

September 17, 2007

The Union County Board of Commissioners met in a regular meeting on Monday, September 17, 2007, 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 Kevin Pressley, Vice Chairman Allan Baucom, Commissioner Roger Lane, Commissioner A. Parker Mills, Jr., and Commissioner Lanny Openshaw

ABSENT: None

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

OPENING OF MEETING:

Chairman Pressley convened the regular meeting and welcomed everyone.

***a. Invocation***

Pastor Jim Bention, Sr., offered the invocation.

***b. Pledge of Allegiance***

Commissioner Mills led the body in reciting the Pledge of Allegiance to the American flag.

***c. Informal Comments***

Larry Raley of Raley Miller Properties stated that his company wanted to develop a Mixed-Use project at the corner of Highway 75 and Potters Road. He said that there are several churches near the property, a fire department, and the Town of Mineral Springs is going to be relocating to property which it purchased from Raley Miller Properties. He stated that there is approximately

105,000 feet of retail space proposed to be located on the property along with an unusual and nice townhouse complex and approximately 65 homesites. Mr. Raley said that they have been working diligently on a plan which has the support of the Mineral Springs' Planning Department and the Town Council to construct a project on the property.

He referred to a letter dated August 28, 2007, addressed to Christie Putnam, Public Works Director, requesting a meeting to discuss extending sewer to the Town of Mineral Springs. He further referred to a letter from the County dated in 2005 where there was communication with the Town of Mineral Springs regarding sewer needs. Mr. Raley stated that there had been discussions at that time about the need for sewer capacity at the intersection. He said that sewer is needed for the churches located near the property. Further, he stated that in approximately two years, sewer would be needed to accommodate the plans for the mixed-use project that his company is working to develop. He said that the Town of Mineral Springs currently owns an acre of land on which it plans to construct and redevelop its town hall, which will be the focal point of the town. Mr. Raley said that the mixed-use project would accommodate the needs of the community with shopping, a place to live, and with the ability to walk to and from church, as well as their other meetings, etc. He asked the Board to consider how it would serve Mineral Springs with sewer in the future.

Walter Staton spoke concerning the location of the Weddington Water Tank and distributed information supporting his position. He said that he has lived in Weddington for 35 years and was opposed to Site #4 which is the 5.58-acre parcel directly across the street from the Weddington Town Hall because the medical office would be the closest building to the water tank. Mr. Staton stated there were serious concerns by the medical offices regarding the structure and antennas to be located on the top of the water tank. He explained the reasons for these concerns were that the antennas could result in false readings from their X-ray equipment and other new equipment.

Mr. Staton read the following correspondence from Dr. Lisa Merritt, DC, N.M.D. of the Weddington Chiropractic Wellness Center:

“September 11, 2007

To Whom It May Concern:

I am opposed to having any type of water tower across from this office. Any type of antenna in the nearby vicinity will interfere with our x-ray machines that we need to treat our patients.

Sincerely,

Dr. Lisa Merritt”

Mr. Staton also read from information written by Dr. Dino P. Kanelos, M.D. of the Carolina Family Healthcare:

“As far as I am concerned the water tower is not a good idea with the Dr. offices across the street.

9/11/07”

Mr. Staton said another doctor in the same building has a sign displayed stating “Thank you for not using your cell phone while in this office.”

Warner Thomisser, a five-year resident of Weddington, said that the Public Works Department commissioned HDR Engineering to look for a water tank location for the Town of Weddington. He stated that from what he had read in the newspapers, this study cost approximately \$12,000. Mr. Thomisser said that Scott Honeycutt of the Public Works Department had indicated in a meeting last week that the total project is a three million dollar project.

He said that HDR had performed this study in an objective and unbiased manner and had evaluated five sites using certain criteria in that evaluation. Mr. Thomisser noted some of the criteria as follows:

- a. The surrounding area contains little to no development or dwellings. (He said that he believed this was very important.)
- b. It contains the highest elevation of all sites considered. (Mr. Thomisser elaborated on information that had been provided by Mr. Honeycutt stating that every three feet of elevation translates into pounds per square inch. For example, he said if it were an elevation of 730 feet, it would be 243 pounds per square inch. He explained that is one of the major reasons that a water tower is needed in Weddington because of the low water pressure in Weddington.)
- c. There is a 24-inch water main along Providence Road.
- d. What do we do if the 1.5 million gallons of water becomes contaminated? Where can we dump it? (Mr. Thomisser said there has to be some adequate stream in which to dump it.)

He stated that Mr. Honeycutt had suggested that the County could do nothing, choose one of the five sites evaluated, or look for an alternative site. Mr. Thomisser said if the County looks for an alternative site, where is the economic impact study and the

public information hearings on an alternative site. He questioned why after money and time have been spent on the evaluation, would alternate sites be considered.

Dudley Wass spoke regarding the water supply. He said that he was speaking to try and convince the County to not approve any more building permits until there is a detailed, comprehensive infrastructure plan to allow time for the infrastructure to catch up to reality in the County.

He questioned whether the County has a sufficient supply of water to meet the requirements of the its existing customers in addition to the permits already approved. He said that he thought the answer appears to be “no.” He said that Chairman Pressley had referenced an article in *The County Weekly* early in June stating that the cause is still being researched to determine if either usage or transmission is more at fault. He said that he found it surprising that the cause was not known at the time the rationing was implemented.

Mr. Wass said that two years ago there was five million gallons per day capacity, and that capacity now appears to be gone. He said that in August, *The Charlotte Observer*, reported that rationing is expected to continue for four or five more years. He questioned if the County has an effective water planning and management process. He said that he believed the answer was “no” and today’s serious water situation attests to that. He asked who maintains track of day-to-day capacity available to allocate to developers along with reserve capacity being maintained. He further questioned if the Board required reserve capacity to be maintained.

He stated that the 2005 Water Master Plan was approved by the Board on August 28, 2006, much later than January 1, 2005. He noted that there was reference in the plan by HDR Engineering to the many thousands of homes that have been permitted but not yet connected as going to take up the capacity. Mr. Wass said that the nine percent growth assumption made in the plan was incorrect. He said that he has reviewed the minutes of the Board since 2006 and has found no formal presentation of capacity, capacity problems, or any details presented by the Public Works Department. He provided the Board with his written comments.

Liza Kravis addressed the Board regarding the recent decision by the North Carolina Court of Appeals regarding the proposed Wal-Mart in the Somerset PUD. She shared that two weeks ago the North Carolina Court of Appeals issued an unanimous decision to uphold the decision of the Superior Court to overturn the special use permit for the super Walmart in the Somerset PUD. She noted that the permit was originally approved by the prior Board of Adjustment in 2004. She expressed appreciation to Chairman Pressley and Commissioner Lane for voting for the County to join the residents in the appeals process. She also expressed appreciation to Richard Black for his testimony in the hearings.

Mrs. Kravis said that the decision by the Court of Appeals was a victory for the Somerset area as well as for all of the citizens of Union County, because it involved more than a Wal-Mart Super Center but was about due process. She read excerpts from the Court of Appeals' decision as follows:

“We hold that petitioners had standing to appeal and that they were denied due process in the proceedings.”

She said that Judge Stroud further stated that “the evidence in the record shows that the Somerset citizens have suffered special damages to their properties which are unique in character and quantity and distinct from those inflicted upon the community at large including a reduction in the values of their properties.”

Mrs. Kravis said that one of the key findings of fact to reject a special use permit is if it will substantially injure the value of adjoining or abutting properties. She stated that Judge Stroud's statement makes it clear that finding alone should have been enough to reject the permit. She said that the prior Board of Adjustment's actions were either the result of ignorance of their roles and responsibilities and the process they were supposed to follow or deliberate and malicious intent to harm the Somerset community and to injure property values of hundreds of residents and to put their health and safety at risk.

In closing, Mrs. Kravis expressed appreciation to Commissioner Lane and former Commissioners Sexton and Stone for their votes to dissolve the former Board of Adjustment. She stated that the board's actions were a liability to the County, cost the County and neighborhood residents hundreds of thousands of dollars as well as a very large personal cost to residents in time, effort, and sacrifice. She said that the County needs to ensure that it does not happen again for other special use permits. She stressed that it is critical that persons appointed to boards to make these decisions understand their roles and responsibilities and do not have conflicts of interest. In addition, she offered that the board members need to have adequate training and good legal representation. Mrs. Kravis said that this November will mark six years since the residents began fighting to protect their neighborhood. She stated that the residents should never have had to fight this battle but were the victims of a county government that intentionally withheld public information from residents and tried to sneak something through the system that was no longer permitted. She said that it was a government and boards accustomed to doing things however they wanted and not used to following the written rules. She stated that those actions created the travesty that the residents of Somerset have had to deal with for six long years.

Rob Lenon, Land Development Manager for Toll Brothers, addressed the Board regarding sewer service to the Withrow Property located on Antioch Church Road, just south of Forest Lawn Drive. He requested that this property be added to Exhibit 9 to the proposed Sewer Allocation Policy per Section 12.1 of the proposed policy to be considered tonight. Mr. Lenon further requested

that the Board consider revising the proposed policy to include “actively negotiating a water and sewer agreement” in the definition of the development submittal.

Mr. Lenon stated that Toll Brothers and its engineer have been diligently working with the Union County Public Works staff to investigate different options to bring public sewer to this area with the current situation with the Twelve-Mile Creek Wastewater Treatment Plant. He said they have found a number of options, and Toll Brothers submitted to the Public Works Department at the beginning of this year a proposed agreement to create a win/win situation both for the basin where the property is located and also for Union County. Mr. Lenon stated that Toll Brothers submitted on April 25, 2006, a conditional use permit application to the Town of Weddington for this property and is currently working with the Town for a buy-rights scenario for the development of the property.

He provided the Board with a binder of information which he stated included the current agreements along with the exhibits and proposed improvements for Union County. Mr. Lenon said that the information also provided background information regarding the project, including correspondence, meetings, and e-mail transmissions between all parties. He referred to Agenda Item 5c for Wastewater Flow Alternatives. He said that one of the first items contained in the staff’s recommendations for this item is to relocate some of the wastewater treatment from the Brookhaven Pump Station. He stated that the majority of the costs for the relocation of the wastewater treatment from this pump station would be absorbed through the proposed development.

Wayne Ellis spoke regarding the Weddington Elevated Water Tower. Mr. Ellis stated that he represented the Homeowners' Association for Walden at Providence on Rea Road. He said that the Homeowners' Association’s main concern is Site #5 located on Rea Road. He stated that he had talked with Charlie O’Cain of the Public Works Department who walked site 5 with him. He said that based upon the size of the proposed water tank as described by Mr. O’Cain, it would tower over their neighborhood which contains approximately 80 homes. He stressed the real concern of the Homeowners’ Association is how the water storage tank would affect the presence of the neighborhood.

Mr. Ellis said that in reviewing the criteria for the tank site, it did not appear that Site #5 meets many of the criteria for locating the water storage tank. He stated that the first criteria was the least cost alternative. He said that Mr. O’Cain had explained that it would require running a line approximately 2,000 feet from Providence Road all the way to the Rea Road site which would cost thousands of dollars. Secondly, he said that Mr. O’Cain had stated that Site #5 is located on school property. He said that documentation that he had reviewed indicated that there would be no cost for the property; however, he said that he understood there had been a bond passed to construct the schools. He questioned whether there would be cost to build a water storage tank at this site. He reiterated that the main concern regarding Site #5 is there is a great deal of housing and development in this area. Mr. Ellis said

that one of the criteria had been for an area not very well populated. He opposed Site #5 on behalf of the residents of Walden at Providence.

Ron McGarvey, President of the Waxhaw Volunteer Fire Department, stated that Waxhaw VFD wants to build a new fire station on Waxhaw Parkway, and at the present time, it is unable to proceed with a site plan because it does not have a commitment for a sewer tap. He requested that the Fire Department be considered for a sewer tap. He explained that if the fire department were unable to obtain a sewer tap, it would cost an additional \$25,000 to put a sewage treatment septic system on the site.

Commissioner Openshaw responded that the Fire Department was included on Exhibit 6 (Government Facilities) attached to the proposed Sewer Allocation Policy.

Peggy Neill spoke regarding sewer capacity and requested that the following documents be entered into and made a part of the official record:

September 17, 2007

Madame Clerk, please enter these documents for the public record.

Gentlemen, these documents were in response to a letter written in June, 2005, from Union County Public Works Director, Jon Dyer. Mayor Becker stated that he crossed out Jon Dyer's name in the original letter and hand wrote "Dear Ms. Putnam". The Public Works Director requested that the Town of Mineral Springs provide input into the county's Master Plan's updates.

The town formulated several specific requests for water and sewer priorities in a letter to Public Works dated, June 16, 2005. Written confirmation over two years ago of a prior request for a sewer main appropriately sized for growth at the intersection of Hwy. 75 and Potter Rd. is now before you.

Today, a developer, Mr. Larry Raley, co- owns, with a grocery company, 28 downtown acres, which is planned to be a well balanced village center, an anchor grocery store with a main street business district and a small but dense housing component.

I am unsure how "mixed use" is defined in the county plan, but I can see how it can be abused. If one mixed use is predominately residential but some commercial is thrown in to get sewer, then the allocation is given away. Please prioritize and define mixed use before it is all gone.

The town was sued by a developer because we took action to NOT allow county sewer capacity to be used for residential purposes. The developer wanted to use the Bates Branch connection. We spent one and a half years in court protecting the county's sewer capacity.

