of Union County to be affixed.**

Vice Chairman Pressley offered a friendly amendment to the motion, which was accepted by Commissioner Mills, to authorize the flying of the flags at half-staff at the County office buildings during the week of May 11-17, 2008.

The motion as amended was passed by a vote of four to zero. Chairman Baucom, Vice Chairman Pressley, Commissioner Mills, and Commissioner Openshaw voted in favor of the amended motion. Commissioner Lane was not present.

Ms. Cooke shared that last November she had come before the Board along with members of the Monroe-Union Fraternal Order of Police Lodge 19 with information on the Union County Law Enforcement Board. She expressed appreciation to the Board for the donation by the County for the memorial. Ms. Cooke said that the committee had hoped to dedicate the memorial at this year's Police Week Ceremony. However, she said they were running behind schedule due to the requirements from the different municipalities and the process that must be followed in regards to donations. She stated that there would be a replica of the memorial on display during the Police Week Ceremony. Ms. Cooke said that she had ribbons available tonight for those who would like to fly ribbons on their car antennas.

**WATER CONSERVATION ORDINANCE:**

Christie Putnam, Public Works Director, explained that at the Board's request, the Water Conservation Ordinance previously has been modified to enable vehicle washing and now Mr. Crook has added the modification that would enable the Manager to allow one or more of the prohibited uses one day a week. She said that the Ordinance has already been modified to allow lawn watering and this modification would also avail the use of residential car washing one day a week or any of the other mandatory restrictions listed.

Vice Chairman Pressley moved adoption of the Water Conservation Ordinance as amended. The motion was passed by a vote of four to zero. Chairman Baucom, Vice Chairman Pressley, Commissioner Mills and Commissioner Openshaw voted in favor of the motion. Commissioner Lane was not present.

**WATER CONSERVATION ORDINANCE**

AN ORDINANCE PROVIDING FOR CONSERVATION OF WATER  
AND RESTRICTIONS ON THE USE OF WATER DURING A WATER SHORTAGE  
OR IMPENDING WATER SHORTAGE

BE IT ORDAINED by the Union County Board of Commissioners that water conservation is deemed to be necessary when water demand by customers connected to the Union County water system reaches the point where continued or increased demand will equal or exceed the treatment and/or transmission capacity of the system or portions thereof. When water demand results in the condition whereby customers cannot be supplied with adequate water to protect their health, safety, or property, then the demand must be substantially curtailed to relieve the water shortage. The restrictions imposed pursuant to this Ordinance shall apply only to potable water supplied through the Union County water system, and not to reuse or reclaimed water. In addition to the water conservation measures set out herein, Union County may also establish a rate structure that increases the cost for potable water commensurate with the escalation of water shortage conditions.

Article I  
Declaration of Water Shortage

Section I: Applicability of Ordinance

In the event (i) it appears there is a sustained demand of 80% of the treatment and/or transmission capacity of the Union County water system or portions thereof; or (ii) Duke Power Company LLC, doing business as Duke Energy Carolinas, LLC, declares a Stage 1 Low Inflow Condition pursuant to the Comprehensive Relicensing Agreement for the Catawba-Wataree Hydro Project (FERC Project No. 2232) dated December 22, 2006, to which Union County is a party, thus compelling certain water use restrictions by Union County, then in either such event the Director of the Union County Public Works Department, hereinafter referred to as the “Director,” may recommend to the County Manager that water conservation measures be implemented, and the County Manager, following consultation with the Board of Commissioners, may declare a Stage I Water Shortage Condition. The County Manager, following consultation with the Board of Commissioners, may, with or without the recommendation of the Director, declare that a Stage II, Stage III, or Stage IV Mandatory Water Shortage Condition exists and require mandatory conservation measures upon occurrence of any conditions precedent for declaring such Condition, as hereinafter set forth. In declaring any Water Shortage Condition pursuant to this Ordinance, the County Manager may limit the applicability of the requirements of this Ordinance to certain sections of the County, whether by township or other description. For purposes of this Ordinance, the phrase “following consultation with the Board of Commissioners” shall mean consultation during a regular or special meeting of the Board of Commissioners when

possible, but where delay would endanger the public health, safety, or welfare, as determined by the County Manager, such consultation may be made by the County Manager with members of the Board of Commissioners on an individual basis outside the confines of a formal meeting. The County Manager shall report the declaration of a Water Shortage Condition to the Board at its next regular meeting.

The declaration of a Water Shortage Condition becomes effective immediately upon issuance by the County Manager, unless otherwise stated in such declaration. Upon declaration of any stage of Water Shortage Condition, the County Manager shall issue press releases to local television, radio and/or print media to inform the public of the voluntary and/or mandatory water use restrictions. Upon declaration of a Stage II, Stage III, or Stage IV Mandatory Water Shortage Condition, the County Manager shall also cause notice of such restrictions to be either inserted into customers' water bills or separately mailed to customers as soon as reasonably practicable.

Article II  
Stage I Water Shortage Condition

Section I

In the event a Stage I Water Shortage Condition is declared, the following guidelines shall apply:

- a. An extensive publicity campaign will be initiated using public media to inform the public of an impending or existing water shortage.
- b. Conservation measures will be encouraged and recommended.
- c. Transport of water outside of Union County will be limited.

Section II

In the event a Stage I Water Shortage Condition is declared, the public shall be encouraged to adhere to the following voluntary conservation measures:

- a. Limit car washing to the minimum.
- b. Limit lawn and garden watering to that which is necessary for plants to survive.
- c. Do not wash down outside areas such as sidewalks, patios, parking lots, service bays or aprons, etc.
- d. Do not leave faucets running while shaving or rinsing dishes.
- e. Water shrubbery to the minimum required, reusing household water when possible.
- f. Limit use of clothes washers and dish washers and when used, operate fully loaded.
- g. Use of showers for bathing, rather than bathtub, and limit showers to no more than four (4) minutes.
- h. Limit flushing of toilets by multiple usage.
- i. The use of disposable and biodegradable dishes is encouraged.
- j. The use of flow-restrictive and water-saving devices is encouraged.
- k. Limit hours of operation of water-cooled air conditioners.
- l. All residents, businesses, and institutions are requested to temporarily delay new landscape work until the water shortage has ended.
- m. Use only hoses with spring-activated nozzles when watering lawns and gardens.

### Section III

The following mandatory water conservation restriction shall apply during a Stage I Water Shortage Condition in addition to the voluntary conservation measures encouraged in Article II, Section II above.

In the event the County Manager issues a declaration of a Stage I Water Shortage Condition, it shall be unlawful for any person, firm or corporation to transport water outside of Union County, where such water has been drawn by tanker truck from a hydrant of the Union County water system; provided, however, that transport outside of Union County shall be allowed for emergency fire protection and for bona fide farm purposes. As used in this Ordinance, the use of water for “bona fide farm purposes” shall include use for the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market.

### Article III

### Stage II Mandatory Water Shortage Condition

#### Section I: Compliance

In the event the County Manager issues a declaration of a Stage II Mandatory Water Shortage Condition, then it shall be unlawful for any person, firm or corporation to use or permit the use of water from the Union County water system in a manner inconsistent with the declaration until such time as the declaration of a Stage II Mandatory Water Shortage Condition has been rescinded. In exercising the authority for declaring a Stage II Mandatory Water Shortage Condition, consideration shall be given, as applicable, to water shortage levels and available sources of supply, available usable storage on hand, drawn-down rates, the projected supply capability, outlook for precipitation, daily water use patterns and availability of water from other sources.

#### Section II

In the event (i) a Stage I Water Shortage Condition declaration is ineffective in adequately reducing demand; (ii) maintenance of the system (whether preventive or breakdown maintenance, or due to an event of force majeure) requires a reduction in demand; (iii) mandatory restrictions are required to comply with any permit for the system issued by applicable state or federal authorities; (iv) sustained water demand exceeds 90% of the treatment and/or transmission capacity of the Union County water system or portions thereof; or (v) Duke Power Company LLC, doing business as Duke Energy Carolinas, LLC, declares a Stage 2 Low Inflow Condition pursuant to the Comprehensive Relicensing Agreement for the Catawba-Wateree Hydro Project (FERC Project No. 2232) dated December 22, 2006, to which Union County is a party, thus compelling certain mandatory water use restrictions by Union County, then upon occurrence of any such event the County Manager may issue a declaration that a Stage II Mandatory Water Shortage Condition exists. Such declaration may prohibit any one or more of the types of water uses regulated under a Stage I, Stage III, or

Stage IV Water Shortage Condition, provided that the County Manager, in his discretion and acting in the best interests of the health, safety, and welfare of the citizens, may further regulate usage on the following bases: (i) time of day; (ii) day of week; (iii) customer type, including without limitation, residential, commercial, industrial and institutional; and (iv) physical attribute, such as address. After consultation with the Board, the County Manager may also take such other measures as deemed necessary to give effect to the intent of this Ordinance.

Article IV  
Stage III Mandatory Water Shortage Condition

Section I: Compliance

In the event the County Manager issues a declaration of a Stage III Mandatory Water Shortage Condition, then it shall be unlawful for any person, firm or corporation to use or permit the use of water from the Union County water system for any purpose hereinafter set forth until such time as the declaration of a Stage III Mandatory Water Shortage Condition has been rescinded. In exercising the authority for declaring a Stage III Mandatory Water Shortage Condition, consideration shall be given, as applicable, to water shortage levels and available sources of supply, available usable storage on hand, drawn-down rates, the projected supply capability, outlook for precipitation, daily water use patterns and availability of water from other sources.

Section II

In the event (i) a Stage II Mandatory Water Shortage Condition is in effect and the system demand for water continues to exceed capacity of the water system or portions thereof; or (ii) Duke Power Company LLC, doing business as Duke Energy Carolinas, LLC, declares a Stage 3 Low Inflow Condition pursuant to the Comprehensive Relicensing Agreement for the Catawba-Wataree Hydro Project (FERC Project No. 2232) dated December 22, 2006, to which Union County is a party, thus compelling certain mandatory water use restrictions by Union County, then in either such event a Stage III Mandatory Water Shortage Condition may be declared. In addition to any voluntary and mandatory guidelines already in effect, it shall be unlawful to use water supplied by the Union County water system in the following manner:

- a. To water lawns; provided that shrubbery, trees, flowers and vegetable gardens may be watered by hand or by drip irrigation;

- b. To conduct residential vehicle washing;
- c. To wash public buildings, sidewalks, and streets, except as required for safety and/or to maintain regulatory compliance;
- d. To use water for dust control during construction;
- e. To conduct flushing or hydrant testing programs, except to maintain water quality or other special circumstances approved by the Director in advance;
- f. To fill new swimming pools; and
- g. To serve drinking water in restaurants, cafeterias, or other food establishments, except upon request.

Notwithstanding the prohibitions on use stated above, the County Manager, in his discretion and acting in the best interests of the health, safety, and welfare of the citizens, may allow one or more such uses one (1) day per week if (i) stated in the original declaration of a Stage III Mandatory Water Shortage Condition, or in any amendment thereto; and (ii) consistent with the Stage 3 Low Inflow Condition declared by Duke Energy Carolinas, LLC, when such Condition is in effect. When allowing one or more such uses one (1) day per week, the County Manager may further regulate usage on the following bases: (i) time of day; (ii) day of week; (iii) customer type, including without limitation, residential, commercial, industrial and institutional; and (iv) physical attribute, such as address.

Article V  
Stage IV Mandatory Water Shortage Condition

Section I: Compliance

In the event the County Manager issues a declaration of a Stage IV Mandatory Water Shortage Condition, then it shall be unlawful for any person, firm or corporation to use or permit the use of water from the Union County water system for any purpose hereinafter set forth until such time as the declaration of water shortage has been rescinded. In exercising the authority for declaring a water shortage condition, consideration shall be given, as applicable, to water storage levels and available sources of supply, available

usable storage on hand, draw-down rates, the projected supply capability, outlook for precipitation, daily water use patterns and availability of water from other sources.

## Section II

In the event (i) a Stage III Mandatory Water Shortage Condition is in effect and demand for water continues to exceed capacity of the water system or portions thereof; or (ii) Duke Power Company LLC, doing business as Duke Energy Carolinas, LLC, declares a Stage 4 Low Inflow Condition pursuant to the Comprehensive Relicensing Agreement for the Catawba-Wateree Hydro Project (FERC Project No. 2232) dated December 22, 2006, to which Union County is a party, thus compelling certain mandatory water use restrictions by Union County, then in either such event a Stage IV Mandatory Water Shortage Condition may be declared. In addition to the restrictions for Stage I, Stage II, and Stage III Water Shortage Conditions, the following restrictions shall also apply:

- a. Fire protection shall be maintained by drafting of ponds, rivers, etc..., wherever possible.
- b. The use of throw-away utensils and plates is encouraged and recommended at all eating establishments.
- c. It shall be unlawful to use water supplied by the Union County water system in the following manner:
  - (i) To induce water into any pool;
  - (ii) To use water outside a structure for any use other than an emergency involving a fire;
  - (iii) To operate an evaporative air conditioner which recycles water except during operating hours of business; and
  - (iv) To use water for road construction practices, i.e. compaction and washing.

## Article VI

### Section I: Lifting of Restrictions Imposed During a Water Shortage

- a. Water Shortage Conditions will expire when the County Manager, after consultation with the Board of Commissioners and



upon recommendation of the Director, deems that the condition which caused the water shortage condition has abated.

- b. The expiration or cancellation of a water shortage declaration shall be promptly and extensively publicized.