We are not hogging the county's capacity; we are not part of the problem but part of the solution. Not one gallon per day is used in the Town of Mineral Springs.

We are looking to keep our downtown area small, not use capacity to grow our town residentially. Capacity is needed to upgrade existing businesses if they desire. The town wants it, our fire department, while planning future expansion and recently placed part time paid firefighters five days a week wants it, and the largest church, bustling with multiple daily activities, has a great need as their ministry grows, to serve the larger community county wide.

We've been asking for a long time for a water and sewer line for our downtown area. Now that a developer is willing to pay for it and put in the line, we would very much appreciate the county setting aside this allocation for the upgrading of Mineral Springs' downtown.

Thank you.

  
Peggy Neill



AGENDA ITEM  
# 12  
6/9/05

# MEMO

**To:** Mineral Springs town council  
**From:** Rick Becker  
**Date:** June 3, 2005  
**Subject:** Union County water & sewer master plan updates

I received the accompanying letter from Jon Dyer, UDPW director. This request comes at a time when we are giving serious consideration to our future land use plans, and shortly after we have had several informal discussions as a council about water and sewer needs in the Town of Mineral Springs.

Unfortunately, we do not yet have a detailed and comprehensive land use plan in place. However, I would recommend that we put together a letter or even a resolution to send to Mr. Dyer, summarizing some of the issues that we have discussed. Specifically, I can think of the following:

1. Sewer lines to serve areas designated for low-density residential use: As we have discussed before, Union County's current sewer master plan calls for a main sewer line to be installed along the Bates Branch, running upstream from Twelve Mile Creek just off Shannon Road, and continuing upstream toward McNeely Road along an unnamed branch sometimes referred to as Wolf Branch. These lines are shown in green on the map, located between McNeely and Pleasant Grove Roads. Our current plans call for low to very low density residential development in this area, and there has been some discussion of designating some of this creek frontage as conservation area, so it would seem that the county should abandon sewer plans along these creeks. Several residents have expressed concerns about potential damage to the creeks and the surrounding environment if clearcutting, excavation, and blasting take place along these creeks, and I have had similar concerns myself. **Recommendation: consider eliminating the Bates Branch sewer interceptors.**
2. Sewer lines to serve the "downtown" area: Sewer service centered on the intersection of Highway 75 and Potter Road would unquestionably allow additional commercial development downtown, as well as solving some septic problems being experienced by current residents and businesses in the downtown area. The county map shows an "infill project" crossing private property and leading from the downtown area to the Little Twelve Mile Creek interceptor. However, a sewer line connecting to the Little Twelve Mile Creek interceptor could be installed within the Highway 75 right-of-way with little to no environmental damage and, due to the relatively high elevation of the Potter Road intersection, would confine future development to a relatively small area. Sewer service to create commercial rather than purely residential development would seem to fall within the often-stated wishes of Union County officials. **Recommendation: consider eliminating the designated "infill project" and adding a county-funded sewer line within the Highway 75 right-of-way to serve downtown Mineral Springs.**
3. Sewer service at Western Union School: Although the onsite treatment at the school seems to be functioning satisfactorily at the present time, there is a history of septic system problems at the school. The Blythe Creek interceptor, shown in red on the map, is complete to Highway 75 and is slated for completion in a southeast direction toward the Western Union area. **Recommendation:**

consider extending the Blythe Creek interceptor to serve Western Union Park, Western Union, Western Union School, and the John Shannon industrial property on Highway 75.

4. **Southern extensions of Little Twelve Mile Creek interceptors:** The main line, shown in red, currently ends at Highway 75. The infill portion, shown in yellow, has been partially constructed to serve the Stonebridge subdivision. Further extension of these lines has the potential to cause the same problems stated above concerning the Bates Branch lines. **Recommendation: consider eliminating plans for any further extension of the Little Twelve Mile Creek sewer lines.**
5. **Water service:** Under current county plans, most main water lines along existing public rights-of-way are designated as being privately funded, unlike many of the planned sewer interceptors which are designated as being county funded. Water service to existing residents should be a higher priority than sewer service to undeveloped property. Not only does county water service enhance public health by providing an alternative to private wells that in many cases are inadequate or potentially contaminated, but also it enhances public safety by providing hydrants for fire suppression. **Recommendation: reprioritize water and sewer master plans to favor county-funded water lines to existing residents over new sewer lines to undeveloped property.**



UNION COUNTY PUBLIC WORKS DEPARTMENT

*Jon C. Dyer, P.E., Director*

May 26, 2005

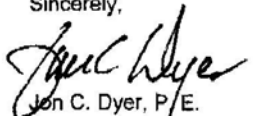
Mayor Frederick Becker, III  
Town of Mineral Springs  
6603 Sadler Road  
Waxhaw, NC 28173

Dear Mayor Becker:

Union County Public Works (UCPW) has contracted with CDM and HDR, nationally recognized engineering consultants, to update our 2000 Water and Sewer Master Plans. In order to better plan for your needs, we request your latest Land Use Plan for input into the Master Plan updates. Please forward a copy to me at your earliest convenience. We will hold a meeting to solicit your review and input prior to finalization of the Master Plans.

Thank you for your cooperation. Please call me at 704-296-4212 if you have any questions.

Sincerely,

  
Jon C. Dyer, P.E.  
Director of Public Works

# Town of Mineral Springs

PO Box 600 • Mineral Springs, NC • 28108-0600

Telephone:  
(704) 243-0505

Facsimile:  
(704) 243-0506

Mayor:  
Frederick Becker III

Council  
(Through 2005):

W. Henry Blythe  
Jerry Countryman  
Janet Critz

(Through 2007):

J. undeen Cureton  
Alice Mabe  
Peggy Neill

www.  
mineralspringnc.com

June 16, 2005

Mr. John C. Dyer, P.E.  
Director, Union County Public Works  
400 North Church Street  
Monroe, NC 28112-4804

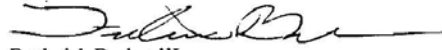
Dear Mr. Dyer,

In response to your May 26, 2005 letter requesting information on the land use plans for the Town of Mineral Springs, I placed the matter before the Mineral Springs town council on June 9, 2005. Although we do not have a detailed land use plan, we are currently in the process of developing a new land use plan and the council was able to formulate several specific requests for water and sewer priorities based on their work so far. Here, in order of priority, is a list of items which was approved by unanimous council vote for your consideration.

1. Add a gravity sewer main, sized appropriately for future growth, along the NC Highway 75 right-of-way between the intersection of NC75 and Potter road and the existing Little Twelve Mile Creek interceptor. This line would serve the downtown area and allow for enhanced non-residential development.
2. Complete the southeastern leg of the Blythe Creek interceptor from NC75 toward Western Union School. This line is currently on the UCPW master plan as part of the 2000 - 2005 phase, and would provide service to the school and to residents of the Western Union neighborhoods as well as providing service to a 100 acre industrial site along NC75 as an alternate to the Bates Branch interceptor.
3. Eliminate the proposed Bates Branch interceptors, currently part of the 2010 - 2020 phase.
4. Eliminate the southern extension of the Little Twelve Mile Creek interceptor from its junction with the Stonebridge infill line to the edge of the drainage basin. This line is currently on the UCPW master plan as part of the 2000 - 2005 phase.
5. Eliminate the infill project across private property from NC75 heading north to the Little Twelve Mile Creek interceptor.
6. Revise water master plans to include main lines along thoroughfares in the Town of Mineral Springs. These lines would provide public safety as well as public health benefits, and would serve hundreds of existing residents.

As our new land use plan is developed, we will keep your department informed of any relevant aspects of that plan. Upon completion, estimated to be in June 2006, the town will provide you with the finished plan.

Sincerely,

  
Frederick Becker III  
Mayor

**COPY**

Tom Caldwell addressed the Board regarding the Weddington Elevated Water Tank. He stated that he is a local attorney representing a group that owns Site #2, an 81-acre tract at the corner of Providence Road and Rea Road. He stated that Robert Pittenger heads this group and has owned the property for a number of years. He said that this particular tract of land is one of the most valuable tracts of land in Union County. Mr. Caldwell stated that he sent all of the Commissioners an e-mail this afternoon regarding this matter.

He stated that he believed the Board should take into consideration the visual impact that a water storage tank would have on the property. He said that the proposed water tank would require approximately 2.88 acres. He discussed the measure of damages involved in condemnation actions. Mr. Caldwell said that he did not know what this site would be used for in the future, but he could envision it being used for an exclusive subdivision with high-end housing and exclusive shops. He stated that it did not seem to make good economic sense to locate a water tower on this property. He also addressed the visual impact that a water tank would have to this property. Mr. Caldwell described this area as the gateway to Union County. He said that he thought the school site would be a good site on which to locate the tower.

In closing, he urged the Board to exclude Site #2 from consideration for the location of the water tank in Weddington.

Sondra Bradford addressed the Board in connection with the proposed text amendment to the Land Use Ordinance regarding gas substations which is addressed as Item 4b on the agenda. She stated that at the September 4, 2007, meeting, the Planning Board had appeared to agree with Phil Williams of Piedmont Natural Gas when he said that gas substations should not have special use permits, because the decision would be based on emotions. Ms. Bradford said that she felt it was unusual that the Planning Board appeared to accept that explanation because that board should be familiar with the quasi-judicial process which requires fact rather than emotion when making a decision. She stated that in addition it is known that gas substations are necessary and the natural gas is needed. She suggested that making gas substations a special use process would add an additional step to the process, but it would, with some planning, be reasonable to expect Piedmont Natural Gas to be able to plan in advance far enough to find a piece of property that would be available and would not impact residents of large neighborhoods and schools. She stated that there was still plenty of open land left in the County to provide for gas substations.

Ms. Bradford said that she believed if a gas substation is located in places where neighborhoods follow, then those residents have made their decisions and chosen to live near the substation; however, there needs to be prevention from a substation being placed in a neighborhood with a number of children or next to a school where it might pose a safety threat. She said that is why a special use permit process is so important for this type of use. She said that it has been said that Mr. Williams and Piedmont Natural Gas want to

work with the community, and she believed that 100 percent. However, she said that it cannot be certain that people in the future who are in control of Piedmont Natural Gas or another company would have the same willingness.

In closing, she requested that the Board of Commissioners consider making gas substations require special use permits to ensure that citizens are heard in these important decisions that can impact their safety and property values to make sure that substations cannot be placed next to a school or neighborhood subdivision that only has one entrance or exit.

Nancy Anderson, Mayor of the Town of Weddington, addressed the Board regarding the Weddington Elevated Water Storage Tank. She said that she wanted to provide an addendum to the information that was sent to the Board regarding this matter. She complimented Scott Honeycutt on his presentation to the Council regarding the Weddington Elevated Water Storage Tank.

She stated that the Town Council did not take official action regarding this matter. She said that all of the members who responded that their top three choices for possible sites for the water tower were Sites 1-Old Mill Road Site and Site 5, Rea View School. Mayor Anderson said that one citizen had voiced concerns from some of the medical community about having the radio transmission towers near their properties. She stated that she had spoken with two of those providers but had not spoken with Dr. Merritt, and they believe that this situation is misrepresented, and they have no plans to have more sensitive medical equipment in their offices. She provided contact information for Debra Harrison, Practice Manager for Weddington Family Medicine, and Dr. Dino P. Kanelos of Carolina Family Healthcare. She said that she had spoken with Dr. George today, and he had stated it was not a concern for him.

She complimented the plaza area of the government buildings.

Allen Tate addressed the Board regarding Item 8 on the agenda for a resolution in support of the toll roads. He said that the Toll Roads Solutions Committee is part of the Regional Roads Committee, a tri-county operation, which has received wonderful support throughout the area for the Monroe Bypass/Connector.

Mr. Tate said that if the Board adopts the Resolution on the agenda tonight, it would be sent to the Mecklenburg-Union Metropolitan Planning Organization (MUMPO) for consideration. He expressed appreciation to the following persons who have worked with the Toll Roads Solutions Committee: Larry Helms, Carroll Edwards, Dr. Jerry McGee, Sam McGee, David McGuirt, and Aaron Plyler.

In closing, he urged the Board to support the Resolution in order for MUMPO to agree with tolling the road all the way. He said that would provide the full funding that is needed for the project.

Chairman Pressley announced that these speakers concluded the list for the Informal Comments.

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

Chairman Pressley requested to add an item to the Regular Agenda regarding the Wesley-Chapel Weddington Athletic Association (WCWAA).

Commissioner Openshaw referred to discussion from a previous meeting that any revenues from the proposed transfer tax would be used exclusively for the schools. He stated that he recalled a resolution to this effect was to be brought to the Board for consideration.

Kai Nelson, Finance Director, offered that a resolution would be ready for the Board's consideration at the October 1, 2007, meeting.

With there being no further additions or deletions to the agenda, Chairman Pressley moved to adopt the agenda as modified.

Chairman Pressley stated that the item in connection with the Wesley-Chapel Weddington Athletic Association would become Item 4c on the Regular Agenda.

#### CONSENT AGENDA:

Chairman Pressley stated that there were two items for the Board's consideration as additions to the Consent Agenda: 1) Fire Services – Waxhaw Community Volunteer Fire Department and Rescue Squad, Inc. – Appointments to the Local Firemen's Relief Fund; and 2) Request to Use Historic Courthouse for Filming of a Movie on Thursday.

Commissioner Mills moved to approve the items listed on the Consent Agenda as modified.