## Article VII

### Section I: Enforcement

- a. Compliance with the provisions of this Ordinance shall be enforced by personnel of the Union County Public Works Department, hereinafter referred to as “UCPW,” independent contractors engaged by UCPW for such purpose, and such other personnel as designated by the County Manager.
- b. The use of water from the Union County water system by a customer in violation of any mandatory water conservation control imposed pursuant to this Ordinance is unlawful. For purposes of this Ordinance, the term “customer” shall mean any person or entity in whose name UCPW maintains an account for water use. Further, the refusal or failure of a customer or other person acting on the customer's behalf to cease immediately a violation of a water conservation control, after being directed to do so by a person authorized to enforce the provisions of this Ordinance, is unlawful. Each customer is responsible for any use of water that passes through the service connection associated with the customer's account or otherwise passes through the customer's private water system.
- c. Any customer who violates or permits the violation of any mandatory water conservation control imposed pursuant to this Ordinance shall be subject to civil penalties as follows: (i) a warning for the first offense; (ii) a civil penalty in the amount of one hundred dollars (\$100) for the second offense; (iii) a civil penalty in the amount of five hundred dollars (\$500) for the third and fourth offenses; and (iv) a civil penalty in the amount of one thousand dollars (\$1,000) for the fifth and each subsequent offense. Each day that a violation of a mandatory water conservation control occurs or continues to occur after delivery of notice pursuant to subsection (g) below shall be considered to be a separate and distinct offense.
- d. Violations shall be accumulated by customers so long as this Ordinance, in any of its stages, is continuously in effect and until no stage of this Ordinance has been in effect for a period of one (1) calendar year. Violations of any mandatory water conservation control of any stage shall accumulate with violations of other stages. Should a customer move, or cease and

renew service, during the period described herein, the customer's violations shall continue to accumulate as if such move or cessation had not occurred.

- e. Each civil penalty assessed against a customer pursuant to this Ordinance shall be added to the customer's water bill and shall be paid in the same manner as the payment of water bills. A customer's partial payment of a water bill shall be applied first to satisfaction of the civil penalties. Failure to pay all or any portion of a water bill, including any civil penalty assessed pursuant to this Ordinance, by the due date indicated on the bill may result in the termination of water service.
- f. The violation of any water conservation control or provision of this Ordinance may be enforced by all remedies authorized by law for noncompliance with county ordinances, including without limitation the assessment of a civil penalty and action for injunction, order of abatement or other equitable relief; provided, however, that no violation of any water conservation control or provision of this Ordinance shall be a basis for imposing any criminal remedy. The Board of Commissioners may release billing information, as such term is defined in N.C.G.S. 132-1.1(c), of customers who violate, or have violated, the provisions of this Ordinance, when the Board in its sole discretion and acting pursuant to N.C.G.S. 132-1.1(c)(2), determines that the release of such billing information during times of mandatory water conservation is necessary to assist Union County to maintain the integrity and quality of services it provides.
- g. UCPW shall send notice of violation to the customer by regular U.S. mail at the customer's billing address on file with UCPW. Such notice shall be deemed to have been delivered three days from the date mailed. In the event of a fourth or subsequent offense, UCPW shall send notice of intent to terminate water service by certified mail, return receipt requested, to the customer's billing address on file with UCPW.
- h. The notice of violation shall specify the following:
  - (i) The nature of the violation and the date and time it occurred;
  - (ii) The method by which payment of any civil penalty may be paid, including a statement indicating that it will be included on the customer's next water bill;
  - (iii) A warning that additional or continued violations may result in increased penalties, including termination of water service;
  - (iv) A warning that failure to pay a water bill, including any civil penalty assessed pursuant to this Ordinance, may result in termination of water service;

- (v) The telephone number at UCPW where the customer may direct any questions or comments; and
- (vi) In the event of notice of intent to terminate water service for violation of this Ordinance in accordance with Article VIII, information about how to appeal a pending termination.

### Article VIII

#### Section I: Discontinuance of Service

In addition to the payment of any civil penalty assessed pursuant to Article VII of this Ordinance, a customer shall be subject to termination or restriction of water service following four (4) or more violations of any water conservation controls imposed pursuant to this Ordinance. Water service will not be restored at such service connection until the customer pays all the customer's outstanding obligations, including, without limitation, all charges for water service, all civil penalties and other fees charged in accordance with the provisions of this Ordinance, and the current disconnect processing fee. In the event water service is terminated a second time for violations pertaining to use of water obtained by the customer through an irrigation meter, service to such irrigation meter shall remain terminated until no stage of this Ordinance has been in effect for a period of one (1) calendar year.

A customer who receives a notice of violation indicating that the customer's water service is subject to termination pursuant to this Article may appeal the pending termination by filing a written notice of appeal with the Director or his or her designee. The notice of appeal must be delivered to the Director or his/her designee within five (5) business days from delivery of the notice of violation and must include a copy of the notice of violation being appealed. A hearing shall be held on such appeal within three (3) business days of receipt of the notice of appeal, or by such other date as mutually agreed upon by the Director, or his/her designee, and the customer.

### Article IX

The following shall apply at all times to the outdoor sprinkling of lawns, shrubbery, trees, flowers, gardens, and other outside irrigation systems. By January 1, 2008, all irrigation systems equipped with a timer shall be equipped with rain sensors as approved by UCPW. Rain sensors shall be activated to prevent the system from operating after one fourth (1/4) inch of rain has fallen.

### Article X

## Section I: Severability

If any section, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to such section, subdivision, clause or provision so adjudged, and the remainder of this Ordinance may be declared valid once effective.

## Article XI

### Section I: Effective Date

This Ordinance originally became effective on July 13, 1992. It was subsequently amended and restated effective on the following dates: (i) August 5, 2002; (ii) June 4, 2007; (iii) October 15, 2007; (iv) November 5, 2007; and (v) April 7, 2008.

This sixth amendment and restatement of this Ordinance shall become effective upon adoption by the Board of Commissioners on May 5, 2008 (the "Effective Date"). The Ordinance is restated in this manner solely to facilitate review by the reader by obviating the need to integrate multiple documents. Any declaration of a Water Shortage Condition made prior to the Effective Date and not rescinded shall remain in full force and effect. Though amended, this Ordinance shall be deemed to be continuously in effect such that enforcement of violations committed prior to the Effective Date shall continue unaffected.

### **WESLEY CHAPEL/WEDDINGTON ATHLETIC ASSOCIATION:**

Christie Putnam, Public Works Director, stated that the staff had met with the Optimist Park's engineers on Friday and had a discussion on the comments and clarified the requirements that the staff was requesting of the Optimist Park. She noted that the engineers asked for 30 days in which to meet the County's requirements.

David Arone of the Wesley Chapel/Weddington Athletic Association introduced Mark Houle of Yarbrough Williams and Houle Engineers. Mr. Houle said that his firm was working on the flood study on behalf of the Optimist Park. He stated that they believe that it will take another 30 days to respond to the County staff's comments. Mr. Houle provided the Board with a copy of a map showing the various lines. He explained that the two flood lines closest to the creek represent the floodway, and the outer boundaries represent the floodplain. He said that the fill that was put in the floodplain area as reflected on the map at the Optimist Park would result in a rise on a flood study. He stated that fill in the floodplain is typically allowed by FEMA and the rises associated

with that are usually up to a foot in elevations. He explained that the area adjacent to the creek is the area where the grading has been done, which they are trying to prove has had no impact on the floodway elevations.

Mr. Houle said that as part of the clarification requests that they have received from the State and the County, they need to achieve a no-rise in both the floodway and the floodplain. He stated that the model that had been submitted previously showed some minor rise in the floodway adjacent to the creek and some very small rises in the floodplain. Mr. Houle said that they have been charged essentially with removing all of those rises in both the floodplain and the floodway.

Mr. Houle explained that the second issue discussed in the meeting with County staff was topographic information used in preparing the study. He said that the topographic information that was used was the USGS topographic information, which was the topographic information in place at the time this study was prepared by FEMA. He stated it is also the best representation of the grading or the existing grades on the site by the developer who graded the site prior to purchase by the Optimist Park. He said that topographic information was very important. Mr. Houle said that they have been asked to merge in a more current topographic survey the outside areas of the Optimist Park that were done by LIDAR and to merge the two topographic surveys together and use that information to prepare the model. He noted that this would change much of the information on the current model as far as the cross sections that they have added. He said that this would take a considerable amount of time and that was the reason they were asking for the 30 days.

He stated that they had reached an agreement on the establishment of the floodway widths. He said that as part of the original model, the floodway widths were not in agreement with the map that was prepared by FEMA. Mr. Houle said that there were also some questions about the Manning's "N" Values that were used in the study, and he said that he believed that they could reach an agreement on those issues with the County's support. He stated that Christie Putnam, Lee Jenson, and Amy Helms from the County have been very supportive, and he would be talking with them periodically so when the model is done, they will have Union County's support before going back to the State.

David Arone said that as the property owner he was a little concerned about two matters which might cause significant delays past the 30 days. He said the first matter is that they have been asked to do a no-rise in the floodway and, now after the meeting on Friday, it has been expanded to include the total floodplain or flood zone which, if they were doing new construction would not be a requirement. The second matter addressed by Mr. Arone was merging the LIDAR studies would probably impact Mr. Houle's firm by having to do several hundred extra hours of engineering and essentially, there will be a whole new model that will have to be submitted to the County and then to the State. He indicated that it had taken them four and a half months to receive a response. Mr.

Arone said if that is the case with a whole new model, there will probably be questions and resubmittals, and he said he was very concerned that the new requirements will delay any further resolution of this issue. He stated that the representatives of the Optimist Park had hoped to have the issue resolved by the end of January.

Mr. Houle commented that he understood the request was to continue to have the most accurate information available in the model. He said that they have been working on the model for awhile, and the new topographic information is now available. He said that they believe that the USGS topo was appropriate because it was the model under which the original study was prepared.

Chairman Baucom asked Jeff Crook, Senior Staff Attorney, if a motion would be needed from the Board granting the 30-days. Mr. Crook responded that he thought a motion to that effect would be appropriate.

Commissioner Mills moved that the Board grant the 30 days as requested by Wesley Chapel/Weddington Athletic Association in order to meet the County's requirements.

Vice Chairman Pressley commented that he did not want to drag this matter out with the rainy season and possible flooding occurring which would create more issues. He stated that he would like to have a more definitive date.

Mr. Houle said that they had told County staff on Friday that they needed 30 days from this date to give a response in this matter. He said at that point, County staff would review the model, and then they would address any comments that the staff might have and then resubmit. He stated that the information in the new model would have to be reviewed again. He further stated that they have a good understanding of the comments in the current model, but there would be a lot of new information to be added. He said that the other issue is that the USGS topographic information that has to be used on the Optimist Park side was done under different datum than under which a new model will be done.

Chairman Baucom asked if the information in the new program could be interfaced, and Mr. Houle responded that the information could not be automatically updated, as it is an information fed program. He said that the topographic information is overlaid on the cross section and then elevations are picked off at certain stations and then the information is fed into the model. He stated that he understood that the County wants to get the matter resolved, and assured they would do their best to get the information back within the 30-day period.

Vice Chairman Pressley asked if the plans were submitted and the work done according to the USGS topographic data, should they not be relying on that data which was in place to measure the amount of fill put in at that time. He questioned how the information could be retroacted to the USGS information by going to a system now other than the one by which the original model was done.

Mr. Houle responded that one of the challenges that they have had with the model is that they have had to do their best to add non-survey grade information to the model based on topographic surveys. He said that in and of itself this has added some inaccuracies to the model. He stated that merging the two topos together could be done. He further said that if everything stayed on the same basis, USGS, throughout both sides of the creek, he believed it was a fair analysis. He noted that the difficulty is that the USGS topo information was done with 10-foot contours, and it has more inaccuracies than the current topo.

Commissioner Mills questioned why the model was being expanded to include the floodplain. Mr. Houle responded that it was his understanding that Union County has gone to FEMA 's requirements. He said that it was his understanding that if it were new construction, they could do a LOMAR and could revise the information and prepare a model and do the things that would make it work. However, because the work is in place and is considered a violation, those remedies are not available to them, and they are being held to the no-rise in the floodplain. He said that they would pursue it on a parallel path, and it is a higher standard than what they had originally anticipated, but it was his understanding that this is the only remedy offered.

Ms. Putnam clarified that the County's position has always been per the Land Use Ordinance that there be a no-rise certificate submitted. She said that a no-rise certificate, according to FEMA, applies to the base flood elevation, is zero increase in the base flood elevation, which applies to both the floodway and the floodplain. She stressed that the County's position has not changed, and it would not ask anything different of any other development that encroached into the floodway. Ms. Putnam stated that Mr. Houle was referring to a process from the beginning before any impact is made to submit a conditional letter of map revision to FEMA for consideration of an impact prior to the impact being in place. She said that since it is now after the fact, that process is no longer available to them.

With there being no further discussion, the motion was passed by a vote of four to zero. Chairman Baucom, Vice Chairman Pressley, Commissioner Mills, and Commissioner Openshaw voted in favor of the motion. Commissioner Lane was not present.

**ORDINANCE PERTAINING TO NAMING ROADS IN UNINCORPORATED AREAS – RE: RENAMING TO OLDSTONE FOREST DRIVE THAT PORTION OF WAXHAW PARKWAY WHICH IS LOCATED IN THE UNINCORPORATED AREA OF UNION COUNTY:**

Chairman Baucom pointed out that “Oldstone” should be one word rather than two words.