**Contracts Over \$5,000 and Related Budget Amendment:** 1) Authorized the Interim County Manager to approve the following contracts: a) Robert S. Segal, CPA, PA, for services to recover State Criminal Alien Assistance Program (SCAAP) Funds; and b)

Amendment #4 to Contract with the Union County Public Schools to add a School Resource Officer (SRO) at East Union Middle School. 2) Adopted Budget Amendment #10 increasing Personnel Expense by \$32,274; Operating Expense by \$1,287; and Intergovernmental Revenue by \$33,561 to appropriate revenue from the Union County Public Schools for an additional School Resource Officer (prorated from estimated start through end of year) in connection with Contract (b) above.

***Resolution for Continuation of Court Operations in the Event of an Emergency:*** Adopted the following Resolution:

RESOLUTION FOR CONTINUATION OF COURT OPERATIONS IN THE EVENT OF AN EMERGENCY

WHEREAS, the continuation of court operations in Union County in emergency situations is an essential element of stability for the government of the county and the state; and

WHEREAS, each county in this state has a duty to continue the court operations in emergency situations to the extent required to provide fundamental, efficient administration of justice; and

WHEREAS, orderly management and continuation of court operations in emergency situations compels the adoption of a plan of action and the assignment of roles of leadership to continue for as long as necessary to address emergencies;

NOW THEREFORE BE IT RESOLVED that the Union County Board of Commissioners hereby ratifies and approves that certain Memorandum of Agreement appended to this resolution.

AND BE IT FURTHER RESOLVED that Patrick Beekman, Union County Homeland Security Director, serve as Union County's designee on the Local Continuity of Operations Committee and otherwise serve in the formulation and institution of an emergency management plan as contemplated in the Memorandum of Agreement.



acting County Manager has committed to immediately obtain the ratification and approval of this Memorandum of Agreement at a regularly convened session of the Union County Commission. It is acknowledged that the County's designee, Mr. Beekman, has met with the undersigned and that he, together with the Union County Health Department designee, Tom Ward, who has also met with the undersigned, will fully participate on behalf of Union County with respect to the management plan contemplated by this agreement.

## 2. DEFINITIONS:

- a. "CHAIN OF SUCCESSION": a plan for designating the ERT LEADER and specifying the order of succession of officials to the position of ERT LEADER in the event of disability of the ERT LEADER designated by this agreement.
- b. "CONTINUITY OF OPERATIONS PLAN" (COOP): the plan adopted by the Local COOP committee, with the assistance of the Administrative Office of the Courts, for the modified operations of the courts in Union County during an emergency situation.
- c. "COURTHOUSE": the physical structure provided by Union County, and other existing or future additional or replacement structures, that are used for the offices of the clerk of superior court, the judges of the general court of justice, district attorney, support staff for those officials, the court reporters, courtrooms and related state or county offices and personnel.
- d. "EMERGENCY RESPONSE TEAM" (ERT): a team of individuals trained to provide leadership for rapid response to all types of court system emergencies. The Local COOP Committee members may be some or all of the ERT members. This ERT does not displace any local government, fire or police ERT. This ERT functions to address court system emergency situation management and execute the COOP.
- e. "EMERGENCY RESPONSE TEAM LEADER (ERT LEADER)": the person given authority to make the decision to implement a COOP for the courts in Union County, and lead the ERT in making decisions during an emergency situation, and declaring that the emergency situation has ended. ERT LEADER includes persons who hold that position under a succession of command plan.
- f. "EMERGENCY SITUATIONS": An unexpected or impending situation that may cause injury, loss of life, destruction of property, or cause the interference, loss or disruption of the court system's normal operations to such an extent that it poses a threat. An emergency situation includes, but is not limited to, fire, flood or storm damage making the Courthouse unusable; loss of electric power for more than forty-eight hours; a hazardous or toxic materials emergency; or a pandemic emergency.
- g. "LOCAL CONTINUITY OF OPERATIONS COMMITTEE" (Local COOP Committee): the group of court officials responsible for creating a Continuity of Operations Plan (COOP) for emergency situations, reducing

UNION COUNTY  
NORTH CAROLINA

THIS MEMORANDUM OF AGREEMENT, by and between

W. David Lee, Senior Resident Superior Court Judge for Judicial District 20B;

Christopher W. Bragg, Chief District Court Judge for Judicial District 20B;

J. R. Rowell, Clerk of Superior Court of Union County;

John C. Snyder, District Attorney for Judicial District 20B;

Eddie Cathey, Sheriff of Union County;

is intended, by the above-named officials, to memorialize an agreement for management of the court system of the State of North Carolina as it exists or may exist in the future in Union County in the event of emergency situations as herein defined, arising in Union County. The purpose of this management plan will be to assure continuity of operations and administration of justice in the event of an emergency situation that disrupts the health and safety of court personnel and facilities.

The parties agree:

1. The continuation of court operations in Union County in emergency situations is an essential element of stability for the government of the county and the state;
2. Each of the undersigned has a duty to continue the court operations in emergency situations to the extent required to provide fundamental, efficient administration of justice;
3. Orderly management and continuation of court operations in emergency situations compels the members to adopt a plan of action and agree on the assignment of roles of leadership to continue for as long as necessary to address emergencies.
4. A Local Continuity of Operations Committee should be formed. The persons whose names and contact information are appended to this Memorandum of Agreement should constitute the initial "Members" of the Committee. The Committee should form an Emergency Response Team (ERT) and select its leader.

THEREFORE, to promote these goals, the undersigned agree to the following:

1. A Local Continuity of Operations Committee is formed. The undersigned, together with Patrick Beckman, Union County's Homeland Security Director, are the initial members of the Committee. A chairperson, or "Leader," shall be selected by the Local COOP Committee. The initial members shall determine what other persons or organization representatives should also be members. The

acting County Manager has committed to immediately obtain the ratification and approval of this Memorandum of Agreement at a regularly convened session of the Union County Commission. It is acknowledged that the County's designee, Mr. Beekman, has met with the undersigned and that he, together with the Union County Health Department designee, Tom Ward, who has also met with the undersigned, will fully participate on behalf of Union County with respect to the management plan contemplated by this agreement.

## 2. DEFINITIONS:

- a. "CHAIN OF SUCCESSION": a plan for designating the ERT LEADER and specifying the order of succession of officials to the position of ERT LEADER in the event of disability of the ERT LEADER designated by this agreement.
- b. "CONTINUITY OF OPERATIONS PLAN" (COOP): the plan adopted by the Local COOP committee, with the assistance of the Administrative Office of the Courts, for the modified operations of the courts in Union County during an emergency situation.
- c. "COURTHOUSE": the physical structure provided by Union County, and other existing or future additional or replacement structures, that are used for the offices of the clerk of superior court, the judges of the general court of justice, district attorney, support staff for those officials, the court reporters, courtrooms and related state or county offices and personnel.
- d. "EMERGENCY RESPONSE TEAM" (ERT): a team of individuals trained to provide leadership for rapid response to all types of court system emergencies. The Local COOP Committee members may be some or all of the ERT members. This ERT does not displace any local government, fire or police ERT. This ERT functions to address court system emergency situation management and execute the COOP.
- e. "EMERGENCY RESPONSE TEAM LEADER (ERT LEADER)": the person given authority to make the decision to implement a COOP for the courts in Union County, and lead the ERT in making decisions during an emergency situation, and declaring that the emergency situation has ended. ERT LEADER includes persons who hold that position under a succession of command plan.
- f. "EMERGENCY SITUATIONS": An unexpected or impending situation that may cause injury, loss of life, destruction of property, or cause the interference, loss or disruption of the court system's normal operations to such an extent that it poses a threat. An emergency situation includes, but is not limited to, fire, flood or storm damage making the Courthouse unusable; loss of electric power for more than forty-eight hours; a hazardous or toxic materials emergency; or a pandemic emergency.
- g. "LOCAL CONTINUITY OF OPERATIONS COMMITTEE" (Local COOP Committee): the group of court officials responsible for creating a Continuity of Operations Plan (COOP) for emergency situations, reducing



it to a written document, assuring training by court personnel, and conducting reviews of performance after an emergency situation ends. The Local COOP Committee continues to exist pursuant to this agreement, though membership may change. The Local COOP Committee chooses a leader from its membership. The Local COOP Committee members may be some or all of the ERT members.

- h. "PANDEMIC": a major mutation of an existing virus into a new subtype causing illness in humans. A pandemic has the following characteristics: no immunity in the population; spreads easily among people; is worldwide in scope; has potential for excessive deaths and illnesses; and is characterized by multiple waves of the epidemics. A pandemic in the community is a pandemic emergency situation.

### 3. BASIC PRINCIPLES:

- a. It is necessary for the court system in Union County to be in operation in emergency situations in modified form if necessary. The court system shall not cease to function.
- b. Periodic review and modifications are appropriate. It is important to consider the opinions and observations of court officials, law enforcement officers, practicing attorneys, local government officials and emergency preparedness officials and other interested persons.
- c. Modifications to court operations implemented should be subjected to a test of compliance with constitutional rights.
- d. Each of the members of the ERT will accept a partial subordination of authority to the ERT LEADER as being in the best interest of the administration of justice during an emergency situation. There will be a plan of succession to the position of ERT LEADER.
- e. COOP implementation in response to a Pandemic can only occur after the Chief Justice of North Carolina (or the Chief Justice's designee) has informed the Union County ERT LEADER that a pandemic emergency exists for Union County.
- f. The committee must meet regularly to review and improve the COOP.
- g. The Sheriff, Department of Correction, local probation/parole supervisors, and county government, including the emergency services coordinator, must be kept informed of the COOP, and consulted about its content. Coordination with these and other agencies is essential to proper emergency planning.
- h. The ERT spokesperson should make all communications to the media.
- i. Orientation and training on the COOP must be regularly conducted for all concerned personnel.
- j. Local COOP Committee Leader will be responsible for annual updates or as personnel changes occur. All updates should be sent to the Chief's Pandemic Designee at P.O. Box 2170, Raleigh, NC 27602.

4. CHAIN OF SUCCESSION:

The following Chain of Succession to the position of Local COOP Committee Leader is adopted:

- a. The Local COOP Committee Leader will be Christopher W. Bragg, Chief District Court Judge, District 20B.
- b. In the event the Chief District Court Judge is unable to be the Local COOP Committee Leader, the position will be assumed by W. David Lee, Senior Resident Superior Court Judge, District 20B.
- c. In the event the Senior Resident Superior Court Judge is unable to be the Local COOP Committee Leader, the position will be assumed by J. R. Rowell, Union County Clerk of Superior Court.
- d. In the event Clerk of Superior Court is unable to be the Local COOP Committee Leader, the position will be assumed by John C. Snyder, District Attorney for Judicial District 20B.
- e. In the event the District Attorney is unable to be the Local COOP Committee Leader, the position will be assumed by Eddie Cathey, Sheriff of Union County.
- f. In the event the Sheriff is unable to be the Local COOP Committee Leader, the position will be assumed by Patrick Beekman, Union County Homeland Security Director.
- g. In the event the last remaining member of the committee is unable to be the COOP LEADER, the authority will be assumed by a person designated by the Chairman of the Union County Commission.

5. INTERNAL COMMUNICATIONS:

An emergency alert notification plan of communications will be created, adopted and maintained to assure communications among the undersigned and other officers and personnel. The members will notify the Local COOP Committee Leader of any needed changes or additions to the phone tree.

6. COOP:

- A COOP will be drafted, adopted and maintained. The COOP will provide for
- a. an alert and notification system;
  - b. prioritization of essential functions of the local court system;
  - c. order of succession by court office;
  - d. delegations of authority for each court office;
  - e. alternate facilities sites plans;
  - f. external communications system plan identifying a public information officer for the duration of the emergency;
  - g. local records and local databases preservation plans;
  - h. a human capital management plan consistent with AOC personnel policy;
  - i. recovery and reconstitution plans.

7. TRAINING:

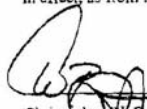
The Local COOP Committee will undertake training for its members. The Local COOP Committee will assure initial training and periodic re-training for court system personnel. The Committee will plan, conduct and assess regular practice emergency exercises no less than annually.


8. EMERGENCY SITUATION INFORMATION PACKAGE:

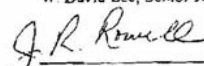
The persons in the Local COOP Committee Leader chain succession shall keep with them a package of documents for reference and use. The package should include copies of the COOP, MOA, the emergency alert notification system plan, contact information for important personnel and agencies, journal entry book, official stationery, applicable filing stamps and official seals.

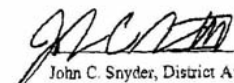
9. EFFECTIVE DATE:

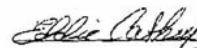
This Memorandum of Agreement is effective September 12, 2007, and shall remain in effect, as from time to time modified, until rescinded in writing.