Commissioner Mills moved adoption of the Ordinance Pertaining to Naming Roads in Unincorporated Areas to rename to Oldstone Forest Drive that portion of Waxhaw Parkway which is located in the unincorporated area of Union County. The motion was passed by a vote of four to zero. Chairman Baucom, Vice Chairman Pressley, Commissioner Mills, and Commissioner Openshaw voted in favor of the motion. Commissioner Lane was not present.

ORDINANCE PERTAINING TO  
NAMING ROADS IN UNINCORPORATED AREAS

WHEREAS, pursuant to G.S. § 153-239.1, a County may by ordinance name or rename any public road within the County and may assign street numbers for use on such a road; and

WHEREAS, a public hearing was held on said matter on May 5, 2008, after the posting as provided by law and all other legal requirements necessary prior to adoption of an ordinance naming said road have been complied with; and

WHEREAS, there are two sections of a road named Waxhaw Parkway that do not connect to one another: one section is located in the town limits of Waxhaw and intersects with Providence Road; and one section is located in the unincorporated area of the County that also intersects with Providence Road; and

WHEREAS, the original plan was to connect both of these sections to make one road; therefore, both sections were named the same; and

WHEREAS, currently there are duplicated address ranges which exist on both sections in addition to both intersecting Providence Road at different locations; and

WHEREAS, there is a potential of dispatching emergency services to the wrong location which could result in a significant delay in response times; and



WHEREAS, there are only four homes located within the residential portion of Waxhaw Parkway, and according to the developer of the residential section, the homeowners are in favor of the name change; and

WHEREAS, by letter dated March 24, 2008, from Gregory J. Mahar, Director of Planning, Zoning & Engineering of the Town of Waxhaw, the Town of Waxhaw has requested that the portion of Waxhaw Parkway located within the Oldstone Forest Subdivision be renamed.

NOW, THEREFORE, BE IT ORDAINED THAT the portion of Waxhaw Parkway located in the unincorporated area of the County (located within the Oldstone Forest Subdivision) is hereby renamed Oldstone Forest Drive.

Adopted this 5th day of May, 2008.

#### **ENGAGEMENT OF PLANNING CONSULTANT:**

Richard Black, Interim County Manager/Planning Director, explained that this item is a request to engage a planning consultant to assist the attorneys for the APFO lawsuit.

Commissioner Mills moved to authorize the attorney to engage a planning consultant to serve as an expert in the matter of Union County Land Owners Association et al vs. the County of Union in an amount not to exceed \$15,000 and to adopt Budget Amendment #48 to the Board of County Commissioners' Budget increasing Operating Expenses by \$15,000 and decreasing Contingency by \$15,000. The motion was passed by a vote of four to zero. Chairman Baucom, Vice Chairman Pressley, Commissioner Mills, and Commissioner Openshaw voted in favor of the motion. Commissioner Lane was not present.

#### **FIRE SERVICES:**

- a. Revision to Section V of "A Resolution of Union County Board of Commissioners Establishing a System of Rural Fire Protection in Union County"*

Neal Speer, Fire Marshal, stated that at the last Fire Commission meeting, the Commission voted unanimously to send a recommendation to the Board to delete the following from Section V of the existing Resolution Establishing a System of Rural Fire Protection in Union County: "but no individual fireman or group of fireman shall receive any pay or remuneration from said benefits received from the County for the services which they render in their work as volunteer fireman or as part of a volunteer fire

department, provided nothing shall prohibit payment of full-time personnel for their services.” He stated that the Resolution establishing a system of fire protection in Union County was first adopted in 1981 and revised in 1997.

Mr. Speer explained that essentially the Resolution states that a fire department cannot hire part-time personnel to cover daytime shortages of personnel within that department as part of a fire fee or subsidy. He said that it does not affect any department that is a service district or on a fire tax or any department that is receiving any municipal subsidy. He stated that it was a unanimous recommendation by the Fire Commission.

Following the explanation, Commissioner Mills moved approval of the recommendation of the Fire Commission to amend Section V of the existing Resolution Establishing a System of Rural Fire Protection in Union County to delete the language that is stricken as follows:

#### SECTION V.

As of the date of adoption of this Resolution, Union County will offer financial aid for the general maintenance and operation of any volunteer fire department operative in Union County and which quoted as for said assistance under the terms of the Resolution; ~~but no individual fireman or group of firemen shall received any pay or remuneration from said benefits received from the County for the services which they render in their work as volunteer firemen or as a part of a volunteer fire department, provided nothing shall prohibit payment of full-time personnel for their services.~~

At the request of Commissioner Openshaw, Mr. Speer clarified that the resolution does not prohibit money received from municipalities from being used to hire part-time personnel. He said, however, it would prohibit departments from using the benefits received from the County.

Commissioner Mills explained that there are volunteer fire departments in need of part-time personnel but they do not receive any municipal subsidies, and, therefore, they cannot use the benefits received from the County to hire part-time personnel. Commissioner Openshaw asked for and received confirmation that the volunteer fire departments' budgets will be reviewed during budget deliberations.

Following further discussion, the motion was passed by a vote of four to zero. Chairman Baucom, Vice Chairman Pressley, Commissioner Mills, and Commissioner Openshaw voted in favor of the resolution. Commissioner Lane was not present.

***b. Resolution to North Carolina Legislature to Increase the Maximum Annual Fire Fees***

Neal Speer, Fire Marshal, stated that the proposed Resolution was recommended by the Fire Commission to ask the legislature during the spring short session to increase the maximum annual residential fire fees from \$50 to \$100; increase the fee for a tri-level maximum from \$75 to \$100; and a building maximum from \$100 to \$200.

Following the explanation, Commissioner Mills moved adoption of A Resolution to Request Authorization to Increase the Amount of Certain Fire Fees that Can be Charged by Union County as recorded below, and the motion was passed by a vote of four to zero. Chairman Baucom, Vice Chairman Pressley, Commissioner Mills, and Commissioner Openshaw voted in favor of the motion. Commissioner Lane was not present.

**A RESOLUTION TO REQUEST AUTHORIZATION TO INCREASE THE AMOUNT OF CERTAIN FIRE FEES THAT CAN BE CHARGED BY UNION COUNTY**

WHEREAS, at the request of the Union County Board of Commissioners, the North Carolina General Assembly adopted special legislation found in Chapter 883, § 1, 1991 N.C. Session Laws, as subsequently amended (the “Special Legislation”), granting authority to charge fire fees; and

WHEREAS, the amount necessary to provide fire service in certain fire fee districts exceeds the amount that is collectible using the current statutory limits for fire fees; and

WHEREAS, the Board of Commissioners desires to request an amendment to the Special Legislation increasing the limits that may be charged for fire fees for certain categories.

NOW, THEREFORE BE IT RESOLVED by the Union County Board of Commissioners that an amendment is requested to the Special Legislation that would increase the statutory limits that may be charged for fire fees, as set out below:

1. Amend N.C.G.S. 153A-236(c)(1), found in the Special Legislation, as follows:

(1) A single-family dwelling or manufactured or mobile home, and appurtenant structures, plus up to five acres of surrounding land. The fee on this class of property may not exceed ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00) per site per year.