  
Phone 704-296-6001 Email [Cbragg6@aol.com](mailto:Cbragg6@aol.com)  
Christopher W. Bragg, Chief District Court Judge, District 20B

  
Phone 704-491-9264 Email [William.D.Lee@nccourts.org](mailto:William.D.Lee@nccourts.org)  
W. David Lee, Senior Resident Superior Court Judge, District 20B

  
Phone 704-296-4610 Email [J.R.Rowell@nccourts.org](mailto:J.R.Rowell@nccourts.org)  
J. R. Rowell, Union County Clerk of Superior Court

  
Phone 704-839-6288 Email [johnc.snyder3@hotmail.com](mailto:johnc.snyder3@hotmail.com)  
John C. Snyder, District Attorney, District 20B

  
Phone 704-292-2615 Email [Eddie.Cathey@Co.Union.NC.us](mailto:Eddie.Cathey@Co.Union.NC.us)  
Eddie Cathey, Union County Sheriff

**Finance:** Approved Motor Vehicle Tax Refund Overpayments for August 2007 in the Amount of \$4,271.29.

**Tax Administrator:** Approved Departmental Monthly Report for July 2007.

**Tax Administrator:** Approved Second Motor Vehicle Release Register for the Period of August 1, 2007-August 31, 2007, in the net grand total of \$22,187.54-.

**Tax Administrator:** Approved Second Motor Vehicle Refund Register for the Period of August 1, 2007-August 31, 2007, in the net grand total of \$1,243.16-.

**Tax Administrator:** Approved write-off of delinquent fire fees (1996 levy) in the amount of \$2,533.26.

**Tax Administrator:** Approved Fourth Motor Vehicle Billing in the grand total of \$1,195,913.96.

**General Services:** Approved waiver of competitive bidding in accordance with G.S. 143-129(g) for the purchase of a One-Wheel Loader for the Public Works Department and awarded bid to James River Equipment Company in the amount of \$118,000. On October 11, 2006, the City of Hickory awarded a formal bid for a John Deere 544J Wheel Loader to James River Equipment Company, and James River Equipment Company has agreed to sell Union County an identical Wheel Loader at the same price paid by the City of Hickory.

**Social Services Department/Work First Budget:** Adopted Budget Amendment #9 increasing Operating Expense by \$4,500 and Federal Revenue by \$4,500 to appropriate additional funds received from the Work First Demonstration Grant.

**Fire Services:** Approved request by Waxhaw Community Volunteer Fire Department and Rescue Squad, Inc. to appoint Ron McGarvey and Fred DeRuiter to replace Louis Morse and Robert Fitzgerald as representatives to the North Carolina State Fireman's Relief Fund.

**Request to Use Historic Courthouse:** Authorized Interim County Manager to approve an agreement with AFD Productions, LLC, for use of the Historic Courthouse and grounds for filming of a movie.



**Information Only/No Action Required:** The agenda package included: 1) Department of Inspection Monthly Report for August 2007; and 2) Personnel Department Monthly Report for August 2007.

PLANNING DEPARTMENT – TEXT AMENDMENTS TO THE UNION COUNTY LAND USE ORDINANCE:

a. Article XII, Section 187(g) Incentives for Cluster Developments

Commissioner Mills requested that the Board receive answers to the questions raised during the public hearing on September 4, 2007, regarding the proposed amendment.

Chairman Pressley said that one question that was brought out during the public hearing had to do with fire safety. Further, he said that another question that had been asked was whether the amendment, if adopted, would increase density.

Richard Black, Interim County Manager and Planning Division Director, explained allowable density. He said that the normal way that density is calculated in the Planning Department, is the road right of way is backed out, then the remaining acreage in the tract, depending on the district, is divided by the square footage required in the district, and that would yield the allowable density. Further, he said that depending on whether the land is flat or square shaped, the allowable density might be able to be achieved. Mr. Black said that under the cluster ordinance, if property is located in an R-40 district, the lot size can be reduced to R-20 (20,000 square feet). He explained that clustering gives the developer flexibility by having the smaller lots, they could avoid some of the areas that are partials, have a lot of floodplain, or extreme topography. He noted, however, clustering does not allow the developers to have more density.

Mr. Black stated that cluster developments are in place, but tonight's item involves amending the setbacks. He said that presently the front setbacks for R-40 is 40 feet and the proposed amendment is to reduce the front setback to 25 feet; the rear setback is 40 feet and the proposed amendment is to reduce that setback to 30 feet; and the side yard setback is 15 feet. He stated that the lot still must have 20,000 square feet, but it allows the developer to conceivably make the lot narrower so the houses are closer to the street and houses are closer together. Mr. Black stated that it allows a larger envelope in which to build and by having narrower lots, it is conceivable, depending upon their lots, they could get more lots out of the development but not more than the density allows. He said that it does not increase the density, but it might allow in extreme cases more lots than they could have gotten, because there is flexibility on how they control the lots. He pointed out that all the area that is saved by going from 40,000 square feet to 20,000 square feet must be in common open space and cannot be used for anything else.

Commissioner Openshaw interjected that the proposed amendment does allow more density.

Commissioner Mills said that he was not as concerned with the density issue as the fire safety issue. He stated that he has talked with numerous firemen in the community, and they have some concerns about putting the homes closer together. He referred to a fire that occurred in recent months in the St. John's Forest Subdivision where several houses were lost because the fire spread from one house to another.

Mr. Black stated that the R-40 and RA-40 zoning classifications are the only ones that have larger side yards than what is being proposed tonight. He asked the Board to keep in mind that there is already an R-20 district that has 12-foot side yards. Commissioner Mills asked if it were possible, as the County's new Land Use Ordinance is being prepared, to encourage or require certain material on the outside that would be less fire retardant.

Chairman Pressley interjected that he had spoken with Don Moore, Director of the County's Inspections Department, and was told that the new 2008 Building Code will be effective in January 2008. He stated that it was his understanding that the firewall rating did not change in the new Building Code, because it is three feet or less. He said that he would be more comfortable in voting for the amendment if there was a requirement for a one-hour fire rating wall.

Commissioner Openshaw referred to a statement made by the applicant that "We're not asking for much, just to change the front, rear, and side setbacks." He said that they had forgotten to mention mineral rights and air rights. He stated that the amendments would not just apply to the applicant but to all future cluster subdivisions. He further stated that the proposed amendments could yield in the worse case scenario an additional eight lots per 100 acres or an additional expense to taxpayers of approximately \$120,000 per 100 acres in school construction costs.

He said that the amendment, as proposed, would not change the requirement for open space or add anything of value to the County. He stated that he did believe it would increase the risk for fires. Commissioner Openshaw said that the reduction in setbacks with houses being much closer to the road would violate the spirit of Union County's RA-40 and R-40 zoning. He described it as a "citified" version of zoning and not a "suburban/rural" type of zoning. He suggested that if more dense zoning is desired, then the municipalities should pick up the slack, which he said that some have done. He stated that smaller side setbacks and failed septic systems mean increased chance of spillover onto a neighbor's property from a failed septic system.

Commissioner Openshaw referred to an article in *The County Edge* which was headlined as "New Code Could Rid Neighbors of Stinch" that chronicles a short fourteen year old public nuisance of a failed septic system, a system that was "suspect from the get

go.” He stated that developers will save a significant amount of costs from having houses closer together. He questioned what advantages there would be for the County in having houses closer together. He referred to the amendments as being a “developer subsidy” and proposed increasing the open space requirement to 25 percent, add the installation of sewer pipe in the road now for when the septic systems fail, and since the floodplain is rising, add that the floodplain can only intrude into a lot by the rear setback amount. Further, he stated that since it has been said that there are no extra lots to be gained by reducing the setbacks, there should be no problem adding to the plat that the plat yield will be based off the yield from the R-40 base of buildable area, which would eliminate his objections to the lot yield. He referred to an article dated May 31, 2006, in *The Enquirer Journal*, Commissioner Mills stated that “We need to get a handle on our residential growth.” Commissioner Openshaw questioned how the proposed amendment would help to accomplish that.

Following his comments, Commissioner Openshaw moved to reject the proposed amendments.

Commissioner Mills offered a substitute motion to table the matter in order to obtain answers regarding fire safety and the suggestions proposed by Commissioner Openshaw.

Chairman Pressley offered a friendly amendment to the substitute motion to forward the matter back to the Planning Board to have the questions answered regarding fire safety and the Building Code, the concerns addressed by Commissioner Openshaw on septic tanks using today’s data. Commissioner Mills accepted the friendly amendment to his substitute motion.

The substitute motion as amended was passed by a vote of four to one. Chairman Pressley, Vice Chairman Baucom, Commissioner Lane, and Commissioner Mills voted in favor of the motion. Commissioner Openshaw voted against the motion.

***b. Article X, Section 146, Table of Uses and Article XI Supplemental Regulations, Section 177A***

Chairman Pressley moved to approve the proposed Text Amendments with the Planning Board’s recommendations as follows and adopt the applicable compliance statement:

Amend Section 146, Table of Uses, as follows:

For Use as “Utility Facilities, Community/Regional,” place a “Zs” (meaning Permitted by Right, Supplemental Regulations Apply) in all zoning districts, RC80 through HI, and identify “177A” as the Supplemental Regulation, as shown in Exhibit 1, attached and incorporated by reference herein.

Add a new Section 177A to read:

Section 177A, Natural Gas Regulator Stations:

Natural Gas Regulator Stations are permissible in all zoning districts as a permitted use subject to the following supplementary requirements as well as other relevant provisions of this ordinance:

- (a) All structures shall maintain a minimum front yard setback and yard requirements of the zoning district in which they are located, measured from the highway right-of-way to the required fence enclosing said structure.
- (b) Screening as described in Article XIX, Section 307(a) shall be installed and maintained to blend in with the surrounding area.
- (c) Fences, which are not easily climbed, shall be installed and maintained in order to make such facilities inaccessible to the general public.
- (d) A site plan is required to determine consistency with Section 307(a) and the surrounding area.

**TO APPROVE THE AMENDMENTS**

Whereas, pursuant to N.C.G.S. §153A-341, the Board of County Commissioners does hereby find and determine that the proposed text amendments are consistent with the Union County Land Use Plan. The Board hereby determines further that adoption of the proposed text amendments is reasonable and in the public interest because making community and regional utility facilities a permitted use in all zoning districts (with natural gas regulator stations subject to supplemental regulations) facilitates the installation of utilities and has no direct impact on the Land Use Plan.

Commissioner Mills asked Richard Black, Interim County Manager and Planning Division Director, to repeat the recommendation of the Planning Board. Mr. Black explained that the Planning Board's recommendation on a vote of eight to zero was that whatever district a substation was in, it would adhere to the front, rear and side yard requirements of the district. Further, he said that the Planning Board's recommendation included a fence that could not be easily climbed to prevent access to the general public and a requirement for a site plan also was added so that staff could determine consistency with the screening requirements of Section 307(a) and also to determine the consistency with the surrounding areas. Mr. Black stated that the applicant was in agreement

with those conditions. He further stated that the staff's recommendation was to approve the text amendments with the additions recommended by the Planning Board.

Commissioner Lane commented that he was in favor of placing gas substations where they are needed, but he wanted them put in before the housing developments are constructed. He said that Phil Williams of Piedmont Natural Gas, has assured him that the substations will go in the non-residential areas where the residential area are going to be developed, but he said that Mr. Williams would not be around forever. He pointed out that the proposed text amendment does not only apply to gas substations but also applies to any other uses. Commissioner Lane said that he did not agree that the gas substations should be put only in Light Industrial Zoning Districts, but they need to be built where the residents are. He stated that he thought that the citizens should be able to comment on where the substations are placed; and, therefore, he thought the requirement for a special use should be included in the amendment.

Mr. Black pointed out that under the Table of Uses, electrical substations are provided by right with supplemental regulations. He stated that the proposed amendment applies it to all other utilities of a community or regional nature to be by right with supplemental regulations. He noted that there are specific requirements for gas as it relates to the screening.

Commissioner Openshaw referred to eight articles relating to unforeseen and unplanned events, one of which was an article from Greensboro where a school and residents had to be evacuated a quarter of a mile away and travel was held up. He said that the Board's role is to protect the citizens and the values of their properties. He stated that currently projects such as a gas substation are excluded from these areas.

Commissioner Openshaw offered a substitute motion that a special use permit be required, as noted in the table of uses, for any project that is in the RA-40, R-40 or B and O Districts, all of which are currently excluded. He explained that the substitute motion would allow a gas substation to go into those areas but with a special use permit which would involve comments from the citizens. He stated that under the proposed amendment, a gas substation could be placed next to a school or a high density neighborhood. Commissioner Openshaw said as he had referenced in the article, people had to be evacuated up to a quarter of a mile away for a relatively small gash in the line. He added as a requirement to the substitute motion that heavy screening be required within 1,500 feet of an existing subdivision or a platted subdivision.

He repeated his substitute motion as follows: to expand the table of uses in the areas that a gas recovery station would be allowed to go to RA-40, R-40 and any B & O District with a special use permit.

Commissioner Mills requested that Phil Williams of Piedmont Natural Gas be allowed to answer questions that the Board might have regarding the request.

Mr. Williams stated that when a substation is designed, there is a relief. He said that he had mentioned in previous comments that there are two stacks that go up above the fence, and that is all that is visible. He stated that one of those stacks is a four to five-inch relief which is a safety feature. He explained that natural gas is lighter than air so it will dissipate.

Commissioner Mills asked Mr. Williams if there would a barrier constructed to prevent impacts from vehicles. Mr. Williams responded that Piedmont Natural Gas' standard procedure is if there are facilities that could be hit by a car, there would be four-inch posts with concrete as barriers. He said that their procedure has been to place those barriers if needed and if they are not needed, they are not constructed.