2. Amend N.C.G.S. 153A-236(c)(4), found in the Special Legislation, as follows:

(4) A commercial facility other than an animal production or horticultural operation. The fee on this class of property may not exceed fifty dollars (\$50.00) per site per year for commercial facilities with structures encompassing less than 5,000 square feet and ~~one hundred dollars (\$100.00)~~ two hundred dollars (\$200.00) per site per year for commercial facilities with structures encompassing 5,000 square feet or more.

3. Amend N.C.G.S. 153A-236(c)(5), found in the Special Legislation, as follows:

(5) A multiple-family dwelling. The fee on a duplex may not exceed fifty dollars (\$50.00) per building per year. The fee on a triplex may not exceed ~~seventy-five dollars (\$75.00)~~ one hundred fifty dollars (\$150.00) per building per year. The fee on any other multiple-family dwelling may not exceed ~~one hundred dollars (\$100.00)~~ two hundred dollars (\$200.00) per building per year.

Adopted this the 5<sup>th</sup> day of May, 2008.

### **WATER AND SEWER GOVERNING STRUCTURES:**

Christie Putnam, Public Works Director, provided the Board with information regarding a Technical Memorandum prepared by HDR Engineering in connection with the evaluation of the potential formation of an alternative Water and Wastewater Agency (Task Order #3). She explained that this information was being provided pursuant to the Board's request. She said that the memorandum summarizes alternatives available through State regulations to operate a utility fund, outlines available governing structures, and identifies possible Board constituents or makeups and briefly discusses financial and governing issues that would have to be addressed in more detail. She offered to provide more details regarding any of these options if the Board wished her to do so.

Vice Chairman Pressley expressed appreciation to Ms. Putnam for providing the requested information.

At the request of Commissioner Mills, Ms. Putnam updated the Board regarding the drought situation and stated that the groundwater monitors and lake levels are recovering. She said that the County remains in a Stage III declaration from the monitoring levels defined by the agreement with Duke Energy. She said that the County was slowly moving out of the drought situation.

**PUBLIC WORKS DEPARTMENT – POTTER ROAD AND FOREST LAWN WATER TRANSMISSION MAIN EXTENSION (This Item was Moved from the Consent Agenda to the Regular Agenda at the Request of Commissioner Openshaw):**

Commissioner Openshaw said that this project had come before the Board recently and there were a couple of condemnations that he had voted against at that time. He asked how those condemnations had been resolved since it appears that the project is moving forward.

Ms. Putnam responded that all of the easements approved for condemnation relative to this project were acquired except for one. She said that notification has been mailed to the owner of that property and Public Works is moving forward with the condemnation process.

Commissioner Openshaw questioned whether the landowner could appeal. Ms. Putnam responded that the property owner could appeal. She stated that she believed the easement in question was a 15-foot easement.

Ms. Putnam stated that there would be an opportunity for mediation prior to the court date. Commissioner Openshaw asked if this would occur prior to the installation of the water line. Ms. Putnam responded not necessarily and explained that once the property owner has been notified, he would have 30 days before the County was allowed on his property to move forward with the construction. Commissioner Openshaw questioned how long it would take to establish mediation. Ms. Putnam responded that she did not know the answer to that question. Jeff Crook, Senior Staff Attorney, interjected that once the money is deposited with the court under the quick take procedure, the title vests with the County.

Commissioner Mills said that this situation is no different than a condemnation for a school site. He stated that the water line would still be built, but it comes down to haggling over money.

At approximately 8:09 p.m., Commissioner Openshaw moved that the Board go into closed session to consult with an attorney in accordance with G.S. 143-318.11(a)(3).

Vice Chairman Pressley asked if the action requested was to review and award the bids for this project. Ms. Putnam stated that was correct. Vice Chairman Pressley questioned how the condemnation process would affect this matter. Commissioner Openshaw responded that it might affect his vote.

The Chairman called for a vote on the motion, and it passed by a vote of four to zero. Chairman Baucom, Vice Chairman Pressley, Commissioner Mills, and Commissioner Openshaw voted in favor of the motion. Commissioner Lane was not present.

The Board members and staff moved from the Board Room to the Conference Room, first floor, Union County Government Center. The Chairman convened the closed session and at its conclusion at approximately 8:14 p.m., Vice Chairman Pressley moved to adjourn the closed session and to reconvene the regular meeting. The motion passed by a vote of four to zero. Chairman Baucom, Vice Chairman Pressley, Commissioner Mills, and Commissioner Openshaw voted in favor of the motion. Commissioner Lane was not present.

The Board members and staff returned to the Board Room and the Chairman reconvened the regular meeting. He asked if there was a motion on this item.

Chairman Baucom moved to: 1) Adopt Capital Project Ordinance Amendment #101 as recorded below; 2) accept the bids; 3) award the bid to the low bidder State Utility Contractors, Inc. in the amount of \$2,970,336.57; and 4) authorize the County Manager to approve the construction agreement. The motion was passed by a vote of four to zero. Chairman Baucom, Vice Chairman Pressley, Commissioner Mills, and Commissioner Openshaw voted in favor of the motion. Commissioner Lane was not present.

CPO #101:

CAPITAL PROJECT ORDINANCE AMENDMENT											
BUDGET	General CPO Fund and Water & Sewer CPO Fund					REQUESTED BY	Kai Nelson				
FISCAL YEAR	FY 2007-2008					DATE	May 5, 2008				
PROJECT SOURCES						PROJECT USES					







		\$2,970,336.57.
Davis Grading, Inc.	3404 W. Zion Church Road Shelby, NC 28150 (704) 434-9697	\$3,029,362.78
Advanced Development Concepts, LLC	P. O. Box 3248 Matthews, NC 28106 (704) 708-4663	4. Payment Item 9A - \$32,453.65 entered by Contractor; should be \$32,453.85. 5. Subtotal - \$2,825,427.33 entered by Contractor; should be \$2,825,427.98. 6. Payment Item 31 - \$113,017.09 entered by Contractor; should be \$113,017.12. 7. Total - \$3,033,206.42 entered by Contractor; should be \$3,033,207.10.
CMI Contracting, Inc.	P. O. Box 688 Concord, NC 28026 (704) 283-0200	\$3,094,341.02
Propst Construction Co., Inc.	P. O. Box 688 Concord, NC 28026 (704) 782-2135	8. Subtotal - \$3,079,396.00 entered by Contractor; should be \$3,078,995.50. 9. Payment Item 31 - \$126,775.80 entered by Contractor; should be \$126,759.82. 10. Total - \$3,296,172.00 entered by contractor; should be \$3,305,755.32.
D. S. Utilities, Inc.	1644 Holy Trinity Church Rd. Little Mountain, SC 29075 (803) 345-9106	11. Payment Item 27 - \$3,415.00 entered by Contractor; should be \$3,450.00. 12. Subtotal \$3,252,296.65 entered by Contractor; should be \$3,252,331.65. 13. Payment Item 31 - \$132,695.87 entered by Contractor; should be \$132,697.27. 14. Total - \$3,460,092.52 entered by Contractor; should be \$3,460,128.92.
Dawn Development Co., Inc.	1815 N. Rocky River Road Monroe, NC 28110 (704) 296-9620	\$3,563,331.47
Buckeye Construction, Inc.	654 Buckeye Cove Road Canton, NC 28716 (828)648-4511	\$3,580,755.97
R.H. Price, Inc.	P. O. Box 1709 Matthews, NC 28106 (704) 395-0672	15. Payment Item 11J - \$11,000.00 entered by Contractor; should be \$13,200.00. 16. Payment Item 11K - \$11,400.00 entered by Contractor; should be \$9,500.00. 17. Subtotal - \$3,378,245.00 entered by Contractor; should be \$3,378,545.00. 18. Payment Item 31 - \$138,929.80 entered by Contractor; should be \$138,941.80. 19. Total - \$3,622,174.80 entered by Contractor; should be \$3,622,486.80.
Sanders Utility Construction	6801 Brookshire Blvd.	\$3,743,074.42