In response to a question by Commissioner Lane as to when was the last time that Piedmont Natural Gas had put in a gas substation, Mr. Williams said that Union County was previously served by North Carolina Natural Gas (NCNG). He stated that Piedmont Natural Gas acquired NCNG in September of 2003, and it has not constructed a station since acquiring NCNG. He said that it is impossible to predict with certainty how often a station would be needed, but he noted that as there is continued growth, that stations would need to be constructed. He stated that he would be surprised if a station would be constructed more often than once every five years. He said that the chances of a station being constructed in the County's jurisdiction versus a municipality are even slimmer.

Commissioner Lane asked when the next station is planned for construction. Mr. Williams responded that there is a current need for a station in the western part of Union County, but the location has not been determined.

Commissioner Openshaw said that two of the instances in the articles he had referred to earlier involved Piedmont Natural Gas. He said to put these stations in residential neighborhoods with no oversight, there are no restrictions on it and is bad policy.

Jeff Crook, Senior Staff Attorney, reminded the Board that prior to voting on Commissioner Openshaw's substitute motion, the Board is limited to the number of changes that it can make in a text amendment without a rehearing by the Planning Board. He stated that if the Board were to vote in favor of the substitute motion, he would request that Commissioner Openshaw elaborate on his additional screening requirement, and he would then ask for a short recess to talk with Richard Black and Lee Jenson to discuss these changes, if the Board believes it to be necessary.

With there being no further discussion, the Chairman called for a vote on the substitute motion. The substitute motion failed by a vote of two to three. Commissioners Lane and Openshaw voted in favor of the substitute motion. Chairman Pressley, Vice Chairman Baucom, and Commissioner Mills voted against the substitute motion.

The Chairman then called for a vote on the original motion. The motion passed by a vote of three to two. Chairman Pressley, Vice Chairman Baucom, and Commissioner Mills voted in favor of the motion. Commissioners Lane and Openshaw voted against the motion.

WESLEY CHAPEL-WEDDINGTON ATHLETIC ASSOCIATION (WCWAA) - (This Item was Added to the Agenda at the Request of Chairman Pressley):

Amy Helms, Assistant Director, Infrastructure and Environment, provided an update for the Board regarding this matter. She stated that on August 31, 2007, county staff and attorneys met with representatives of the WCWAA. She said that Ligon Bundy, who represents Union County, suggested a third party engineering firm be chosen to provide the following three items: 1) to determine if any violations of the Land Use Ordinance and FEMA regulations have happened, and if there were no violations, then the case would end. If there were violations, a plan of remediation would be needed with the costs to be split between both parties, the WCWAA and Union County.

Ms. Helms stated that John Northey was the attorney who spoke on behalf of the Optimist Park and suggested that the following two items be submitted to the County before spending additional monies: 1) A certified letter from Mark Houle, engineer with Yarbrough-Williams & Houle, stating who he spoke with over the phone at FEMA giving them approval for the development within the floodway and 2) the in-house model performed by Yarbrough-Williams & Houle determining the increases caused by placing fill to the floodway boundary.

Ms. Helms said that Yarbrough-Williams & House was to submit the information to her within one week following the meeting, and to date, she had not received the information. The Chairman said that he had verified with the County's attorneys that there had been a seven-day timeframe for the information to be sent to Union County.

Following the comments, Commissioner Mills asked John Burns, County Attorney, what the proper form of motion would be in the matter. Mr. Burns responded that he thought the staff and attorneys needed direction from the Board. He said that they have done all they are authorized to do up to this point. He stated that prior to bringing any legal action, the staff and attorneys would need direction from the Board to do so.

Upon recommendation by Mr. Burns, Commissioner Mills moved to instruct staff to take such action as necessary to enforce the provisions of the County's Land Use Ordinance.

Commissioner Openshaw questioned whether the members of the WCWAA had been notified that this action might be taken this evening. Commissioner Mills responded that he was not aware that they had been notified of this action. He stressed that they were aware that the timeline had passed, and he believed it was time to make a decision.

After discussion, Commissioner Openshaw offered as a substitute motion that the President and Board of Wesley Chapel-Weddington Athletic Association be notified along with their attorneys that they have a certain period of time to reply to this request, and if they failed to comply with the request within that time period, then the Board would move forward with Commissioners Mills' motion.

Chairman Pressley noted that the President of the Athletic Association along with their attorneys were present at the meeting with the County's staff and attorneys.

A vote was called on the substitute motion, which failed by a vote of two to three. Commissioners Lane and Openshaw voted in favor of the substitute motion. Chairman Pressley, Vice Chairman Baucom, and Commissioner Mills voted against the substitute motion.

Chairman Pressley then called for a vote on the original motion which passed by a vote of three to two. Chairman Pressley, Vice Chairman Baucom, and Commissioner Mills voted in favor of the motion. Commissioners Lane and Openshaw voted against the motion.

#### PUBLIC WORKS DEPARTMENT:

##### *a. Comprehensive Water Map*

Christie Putnam, Public Works Director, explained that this project was identified in the current year's Capital Improvement Program (CIP) and provides for the development of a comprehensive water map that would be used for an effective tool for both field and office staff. She stated that the map will include line sizes, pipe materials, locations of valves, fire hydrants, and meters and will interact with the County's GIS System and the Harris Billing System. She further stated that the data will be able to provide a



foundation for future maintenance management tools, which will be very important. Ms. Putnam said that the map has been started for the County’s sewer program and it has been invaluable, and, therefore, she would like to pursue a map for the water program. She noted that this request was supported by the Public Works Advisory Board and the estimated cost is \$500,000 from the Enterprise Fund.

Ms. Putnam stated that Infrastructure Management Group (IMG), the company providing financial and management consulting services in connection with the Water/Wastewater Utility Performance Improvement Program Work Plan for the Public Works Department, has pointed out that the Public Works Department could use a better tracking system.

Vice Chairman Baucom asked if there would be anything that could be piggybacked on the report that will be forthcoming from IMG to reduce the costs. Ms. Putnam responded that there are a number of ideas that could be built upon, but the comprehensive water map would be the base for anything forward. Vice Chairman Baucom asked Ms. Putnam if there have been any discussions with IMG regarding the comprehensive water map program. She said that there have been numerous references to Public Works’ need for management of repair and work orders, which she said directly relates to this project.

Commissioner Openshaw commented that he thought this project was a good idea and a necessary one. He questioned the source of the funding for the project. Kai Nelson, Finance Director, replied that this project will be funded out of the Water/Sewer Capital Improvement Program with some of the funding in that program being derived from sewer revenues and some funding being derived from water revenues. He noted that for this particular project, the funding would be from water revenues. He explained that the funds in this program are maintained in a single fund but could be broken out into two costs by separate ledgers.

Following the discussion, Vice Chairman Baucom moved approval of the Comprehensive Water Map Project as presented and adoption of Capital Project Ordinance (CPO) #86. The motion was approved unanimously.

CAPITAL PROJECT ORDINANCE AMENDMENT									
BUDGET	General CPO Fund and Water & Sewer CPO Fund				REQUESTED BY	Kai Nelson			
FISCAL YEAR	FY 2007-2008				DATE	September 10, 2007			

PROJECT SOURCES				PROJECT USES			
Source	Project To Date	Requested Amendment	Revised Project	Project Description and Code	Project To Date	Requested Amendment	Revised Project
<b>Water &amp; Sewer CPO Fund</b>							
Interfund transfer from Water & Sewer Operating Fund	-	500,000	500,000	MW011 - Comprehensive Water Map	-	(500,000)	(500,000)
	- #	500,000	# 500,000		-	(500,000)	(500,000)
EXPLANATION:	To Provide Funding for the Water and Sewer CIP Comprehensive Water Map Projects						
DATE:				APPROVED BY:			
					Bd of Comm/County Manager Lynn West/Clerk to the Board		
Prepared By	bl						
Posted By							
Date						Number	CPO -86
FOR FINANCE POSTING PURPOSES ONLY							
PROJECT SOURCES				PROJECT USES			
Source	Project To Date	Requested Amendment	Revised Project	Project Description and Code	Project To Date	Requested Amendment	Revised Project
<b>Water &amp; Sewer CPO Fund</b>							



Commissioner Mills asked if the Public Works Advisory Board had looked at this project, and if so, what was its decision on a site. Irene Broaddus, a member of the Public Works Advisory Board, responded from the audience that the Public Works Advisory Board's recommended site had been the Old Mill Road Site (Site #1A on the Summary).

Ms. Putnam noted that at the time the Public Works Advisory Board heard the presentation, the Old Mill Road site owner was still a potential willing seller, but she has since heard that the owner is not willing to sell. She confirmed that this site is in Weddington's zoning jurisdiction.

Commissioner Mills addressed Nancy Anderson, Mayor of Weddington, stating that the reasons that the County was considering sites outside the Town's zoning jurisdiction was because everyone wants water, but no one wants a water tank located near them. He asked the Mayor to speak to the Town's process for a special use permit.

Mayor Anderson stated that the conditional use permit would come through the Town Council. She said that the Council is mindful of the fact that everyone has to work together in the County.

In response to a question by Commissioner Mills regarding the site number for the Old Mill Road Site as recommended by the Public Works Advisory Board, Ms. Putnam stated that the Old Mill Site was included as Site 1A on the Summary of Values, but it was not included on the original technical memorandum. She said that based on the rankings themselves, it would be Site #4. She stated that it is behind the church property. Ms. Putnam stated that the dollar value preliminary estimate on the Cox Road was \$4,019,600 with the approved budget for the project being \$3.19 million.

Commissioner Mills asked Ms. Putnam to address the impact on the schools projected to be built on Cuthbertson Road if the water tank project is not completed. Ms. Putnam responded that the water tank would affect any project built or currently served within the Union County Service Area. She stressed that it is not a localized issue, but this tank would provide storage for the entire County water system. She said that if a pump goes out, and the system is relying on storage to maintain water pressure in the system while the pump is being repaired, Public Works does not keep pumps available. She explained that currently during maximum day capacity, three-quarters of a tank could be lost in an hour. She said if they do not have pumps, water pressure will not be in the tanks for any extended period of time. She emphasized the need for more storage in the system. Ms. Putnam stated that this water tank is one of three tanks currently included in the CIP. She said that one of those tanks has been sited currently in the edge of Unionville on Ridge Road. She stated that the third tank which has not been sited will be located in the Mineral Springs' area.

Commissioner Openshaw offered that the least expensive alternative site would be the property owned by Senator Pittenger. He said that it was the site selected by the engineers. He stated that the Pittenger property is currently on the market and is unoccupied. He said that his point was that the property is unoccupied and would have minimal impact, and he could not think of a better site on which to locate the water tank.

Following his comments, Commissioner Openshaw moved to authorize the Chairman to contact Senator Pittenger and appeal to him to try to work out a resolution for use of his property as the site for the Weddington water tank.

Chairman Pressley stated that Tom Caldwell had brought up some good points earlier tonight during the informal comments about the effects of siting the water tank on the Pittenger property not only affecting that site but the additional property as well. He asked Jeff Crook, Senior Staff Attorney, to provide information regarding those impacts. Mr. Crook deferred answering to Ligon Bundy, attorney with the firm of Perry, Bundy, Plyler and Long, who has for a number of years handled condemnation cases on behalf of Union County. Mr. Bundy explained the measure of damages in a partial condemnation taking.

Commissioner Lane stated that based upon the explanation by Mr. Bundy, he still believed that Site 2, which has a large main next to it and is easily accessible for the water tower, would be the least expensive site.

Commissioner Openshaw asked Mr. Bundy regarding case history on this matter, and, if the water tower is actually providing a service to the site by giving it a readily available source of water, would it be a counter balancing argument in a condemnation case.

Mr. Bundy responded that he was being called upon to give legal advice to the Board in open session. He said that he was happy to provide that if it were the Board's pleasure. Commissioner Openshaw said that he had hoped that Mr. Bundy would come to the Board with some case history.

The Chairman stated that if Mr. Bundy preferred to go into closed session, the Board could move to go into closed session if Commissioner Openshaw believed that his questions were pertinent.

Mr. Bundy asked Commissioner Openshaw to repeat his questions, and the Chairman stated that he believed the questions should be phrased in general terms. Commissioner Openshaw stated that having water and good water pressure on property could make that property more desirable. Mr. Bundy said that his understanding of the question was that if there was a partial taking of a tract of land for the purposes of siting a water tank, would there be a benefit to the remaining property and could that be taken into account by a court. Mr. Bundy replied that the answer to the question was "yes, but the issue is putting a number on that benefit."

Commissioner Openshaw stated that the other part of his question was “Would Mr. Bundy like some time to research some case history on this matter if the Board so desires?” Mr. Bundy responded that he did not believe it was necessary. He questioned if Commissioner Openshaw were referring to case histories of the results of other condemnations in Union County? Mr. Bundy referred to a condemnation of several years ago in which he had represented Union County in a total taking condemnation matter. He said that was the only case that he could recall in years where the County has condemned property and actually taken title to the property itself. He stated other condemnation cases he has tried for the County have been for sewer easements.

Commissioner Openshaw stated that he was not suggesting that this matter be a condemnation, but he would like for the County to approach the seller to try and work out this matter. Ms. Putnam commented that there is one willing seller which is the site across from the Weddington Town Hall but only at his asking price which is commercial value.

Tom Caldwell introduced Robert Pittinger, Jr., who was a member of the audience. Commissioner Mills asked Mr. Pittinger if they were willing sellers and willing to sale three acres. Mr. Pittenger responded that the property was for sale at \$300,000 per acre for the entire tract.

Commissioner Openshaw restated his motion to authorize the Chairman to have communications with Senator Pittenger to try and reach a mutually satisfactory agreement regarding Senator Pittenger’s property as a site for the Weddington water tank.

Commissioner Mills stated that he thought in the long run the Old Mill Road site will be less expensive. He presented a substitute motion to instruct the Public Works Department to begin the process of looking at the Old Mill Road site as a possible location for the Weddington elevated water storage tank as recommended by the Public Works Advisory Board.

Ms. Putnam clarified that there are two sites, Site 1 and Site 1A. She stated that Site 1 is the larger site on the corner and Site 1A is the property behind Site 1. Chairman Pressley questioned which site would have less impact. Ms. Putnam stated that Site 1A is a smaller tract of land and added that she was not a land expert and would not know which one would have the lesser impact.

Commissioner Mills asked Irene Broaddus, a member of the Public Works Advisory Board, which site had been recommended by the Public Works Advisory Board. Ms. Broaddus responded that Site 1A is the site recommended by the Public Works Advisory Board.

Commissioner Openshaw asked if Site 1A was located behind the church property. Ms. Putnam stated that the church owns Site 1 and Site 1A is behind the church's property. Commissioner Openshaw noted that the Board had received a letter from the church indicating that it had deliberately purchased that tract of land on the rise so that the church could be well placed. There was discussion regarding whether Site 1A would affect the church's property. During discussion, it was noted that Site 1A is not the property of the church. Commissioner Openshaw quoted the following information from the letter received from The First Presbyterian Church dated June 28, 2007:

“A primary reason for selecting this site is the ability to erect a significant structure on the crest of the highest elevation. To have a 150 foot water tower overshadowing our building would completely destroy that plan. To have the tower behind our site on the property adjacent to ours on Old Mill Road would have the same overshadowing effect, we are opposed to putting it there, also.”

Following the lengthy discussion, the Chairman called for a vote on the substitute motion. The substitute motion passed by a vote of three to two. Chairman Pressley, Vice Chairman Baucom, and Commissioner Mills voted in favor of the substitute motion. Commissioners Lane and Openshaw voted against the substitute motion.

Commissioner Openshaw suggested that the Public Works Department should have spare pumps. Ms. Putnam responded that the pumps are costly and there is no storage place for other pumps. She said that it was much more efficient to order the pumps as needed.

***b. Wastewater Flow Alternatives***

Christie Putnam, Director of Union County Public Works, stated that the technical memorandum regarding this matter had been presented to the Board previously to locate opportunities to move water from Twelve-Mile Creek and Crooked Creek into Six-Mile Creek

Chairman Pressley referred to the presentation made earlier this evening in the informal comments by Toll Brothers. He pointed out that this matter has been discussed for several years. He asked if this proposal were a way to move flow and if it were the original intent to take a pump station off of Brookhaven and move it.

Ms. Putnam responded that the intent was to redirect Brookhaven. She stated that Brookhaven pumps into another drainage system that flows into Twelve-Mile Creek. She said that her proposal was that if Brookhaven were diverted into Six-Mile Creek with

it being in the western drainage basin of Brookhaven, it would be an addition of a pump station at the cost of diverting an existing pump station.

Chairman Pressley reiterated that this matter had been ongoing for several years, and he wanted to make sure that it had not been overlooked. Ms. Putnam stated that it was not a project supported by the master plan, and the proposed pump station was not included in the master plan.

The Chairman asked Ms. Putnam to give the Board some recommendations. She said that the Board could divert existing pump stations; it could build a new pump station at the Hawfield Road site or re-erect an old one; or it could build a new pump station at Twelve-Mile Creek and move flow into Six-Mile Creek. Commissioner Lane asked Ms. Putnam the minimum amount of flow that needed to be diverted to Six-Mile Creek. Ms. Putnam responded that there is no minimum or no maximum amount of flow but it was dependent upon how much availability the Board wants to provide to Twelve-Mile and Crooked Creek through the Six-Mile Creek option.

Chairman Pressley stated that this project is the vehicle that moves the flow from the Twelve-Mile Creek. He said that the possibilities had been discussed about moving flow that would open up other drainage basins if needed for commercial development. He asked Ms. Putnam if she had determined the current flow rating at the existing force main. Ms. Putnam stated that information has not been determined, because the staff has not been authorized to investigate that further, and it would require another engineering study. She stated that in regards to the question about what would be the minimum flow amount that needs to be diverted, that based upon the Sewer Allocation Policy, as it is currently drafted, it identifies 1,030,000 gallons. She noted that this was prior to the 30-day period where anyone can petition to be included on the list.

Vice Chairman Baucom questioned if there were a recommendation from the staff in this matter. Ms. Putnam said that the recommendation would be to direct staff to investigate a pump station at Twelve-Mile Creek using the existing force main or providing a new force main and to bring to the Board the cost estimates for either option in order to determine the most cost effective and feasible alternative.

Commissioner Mills stated that he would put that recommendation into a motion. Chairman Pressley said there still needs to be a definite amount for the diversion. It was suggested that the amount be set at “up to 1.2 million gallons.” She said that was strictly an arbitrary definition of infrastructure, and assured that amount could be used but could be limiting.



Vice Chairman Baucom offered an amendment to the motion to study the feasibility of optimizing the remaining capacity at Six-Mile Creek.

Ms. Putnam questioned if the remaining capacity would be determined once the 30-day period has run. Chairman Pressley said that if the policy is adopted tonight, then the 30-day period would begin running today.

Commissioner Openshaw asked if the pipe from Mill Bridge Subdivision were already installed. Ms. Putnam replied that there is a pipe installed but that is being upsized. Commissioner Openshaw asked if the pipe that is already installed would have to be moved in order to install the larger pipe. Ms. Putnam stated that this was correct unless another path was used.

Commissioner Openshaw said that as he has expressed previously that one of his concerns is the economic harm of the diversion. He questioned if the flow has been determined from specific areas of the county of projected flow from residential and commercial properties by Six Mile Basin, Twelve-Mile Basin, the lower Twelve-Mile Basin, the Waxhaw area, and the Crooked Creek area. Ms. Putnam said that Public Works does know how much flow is for each individual basin. She stated that she believed that the diversion is secondary to the operations of the general system.

Following the discussion, the motion, as amended, was passed unanimously.

#### UNION COUNTY PUBLIC SCHOOLS:

- a. Capital Project Ordinance (CPO) #85 which Provides Funds, Including Closing Costs, for the Acquisition of 141+/- Acres Located at Indian Trail Fairview and Mill Grove Roads for the Location of Middle and High School "D" (Opening August 2010) and a Future Elementary School***
- b. Capital Project Ordinance (CPO) #85 which Provides Funds for Architect and Engineering Services (AES) Related to Middle and High School "D"***

Commissioner Mills, the Board's liaison to the Union County Public Schools, stated that on Friday he had been involved in discussions concerning these matters.

Commissioner Mills moved adoption of Capital Project Ordinance (CPO) #85 to provide funds for items "a" and "b" as described.. The motion was passed unanimously.

CAPITAL PROJECT ORDINANCE AMENDMENT							
BUDGET	School Bond Fund - 55			REQUESTED BY	Kai Nelson		
FISCAL YEAR	FY 2007-2008			DATE	September 17, 2007		
PROJECT SOURCES				PROJECT USES			
Source Description and Code	Project To Date	Requested Amendment	Revised Project	Project Description and Code	Project To Date	Requested Amendment	Revised Project
G.O. Bond Proceeds	460,615,804	9,205,660	469,821,464	New Middle School/High School "D" (115C-429b project allocation)	32,100	9,205,660	9,237,760
All Other Revenue	1,363,308	-	1,363,308	All Other School Projects	461,947,012	-	461,947,012
	461,979,112	9,205,660	471,184,772		461,979,112	9,205,660	471,184,772
EXPLANATION:	Funding request submitted by UCPS for Middle School/High School "D" (land \$5,580,660 and architect contract and miscellaneous onsite soft costs \$3,625,000) pursuant to 115C-429b.						



				New High School "D" (115C-429b project allocation)	13,980	2,175,000	2,188,980
				55559200-5586-562			
	460,615,804	9,205,660	469,821,464		32,100	9,205,660	9,237,760
Prepared By	dhc						
Posted By							
Date						Number	CPO - 85

SEWER ALLOCATION POLICY:

Commissioner Mills moved adoption of the Policy for Allocating Wastewater Treatment Capacity.

Chairman Pressley recognized Ligon Bundy, Attorney at Law, to explain the proposed policy.

At approximately 9:08 p.m., Kai Nelson, Finance Director, requested that the Board call a brief recess for the staff to ensure that the technology was operating correctly so that Mr. Bundy's presentation could be seen by the audience. At his suggestion, the Chairman called a recess at this time.

At approximately 9:14 p.m., the Chairman reconvened the recessed meeting.

Mr. Bundy stated that he would be presenting the Allocation Policy which was divided into two parts. He said that Part One deals with the Twelve-Mile Creek and Crooked Creek areas which are served by two treatment plants that are interconnected but are combined for purposes of the policy.

He gave a brief background on the State imposed moratorium on the issuance of new sewer permits for the Twelve-Mile Creek Plant. He stated that because the two plants are interconnected, the Public Works' staff stopped submitting permit applications to the

State for the Crooked Creek Plant when the moratorium was imposed on the Twelve-Mile Creek Plant. Mr. Bundy explained that the expansion on the Twelve-Mile Creek Plant is virtually completed, and upon completion, it will allow three million additional gallons per day of treatment capacity.

Mr. Bundy used a Power Point presentation to show the capacity that will be available at the Twelve-Mile Creek and Crooked Creek Plants as soon as the state certifies the Twelve-Mile Creek Expansion to be completed. He also showed the current flow of these two plants being 4.97 million gallons per day and the flow reserved of 1.28 million gallons per day to take care of the outstanding sewer permits that were issued prior to the state imposed moratorium. Mr. Bundy said that upon completion of the plant, and it becoming operational, there will be 1.65 million gallons of additional capacity not reserved by current flow or outstanding permits. He stated that the maximum treatment capacity of the two plants combined to be a little under eight million gallons of sewage per day.

He explained that the second part of the policy deals with the Six-Mile Creek Collection System. Mr. Bundy said that Union County has contracted with Charlotte-Mecklenburg Utility Department (CMUD) to treat up to three million gallons of sewage per day at the McAlpine Creek Treatment Plant (referred to in the policy as the Six-Mile Creek Collection System).

Mr. Bundy stated that 750,000 gallons per day of sewage is being treated in the Six-Mile Creek Collection System, and permits have been issued for 360,000 gallons per day to be treated in the future. He stated that there are 1.89 million gallons of sewage that could be treated in this facility. He said that if the amount of capacity available at the Six-Mile Creek Facility is the 1.65 million gallons that would be available when the Twelve-Mile Creek Plant Expansion is completed, there will be approximately 3.5 million gallons capacity that is not already taken by existing sewage being treated or outstanding permits.

Mr. Bundy explained that the proposed policy takes into account the allocation of that 3.5 million gallons. He noted that the policy was drafted with several assumptions in mind. He stated that one of the assumptions is that there will be no more significant additional sewage treatment available in the Twelve-Mile, Six-Mile and Crooked Creek areas for several more years to come. Mr. Bundy pointed out another assumption made by the staff was that the Board will authorize a diversion of sewage from the Twelve-Mile Creek and Crooked Creek areas over to the Six-Mile Creek area of approximately one million gallons. He noted a third assumption made by the staff was that the moratorium imposed by the State of North Carolina on the issuance of sewer permits is about to be lifted; it is believed that as soon as the Twelve-Mile Creek Plant is certified by the state as being operational, that moratorium will be lifted. He said the fourth and final assumption made by the staff was that owners and developers of land will immediately seek some of this unallocated capacity as soon as the moratorium is lifted, and that demand might very well quickly exceed supply.

Mr. Bundy stated that the purpose of the policy is to allocate this resource in a lawful and equitable manner. He said that the policy was drafted by the County's staff and provides priority to certain categories of projects; these categories were identified and recommended by the County staff and assigns individual developments to be included within each category. He stated that the policy is based for the most part on legal considerations.

He said that the policy does not apply to areas of Union County outside of the Twelve-Mile Creek, Six Mile Creek, and Crooked Creek areas. Further, Mr. Bundy stated that the policy does not affect those projects or portions of projects where flow permits have already been issued.

Mr. Bundy explained the policy in detail. He reiterated that Part One deals with Twelve-Mile Creek and Crooked Creek and addresses the 1.65 million gallons of available capacity. He said that in recommending how the available capacity should be allocated, the staff identified three categories. He explained that the first category was First Priority Projects and would take 750,000 gallons of flow per day.

In response to a question by Commissioner Mills, Mr. Bundy stated that staff has identified more demand in the Twelve-Mile Creek and Crooked Creek areas than there is ability to treat. Commissioners Mills stated that the County has been receiving fines on a monthly basis for Twelve-Mile Creek for violations. He said that this policy would hopefully eliminate those future fines. Mr. Bundy responded that it is hoped that the proposed policy would result in an orderly allocation and use of sewer capacity starting with this policy.

Using graphs, Mr. Bundy showed the demand that has been identified by the staff. He said that there would not be enough capacity in the two treatment plants even after the expansion of Twelve-Mile Creek Treatment Plant is completed to take care of all of the demands. Following his responses to Commissioner Mills, Mr. Bundy resumed his explanation of the First Priority Projects. He said that there are three groups of developments contained in the First Priority Projects. He explained that the first group would be those with contracted capacity. He said that prior to the current Board taking office, Union County entered into contracts with certain owners to provide sewer treatment, and this policy takes into account and honors those contracts.