Co., Inc.	Charlotte, NC 28216 (704) 399-5600	
Dellinger, Inc.	2631 Old Charlotte Hwy. Monroe, NC 28110 (704) 283-7551	20. Payment Item 3B - \$185,250.00 entered by Contractor; should be \$184,300.00. 21. Payment Item 28 - \$35,000.00 entered by Contractor; should be \$35,100.00. 22. Subtotal - \$3,755,208.25 entered by Contractor; should be 3,754,358.25. 23. Payment Item 31 - \$153,692.33 entered by Contractor; should be \$153,654.33. 24. Total - \$4,005,900.58 entered by Contractor; should be \$4,005,012.58.
B.R.S.	P. O. Box 456 Richfield, NC 28137 (704) 463-1355	\$4,681,674.04.

**WATER AND SEWER DEBT MANAGEMENT:**

Kai Nelson, Finance Director, stated that he was available to answer any questions of the Board.

Commissioner Mills moved to extend the effective date of forward starting swap dated October 11, 2005 (subsequently amended and restated on May 3, 2007) with a current effective date of June 16, 2008, to June 15, 2009. The motion was passed by a vote of four to zero. Chairman Baucom, Vice Chairman Pressley, Commissioner Mills and Commissioner Openshaw voted in favor of the motion. Commissioner Lane was not present.

**MASTER AGREEMENT TO BILL AND COLLECT CURRENT AND SUBSTANTIAL DELINQUENT MUNICIPAL AD VALOREM TAXES:**

John Petoskey, Tax Administrator, stated that the Tax Office has been approached by several municipalities to collect ad valorem property taxes for them. He said that agreements of this nature are common among other counties throughout the state. He stated that this was Union County’s first opportunity to enter into this type of partnership with the municipalities. He said that there is new pending legislation that will have far reaching effects on software and collection systems, which the County will be using. He stated that at the same time, the County could perform these services for the towns and accommodate their needs as well. Mr. Petoskey stated that by assuming this responsibility, the County will retain a one and one-half percent collection fee. He said it is the same rate already used by the County to collect motor vehicle taxes for the towns.

He stated that the agenda package contained a copy of the proposed interlocal agreement which was jointly composed by the Tax Office and the Finance Office. He said it would affect Finance as it would disburse the funds. Mr. Petoskey said they have worked out a base agreement which can be used to work with the towns. He stated that they were requesting that the Board approve the Interlocal Agreement in concept and also to grant the Manager the authority to approve agreements with the individual municipalities. He said that they would be coming back to the Board for approval of the final agreement.

Vice Chairman Pressley moved approval of the master agreement between Union County in concept and to authorize the Manager to approve agreements with individual municipalities.

Vice Chairman Pressley said that he wanted to clarify that the County is not adding one and a half percent to the tax bills for collection, but it would be one and one-half percent less than what the municipalities receive. Vice Chairman Pressley questioned if the one and one-half percent collection assistance fee would cover the County's expenses for providing this service. Mr. Petoskey responded that he believe that would cover the County's expenses.

Commissioner Openshaw asked Mr. Petoskey to explain Exhibit A to the Interlocal Ad Valorem Tax Billing and Collection Agreement. Mr. Nelson said that Exhibit A represents a sample monthly report that the County would provide the municipalities. Van Harrell said that Exhibit A represents a monthly report that the Board receives, and it would be modified for the specific municipalities.

Following the discussion, the motion was passed by a vote of four to zero. Chairman Baucom, Vice Chairman Pressley, Commissione Mills and Commissioner Openshw voted in favor of the motion. Commissioner Lane was not present.

Commissioner Mills asked Mr. Petoskey if he had an opportunity to get the updated number for the proposed districts for the fire departments. Mr. Petoskey responded that he had not had a chance to pull this information, but he would check with his staff tomorrow.

#### **ANNOUNCEMENTS OF VACANCIES ON BOARDS AND COMMITTEES:**

At the request of Chairman Baucom, Lynn West, Clerk to the Board read the vacancies on the following Boards and Committees:

- a. Juvenile Crime Prevention Council (JCPC): 1) District Attorney or Designee; 2) Substance Abuse Professional; 3) Two persons under age of 18; and 4) Juvenile Defense Attorney
- b. Adult Care Home Community Advisory Committee
- c. Union County Home and Community Care Block Grant Advisory Committee (2 Vacancies as of December 2007)
- d. Nursing Home Advisory Committee
- e. Board of Health (Vacancy as of January 2008 for a Licensed Optometrist)
- f. Centralina Council of Governments – Comprehensive Economic Development Commission
- g. Centralina Workforce Development Board – Vacancies for terms beginning July 1, 2008, representing Vocational Rehabilitation and Community Based Organizations

**APPOINTMENTS TO BOARDS AND COMMITTEES:**

1. Farmers Market Committee: Chairman Baucom moved appointment of Jeffrey Knight to serve on the Farmers Market Committee. With there being no further nominations, the motion was passed by a vote of four to zero. Chairman Baucom, Vice Chairman Pressley, Commissioner Mills, and Commissioner Openshaw voted in favor of the motion. Commissioner Lane was not present.

2. Industrial Facilities and Pollution Control Financing Authority (2 Vacancies as of May 2008): Vice Chairman Pressley moved to reappoint Ken Harris and Chris Mathisen to serve on the Industrial Facilities and Pollution Control Financing Authority. With there being no further nominations, the motion passed by a vote of four to zero. Chairman Baucom, Vice Chairman Pressley, Commissioner Mills, and Commissioner Openshaw voted in favor of the motion. Commissioner Lane was not present.