Mr. Bundy stated that the second group included in the First Priority Projects are owners or developers who previously obtained zero flow permits. He explained that zero flow permits are issued by the State authorizing the owner or developer to build a sewer line but did not authorize the owner or operator to tap into the line and actually put flow into the lines (flow permits). He stated that many of these owners or developers have already put the zero flow lines in the ground. Mr. Bundy said that the third group included in the First Priority Projects are owners or developers that have applications that have been denied by the State. He stated

that prior to the state imposed moratorium in February 2007, Union County forwarded to the State of North Carolina applications for flow permits. He said that these applications were denied by a letter received from the State in March 2007. He stated that there are a number of owners or developers who have done everything they need to do in order to have flow permits issued, and they were denied by the State. Mr. Bundy said that it is believed that as soon as the moratorium is lifted, those people will have their flow permits issued after paying the capacity fee and completing the application again.

He said that after the demand of the First Priority Projects is satisfied, there will be 930,000 gallons of capacity available to allocate to others. He then addressed the Second Priority Projects which are comprised of two groups. He stated that the first group is Government Facilities which includes all of the schools in the Twelve-Mile Creek and Crooked Creek areas identified on the Union County Public School System's five-year capital improvement plan. Further, he said that this category would include any governmental facilities that are in the Union County five-year capital improvement plan including libraries and other like public facilities which would include construction of town halls, etc. Mr. Bundy said that the Board pursuant to the policy would have authority under the policy to allow other local governments or towns to tap into the lines and obtain flow. Chairman Pressley questioned whether it would fall into the tap only policy. Mr. Bundy said that it might or might not fall within that policy.

He said that the second group in the Second Priority Projects was tap only projects. He said that staff is recommending setting aside 20,600 gallons of capacity for government facilities. He explained that tap only projects are projects where the owner does not have to obtain a flow permit from the state. He said that an example of tap only projects would be if someone owns a lot, whether residential or commercial, and there is a sewer line on the property line or running through the property, the owner would not have to obtain a flow permit from the State to tap into that type of line. He noted that the staff was recommending 14,256 gallons of capacity to accommodate those tap only projects. Mr. Bundy said that Chairman Pressley had asked if a town hall could be a tap only project. He said that it could be a tap only project if there was a sewer line running through property where they wanted to build a town hall; however, if the sewer line is located some distance from the town hall, then it would require an extension and would require a flow permit.

He reviewed the rules for tap only projects: 1) only one tap per lot; 2) the parcel must have existed on the date the policy is adopted; and 3) limited to a maximum of 2,000 gallons per day for any one particular tap. He stated that a house is projected to take 285 gallons per day, so a house could easily meet that requirement. Mr. Bundy stated that after the first and second priority projects have been satisfied, there remains 620,000 gallons of flow available for the third priority projects.

He said that there is not enough remaining capacity to totally satisfy the third priority projects. He stated that there are 1,650,000 gallons of demand in the third priority projects that are known, and there is 620,000 gallons of supply to accommodate the

demand. He further stated that the third category consists of two groups. He said that the first group consists of those people who are developers, property owners who have obtained accessibility letters from the Public Works Department within two years prior to the adoption of the state imposed moratorium. Mr. Bundy explained that an accessibility letter is generally a letter where property owners would contact the Public Works Department stating that they own certain tracts of property, and they wish to develop the property and they asks Public Works how close sewer infrastructure is to their property. He stated that Public Works would write those property owners letters and describe the sewage infrastructure within a certain distance of their property.

Mr. Bundy stated the second group also included within the third priority projects are those owners whose property are described by a development submittal. He explained that a development submittal is a document that is received by Public Works within two years of the state imposed moratorium that evidences intent to develop their property. He gave examples of development submittals, i.e., the property owner may have submitted a letter of intent provided under the Public Works Extension Policy or in the case of a piece of property located within a municipality, Public Works might have received a subdivision plat to review which evidences the property owners intent to develop their property, and development submittals must be received by Public Works within that two-year time period. He said that there is a possibility that there are owners or developers of property who have accessibility letters that have been overlooked, and there is the possibility that there are owners from whom Union County Public Works has received a development submittal. Mr. Bundy stated that a procedure is provided for in the policy for owners who believe they have been erroneously omitted from the third priority group from being on the list. He said that those owners would have 30 days from the date of the adoption of the policy to petition the Director of Public Works and provide documentation that establishes that they were omitted from the third category by error. He stated that the Director of Public Works would review the information, and if she is convinced that those owners were omitted by error, they will be included. He pointed out that the policy provides for an appeal process to the County Manager in the event that the Public Works Director rules against them and they want to have it reviewed. Mr. Bundy stated that the 1,650,000 gallons of demand might not be a correct figure, because if there are people who come in and are added to the list, that number could increase.

He explained the staff's recommendation on how to satisfy the 1,650,000 gallons of demand with 620,000 gallons of supply. He stressed that it would be a policy decision of the Board, and the policy, as drafted, favors non-residential projects over residential projects in the third priority. He stated that there are non-residential third priority project demands of 330,000 gallons that have been identified which leaves 290,000 gallons of flow remaining available for residential third priority projects which creates an unfilled demand of 1,003,000 million gallons that is not met by supply. He said that the staff recommends that the 290,000 gallons of supply be allocated among the residential competing interest through a proration formula where everyone receives a prorated portion of the flow with a minimum of five lots per development.



Mr. Bundy stated that Part 2 of the policy deals with the Six-Mile Creek collection system. He said that this portion of the policy addresses the 1,890,000 gallons of flow that is available for treatment in the Six-Mile Creek area. He said that the staff had followed basically the same process that it had used on the Twelve-Mile Creek and the Crooked Creek policy in identifying different categories of demand. He said that the first category would be the first priority projects. He stated that there are 200,000 gallons of contracted capacity that is obligated under a contract entered into prior to this Board's taking office with 1,690,000 gallons of unallocated capacity.

He stated that the staff had identified the second priority projects. He explained that consistent with the Twelve-Mile Creek and Crooked Creek policy, it is recommended that some flow be allocated to government projects. Mr. Bundy said that there are no known government projects on Union County's five-year capital improvement plan or the schools' capital improvement plan in the Six Mile Creek area, but in the event there would be some future demand, it is recommended that 10,000 gallons of flow be set aside for government projects. He stated that the staff also recommended that the Board allocate 14,250 gallons of capacity for tap only projects as is consistent with the Twelve-Mile Creek and Crooked Creek policy.

Mr. Bundy then described the definition of third priority projects as being virtually identical with the definition of third priority projects in the Twelve-Mile Creek and Crooked Creek areas. He stated that a letter of submittal would be required for a development submittal within two years. He explained that the two-year date is somewhat different, because the state moratorium does not apply to the Six-Mile Creek area, so the two years would begin to run from the time the Board directed last month that the Director of Public Works stop taking applications for that area.

He stated that within the Twelve-Mile Creek area, there are 212,000 gallons of identified demand to satisfy the third priority. He noted that this figure shown on the illustration is 1,240,000 gallons, which includes all of the third priority projects in the Six-Mile Creek area and also includes the 1,003,000 gallons of demand that was unfulfilled from the Twelve-Mile Creek and Crooked Creek areas, if the Board authorizes the diversion project. He noted that this number could change if there are people who petition to be added to the list and are able to demonstrate that they were omitted from the list by error.

Mr. Bundy said that after the priorities have been satisfied, there remains 430,000 gallons of available capacity. He stated that staff recommends that this capacity be reserved and not given to anyone at the present time. He said that this unallocated sewer flow is a finite resource and stressed that this would probably be all of the available sewer capacity for several years to come. He noted that the 430,000 gallons might not be an accurate figure, and it would not be determined for awhile to be an accurate figure. Mr. Bundy stated that it is staff's recommendation that the Board charge the staff with the preparation of a supplemental policy to govern how the resource is to be allocated in the future.

In closing, Mr. Bundy stated that the policy is a 25-page document, and there are some points that he had not addressed such as that the Public Works Director has discretion to allow somebody who has a failing septic tank to tap on to the sewer if capacity is available. He said that property owners who have flow reserved for them under the policy have a certain period of time in order to preserve their reservation.

Mr. Bundy said that there are issues in Union County concerning water availability. He stressed that the adoption of the proposed policy does not imply that there is sufficient water to supply the projects for which capacity is being reserved under the policy. He said that it is recommended that the Board direct the formulation of three additional policies: 1) water allocation policy; 2) the supplemental policy concerning the allocation of the 430,000 gallons of capacity that is being reserved; and 3) that if and when future sewer treatment capacity becomes available in the Twelve-Mile Creek, Crooked Creek, or Six-Mile Creek areas as a result of the expansion of a plant or the construction of a new plant, staff recommends that the Board direct that a policy be drafted to address allocation of the resource in the future. He said that he believed it would be some period of time before future treatment capacity becomes available, and a policy to allocate the future capacity would not need to be adopted immediately.

Following Mr. Bundy's presentation, he offered to answer any questions from the Board.

Mr. Bundy added that the County was dealing with an unfortunate situation, and there is such great demand for capacity. He said that the staff had tried to formulate a policy that recognized legal rights and was equitable to anyone who might want flow. He stated that he recognized that not everyone would be happy with the policy but assured that the staff had spent a great deal of time in trying to formulate the proposed policy.

Chairman Pressley said that he believed that the County needed to have information from the municipalities when they are approving subdivisions to make sure that sewer capacity is available. He said that in working with the sewer allocation policy, the municipalities and the County needed to work together.

Commissioner Openshaw referred to the following language in the proposed policy: "Availability Letter . . . such letter may but need not be issued in response to UCPW's receipt of letter of intent." He asked Mr. Bundy to elaborate on this statement and to provide examples. Mr. Bundy responded that it was his understanding that sometimes there is a possibility of a sewer accessibility letter being issued based upon a letter being received by Public Works or possibly a telephone call. He said that what the staff had tried to include in the policy were property owners that could be demonstrated that through whatever means, they have contacted

public works and as a result of that contact, Public Works has written them a letter letting them know what infrastructure is in that area.

Commissioner Openshaw complimented the staff and Mr. Bundy on their efforts on the allocation policy. He said that he also questioned that there could be a deviation from these guidelines subject to the approval of the County Manager. He questioned whether the Board wanted to give this responsibility to the Manager or does the Board want to know what is going on.

Mr. Bundy referred to Page 7, Section 2.6 and read the following: “Subject to the approval of the County Manager, the Union County Public Works Director may authorize a departure from these guidelines when strict adherence would frustrate the purpose of these guidelines or endanger the health, safety, or welfare of the citizens of Union County. The County Manager shall report any such departure to the Board of County Commissioners no later than the Board’s next regular meeting.” He explained that what the staff had in mind with this section is if someone has a failed septic tank that is leaking and cannot be repaired and there is sewer available, then the property owner should be allowed to tap on to the sewer. He stated that when drafting a policy such as this one, it is hard to foresee every possible scenario that can occur, and, therefore, the staff had tried to limit the policy based on the test that it must be to further the health, safety, and welfare of the citizens.

Commissioner Openshaw said that he was glad to see in the policy an explanation that an availability letter does not confer contractual rights. He asked if the policy defined how long a commitment of capacity would be applicable. Mr. Bundy responded that if Commissioner Openshaw was referring to owners or developers who already have flow permits issued, those permits are indefinite. He said that the staff had discussed this matter, and it does not believe that someone could be deprived of a flow permit that has already been issued. He stated that the staff believed there should be an amendment to the extension policy so that if someone receives a flow permit, then they should use that permit within a certain period of time. Commissioner Openshaw questioned whether the policy gave persons with flow permits contractual rights if the policy is implemented without that modification being included.

Christie Putnam added that the current extension policy states that a tap on has to be made within the first year of receiving a flow permit or pay the remaining capacity fees within three years.

Commissioner Openshaw questioned that if flow were being reserved for three years for those who have flow permits, should the County receive the monies first to expand the system. Ms. Putnam responded that currently, half of the capacity fees are required to be paid up front at the time of application of the flow permit. She said that it would be a policy decision by the Board to require full payment of the capacity fees up front. Commissioner Openshaw said that he was concerned that the amount of capacity reserved for tap only customers might be a little low. Mr. Bundy explained that the tap only was for those owners who do not have to obtain a

flow permit from the State of North Carolina. Chairman Pressley said that he agreed with Commissioner Openshaw that the allocation amount for tap only was low. Ms. Putnam noted that there have been three tap ons since January. Ms. Putnam stated that the approximately 14,000 gallons capacity reserved for tap ons represents 50 residential lots.

Commissioner Openshaw asked if the policy should include a fail safe for when the County nears exceeding the County's treatment capacity with Charlotte Mecklenburg Utilities Department (CMUD). Chairman Pressley commented that this could be done in the process for allocating the remaining capacity.

Commissioner Openshaw asked how the County would address water allocation when the Twelve-Mile Creek Plant is expanded and the state lifts the moratorium and people come in for capacity. He asked if those requests for water would be placed on hold. Ms. Putnam stated that Public Works' current policy is if a property owner has received some type of communication from Public Works regarding water, that Public Works would do its best to endeavor to meet those needs.