3. Planning Board:

1. Jackson Township: Commissioner Mills moved appointment of James Howie to serve on the Planning Board representing Jackson Township. With there being no further nominations, the motion passed by a vote of four to zero. Chairman Baucom, Vice Chairman Pressley, Commissioner Mills, and Commissioner Openshaw voted in favor of the motion. Commissioner Lane was not present.

2. New Salem Township: Chairman Baucom moved reappointment of Richard Simpson to serve on the Planning Board representing New Salem Township. With there being no further nominations, the motion passed by a vote of four to zero. Chairman Baucom, Vice Chairman Pressley, Commissioner Mills and Commissioner Openshaw voted in favor of the motion. Commissioner Lane was not present.

3. Sandy Ridge Township: Vice Chairman Pressley moved reappointment of Don Kerr to serve on the Planning Board representing Sandy Ridge Township.

Commissioner Openshaw voiced an objection to the nomination citing ethical grounds. He said that as a rationale for not voting for the disclosure statement, Chairman Baucom had previously made the statement that the Board needed to appoint ethical people for these Boards. He continued by saying that there had been an article in the paper stating that one of the applicants for the Planning Board has been involved with a group that in his opinion has been underhanded, and there have been denials of involvement of the group in the press. He said that there were also questions of illegality involved with some of those actions, and since a verbal decision last meeting had been based on appointing ethical people, he thought that appointing someone that is potentially ethically challenged does not fit in with the disclosure statement unless the Board would like to revisit the vote on the disclosure statement.

Commissioner Mills said that he thought that Commissioner Openshaw had used was “possible” so he would guess one would be innocent until proven guilty. Commissioner Openshaw said he guessed it was kind of like their right to do it whether it was legal or illegal. Commissioner Mills said that was not for the Board of Commissioners to decide.

Commissioner Openshaw countered by saying it was done in an underhanded way where they were trying to hide their involvement with that group, even denied it to the press, and now the Board was going to contemplate putting an individual such as this on one of the most important boards that the County has. He said he did not believe that was appropriate, and he would be disappointed in the Board if it did so.

Vice Chairman Pressley withdrew his motion. He said that he had not spoken to Mr. Kerr but he had spoken to others and was told that Mr. Kerr was disappointed in the actions that were taken. He stated that in all fairness, he thought if Commissioner Openshaw has an issue with this, that the Board should ask Mr. Kerr these questions. He withdrew his original motion and then moved to delay the appointment of a member representing Sandy Ridge Township until the May 19, 2008, meeting.

Commissioner Openshaw said he was delighted to hear that Mr. Kerr expressed those regrets. He said he had a copy of the Articles of Incorporation of which Mr. Kerr is a member of the Board of Directors along with Steven Helms and Ingram Walters, and it appears to him that they violated the situation.

Chairman Baucom interrupted Commissioner Openshaw stating that this was not a determination for Commissioner Openshaw to make regarding the legality or illegality of the matter. He said that as he understood it, this would be determined by the Elections Board.

Chairman Baucom asked if there were any discussion of the motion on the table. With there being no discussion of the motion, the vote was called, and the motion was passed by a vote of four to zero. Chairman Baucom, Vice Chairman Pressley, Commissioner Mills, and Commissioner Openshaw voted in favor of the motion. Commissioner Lane was not present.

#### **INTERIM MANAGER'S COMMENTS:**

Richard Black, Interim County Manager, stated that tonight would be his last meeting as Interim County Manager and that on May 19, 2008, the newly appointed County Manager Al Greene would be attending the meeting. He said that the last 16 months have been an interesting and challenging journey for him. He stated that he hoped he had learned a lot and had grown as a person and as a leader. He expressed appreciation to the County Staff and especially the members of the Manager's Council, which is a group of department heads who meet every Tuesday morning, for its support and wise counsel. He said that any successes that he might have had as Interim County Manager are due mainly to strong efforts and support of those staff members. He further expressed appreciation to Ms. West, Clerk to the Board, for her support, guidance, and never ending encouragement. He stated that she had been invaluable to him in negotiating the last 16 months. He thanked the Board of Commissioners for its support, and said that he hoped that the County had moved forward during this time. He said that he looked forward to working with Mr. Greene.

## **COMMISSIONERS' COMMENTS:**

Commissioner Openshaw congratulated Parkwood High School for the \$5,000 grant it received from Lowe's for its landscaping project.

He said that he hoped the message from the Republican primary tomorrow is an outright rejection of dirty politics and unethical behavior and its intended beneficiaries. He stated that there are so many serious issues in the County that it is ludicrous to have to go to mudslinging to try and get the people that are wanted into office. Commissioner Openshaw said it is an embarrassment for the good people in the County for the benefit of the few bad apples. He wished everyone, who is running for office, good luck tomorrow.

Commissioner Mills said he and Commissioner Openshaw attended an event for the Daughters of the Colonies at the Museum of the Waxhaws. He stated that his mother had been a member of this organization.

He offered congratulations to the Town of Weddington on its 25<sup>th</sup> anniversary of being a town. He said that he had attended that event also.

He said that Parkwood had a nice BBQ cook off where he served as one of the judges.

Commissioner Mills said tonight's meeting had been a good meeting. He thanked Mr. Black for his services as Interim Manager over the past 16 months.

Vice Chairman Pressley also expressed appreciation to Richard Black for his service as Interim County Manager.

He said that he, too, had attended the Weddington anniversary and the Parkwood BBQ cook off. He commented that the Rusty Pistons event continues to get better and better each year. He said that he was surprised at the number of people from Stanly and Anson Counties who attend and take part in the event.

Vice Chairman Pressley wished the candidates good luck on the election tomorrow.

Chairman Baucom commended the candidates for putting their name in to be a candidate. He said that it was a challenge but also an opportunity to serve.

He commented about the forum held at Piedmont High School last Tuesday. He said that John Petoskey attended that event along with him. He said the purpose of the meeting was to address the revaluation issue. He stated that residents had the opportunity at that meeting to voice concerns and opinions.

He reported that on April 25, there had been a regional meeting which included representatives from Anson, Stanly, Cabarrus, Lancaster, the City of Monroe, and the organization of CMUD. He stated that there had been 100 percent participation from all invitees. He said that the purpose of the meeting was to look forward 25 to 50 years in the future on a regional basis in regards to water and potential sewer. He stated that everyone in attendance agreed that such meetings needed to continue.

Chairman Baucom said that there had been a follow-up meeting with Anson County on Friday, May 2, which was related specifically to water. He stated that Anson and Union Counties adopted joint resolutions to work together for Union County to obtain water from Anson County. He said they had met on Friday to continue to work on these issues. He said that it looks very positive as they continue the discussions.

He stated that Mr. Black's words were very kind and fellow Commissioners have spoken very graciously about Mr. Black. He said that he, too, wanted to thank Mr. Black for the work that he has given to the County over the past 16 months. He expressed his appreciation to Mr. Black for his efforts.

With there being no further discussion, Chairman Baucom adjourned the regular meeting at 8:40 p.m.