Commissioner Openshaw stated that according to his calculations, the proposed policy would include 8,000 homes. He said that the water usage for those homes would total approximately 200,000 gallons of water at the average daily use and for peak use it would be over 300,000 gallons. He voiced his concern that current residents were being stuck to give water to other people for profit. Chairman Pressley said the expected time frame for the 8,000 homes to come on line would be two and a half to three years. He stated that capacity was currently under contract with Anson County, but Union County needed to get the infrastructure to transmit the water. Ms. Putnam stated that was correct. Commissioner Openshaw asked the length of time it would take to get the infrastructure in place to transmit the water. It was estimated that this would be a two-year project.

Following additional comments and questions by Commissioner Openshaw, Commissioner Lane stated that the staff has done an excellent job on drafting the proposed policy, and it is well needed. He said that he had objected to the process that the Board went through on the policy, and that he felt there should have been a workshop and a closed session for legal matters. He stated that he believed the policy should be reviewed by the Public Works Advisory Board and also time allowed for the public to review it. Mr. Bundy said that his primary concern would be what happens if the County does not have a policy in effect and the State lifts the moratorium. He said that it would be hard for him to foresee from a legal standpoint what might happen. He strongly recommended that the policy be adopted prior to the State lifting the moratorium, and it was his understanding that the State could lift the moratorium at any time.

Commissioner Lane commented that in the future he wanted the water allocation policy and any other sewer allocation policies to be discussed in a workshop instead of in closed session, and he would remain in the meetings. Chairman Pressley responded to

Commissioner Lane's comments that he stood behind the three attorneys, who did an excellent job with this policy. He said that he was pleased with the attorneys keeping the Board on track during the closed sessions.

Chairman Pressley noted that the legal staff requested the closed sessions in which the discussions took place. Mr. Crook interjected that it was at his request that the discussions took place in closed session.

Commissioner Openshaw said that he thought the policy was pretty sound. He stated that this is a major policy decision, and he would like to hear the public's comments on it. He questioned since the County was allowing property owners 30 days to come in and provide documentation proving that they are entitled to capacity, what would be the harm in holding a public hearing and having the Public Works Advisory Board review the proposed policy over the next 30 days. Mr. Bundy explained that the policy is currently drafted and pointed out that the 30 days for the property owners to petition Public Works begins upon the adoption of the policy. He said that if the Board chooses to hold a public hearing, it would delay the adoption of the policy.

Commissioner Mills said that he believed that the three policies that the staff has recommended would include involvement by the Public Works Advisory Board and the public.

Chairman Pressley repeated the motion as follows: to accept the Policy for Allocating Wastewater Treatment Capacity as presented tonight.

Mr. Crook questioned whether the intent of the motion was to accept or adopt the policy. Chairman Pressley responded that the motion was to adopt. He asked Commissioner Mills if he wanted to amend his motion to include the three recommendations of staff which were to direct staff to formulate the following additional policies: 1) water allocation policy; 2) the supplemental policy concerning the allocation of the 430,000 gallons of capacity that is being reserved; and 3) that if and when future sewer treatment capacity becomes available in the Twelve-Mile Creek, Crooked Creek, or Six-Mile Creek areas as a result of the expansion of a plant or the construction of a new plant, staff recommends that the Board direct that a policy be drafted to address allocation of the resource in the future. Commissioner Mills agreed to amend his motion to reflect those recommendations. He stated that he would like for the Public Works Advisory Board to be involved with those three policies and also that public hearings be held on those policies.

Mr. Bundy inquired whether the Board wanted staff to draft the three recommended policies and then submit them to the Public Works Advisory Board for its review. It was agreed that this was the consensus of the Board, and then to bring the proposed policies to the Board for consideration.

Commissioner Lane offered a substitute motion to allow the Public Works Advisory Board an opportunity to review the proposed policy and that a public hearing be held on the proposal before the policy is adopted. The substitute motion failed by a vote of two to three. Commissioners Lane and Openshaw voted in favor of the substitute motion. Chairman Pressley, Vice Chairman Baucom, and Commissioner Mills voted against the substitute motion.

Chairman Pressley then called for a vote on the amended motion to adopt the policy for allocating wastewater treatment capacity and to direct staff to formulate the three additional policies as recommended by staff which was passed by a vote of three to two. Chairman Pressley, Vice Chairman Baucom, and Commissioner Mills voted in favor of the amended motion. Commissioners Lane and Openshaw voted against the amended motion.

**POLICY FOR ALLOCATING WASTEWATER TREATMENT CAPACITY**

**SEPTEMBER 17, 2007**

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**1.0 DEFINITIONS**

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this Section shall have the meaning indicated when used in this Policy.

***6-Mile Collection System*** means the wastewater treatment collection system located in west-central Union County which, pursuant to an agreement between Union County and the City of Charlotte dated April 12, 1996, Union County may use to transport up to 3.0 million GPD of wastewater for treatment at the McAlpine Creek Wastewater Treatment Plant owned by Charlotte-Mecklenburg Utilities.

***12- Mile WWTP*** means Union County's 12-Mile Creek Wastewater Treatment Plant located at 3104 Providence Road South.

***Accessibility Letter***, or Availability Letter, means a letter issued by UCPW that describes the proximity of a proposed Development Project to existing UCPW sewer infrastructure and the requirements for obtaining sewer capacity. Such letter may, but need not, have been issued in response to UCPW's receipt of a Letter of Intent.

***Availability Letter*** has the same meaning as Accessibility Letter.

***Capacity at the Treatment Facilities*** means wastewater treatment capacity at the Treatment Facilities, defined below as the 12-Mile WWTP and Crooked Creek WWTP, collectively.

***Capacity at 6-Mile*** means wastewater treatment capacity available through the 6-Mile Collection System.

***Crooked Creek WWTP*** means Union County's Crooked Creek Wastewater Treatment Plant located at 4015 Sardis Church Road.

***Current Expansion*** means the current project to expand wastewater treatment capacity at the 12-Mile WWTP from 3.0 to 6.0 million GPD.

***Development Project***, or Project, means an undertaking involving real property improvements for which connection to either the 12-Mile WWTP, the Crooked Creek WWTP, or the 6-Mile Collection System is requested.

***Development Submittal*** means either: (i) a Letter of Intent; or (ii) other document received by UCPW as part of the required procedures for obtaining a zoning permit, special use permit, conditional use permit, major development permit, or other land development permit.

***Effective Date*** means the date this Policy is adopted by the Union County Board of Commissioners.

***Flow Permit*** means a Sewer Permit issued by NCDWQ authorizing the construction and operation of a wastewater collection system extension for wastewater treatment at the 12-Mile WWTP, Crooked Creek WWTP, or through the 6-Mile Collection System to serve a specified Project. UCPW requires a Flow Permit for connection to its wastewater treatment facilities for all Projects except Tap Only Projects.

***Flow Permit Application*** means a completed application for a Flow Permit submitted to UCPW by an owner or developer in connection with a particular Project that meets all the requirements set forth in the UCPW Extension Policy including, but not limited to, final approval of engineering plans by UCPW, payment of one-half of the capacity fees, and payment of the application fee.



**Government Facilities** means facilities owned or operated by Union County, Union County Public Schools, or a municipality located within Union County, and facilities funded in whole or in part by Union County.

**GPD** means gallons per day.

**Letter of Intent** means a letter of intent to develop property received by the UCPW Director pursuant to Section 2.2 of the UCPW Extension Policy.

**Moratorium** means the state-imposed moratorium pursuant to which NCDWQ ceased issuing Sewer Permits for the 12-Mile WWTP effective February 7, 2007.

**NCDWQ** means the North Carolina Division of Water Quality.

**Nonresidential Development Projects** means all Development Projects other than Residential Development Projects.

**Planned Diversion** means the proposed diversion by UCPW of not less than 1.03 million GPD of wastewater from the service areas of the Treatment Facilities to the 6-Mile Collection System.

**Project** has the same meaning as Development Project.

**Residential Development Projects** means Development Projects for residences such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc., and their associated outbuildings including garages, storage buildings, gazebos, etc., and customary home occupations. For purposes of this Policy, a Retirement Community shall not be deemed a Residential Development Project.

**Retirement Community** means a housing development that is designed for and restricted to occupancy by households having at least one member who is fifty-five (55) years of age or older, and in which children under eighteen (18) years of age shall not reside for more than ninety (90) days per calendar year.

**Sewer Permit** means a Flow Permit or Zero Flow Permit issued by NCDWQ.

**Tap Only Project** means a Project for which a Sewer Permit from NCDWQ is not required pursuant to either G.S. ' 143-215.1 or Rule 02T.0113, Chapter 15A, North Carolina Administrative Code.

**Treatment Facilities** means the 12-Mile WWTP and Crooked Creek WWTP, collectively.

**UCPW** means the Union County Public Works Department.

**UCPW Extension Policy** means the Union County Public Works Water and Sewer Extension Policy dated January 6, 1997, as amended.

**Zero Flow Permit** means a Sewer Permit issued by NCDWQ for construction only of a wastewater collection system extension for wastewater treatment at the 12-Mile WWTP, the Crooked Creek WWTP, or through the 6-Mile Collection System to serve a specified Project, with no authority for operation of the same.

## **2.0 RECITALS**

- 2.1** The Treatment Facilities are interconnected via the Poplin Road Pump Station, and together they serve the west-central portion of Union County, including but not limited to the towns of Hemby Bridge, Indian Trail, Lake Park, Mineral Springs, Stallings, Waxhaw, Weddington, Wesley Chapel, and immediately surrounding areas. Heavy development in western Union County in recent years has dramatically increased the demand for wastewater treatment capacity in that part of the County.
- 2.2** Effective February 7, 2007, NCDWQ ceased issuing Sewer Permits for the 12-Mile WWTP pursuant to the state-imposed Moratorium. Consequently, for all Projects within the service areas of the Treatment Facilities, UCPW has temporarily: (i) stopped issuing Accessibility Letters; (ii) stopped accepting new Sewer Permit Applications; (iii) stopped accepting new engineering plans; and (iv) limited authorization for connections for Tap Only Projects.
- 2.3** Following completion of the Current Expansion of the 12-Mile WWTP, permitted wastewater treatment capacity at that plant will increase by 3.0 million GPD, bringing the total Capacity at the Treatment Facilities to 7.9 million GPD. Of this 7.9 million GPD, approximately 6.25

million GPD represents the maximum average monthly flow for the previous 12 months plus the amount of Capacity at the Treatment Facilities needed to satisfy outstanding Flow Permits previously issued by NCDWQ. Thus, the Current Expansion will result in approximately 1.65 million GPD of additional Capacity at the Treatment Facilities.

- 2.4** Pursuant to an agreement between Union County and the City of Charlotte, UCPW may transport 3.0 million GPD of wastewater through the 6-Mile Collection System to Charlotte-Mecklenburg Utilities' McAlpine Creek Wastewater Treatment Plant.
- 2.5** Current average monthly flow for the previous 12 months through the 6-Mile Collection System, together with outstanding Flow Permits previously issued for that System, account for approximately 1.11 million GPD of Capacity. This leaves an estimated 1.89 million GPD of available Capacity at 6-Mile.
- 2.6** The Policy set forth herein is intended to provide guidelines for allocating, in a fair, rational, and lawful manner among competing interests: (i) the limited Capacity at the Treatment Facilities that will become available when the Current Expansion is complete and the Moratorium lifted; and (ii) the limited Capacity at 6-Mile. Subject to approval of the County Manager, the Union County Public Works Director may authorize a departure from these guidelines when strict adherence would frustrate the purpose of these guidelines or endanger the health, safety or welfare of the citizens of Union County. The County Manager shall report any such departure to the Board of County Commissioners no later than the Board's next regular meeting.
- 2.7** Pursuant to G.S. ' 153A-283, Union County may in no case be held liable for damages for failure to furnish sewer services, and this Policy creates no legal right to receive, nor any legal duty on the part of Union County or UCPW to provide, any amount of existing or future wastewater treatment capacity at the Treatment Facilities, through the 6-Mile Collection System, or elsewhere.

### **3.0 SCOPE**

This Policy applies to: (i) the allocation of approximately 1.65 million GPD of Capacity at the Treatment Facilities that will be available when the Current Expansion at the 12-Mile WWTP is completed and the Moratorium lifted; and (ii) the allocation of approximately 1.89 million GPD of Capacity at 6-Mile. Except as otherwise stated herein, this Policy applies to all Development Projects located in areas served by the Treatment Facilities or the 6-Mile Collection System for which the owner or developer requests connection thereto but for which the authorization necessary to do so has not yet been obtained. This Policy does not affect Flow Permits previously issued by NCDWQ.

#### **4.0 PURPOSE**

This Policy is intended to establish guidelines for allocating limited wastewater treatment capacity in a fair, rational, and lawful manner, taking into consideration, among other things:

- The need to fulfill outstanding legal obligations Union County may have to provide Capacity at the Treatment Facilities when the Current Expansion at 12-Mile WWTP is complete and the Moratorium is lifted or to provide Capacity at 6-Mile;
- The need to reserve Capacity to serve public school facilities, County Projects, and other Government Facilities;
- The desire to treat alike all Development Projects that are similarly situated as to: (i) type of Project; and (ii) stage of progress in the procedures required for obtaining a Sewer Permit or otherwise connecting to the Treatment Facilities or the 6-Mile Collection System to the extent that UCPW has received written documentation of such progress;
- The desire to promote Nonresidential Development Projects in Union County in order to increase the County's property tax base while imposing fewer demands (than those imposed by Residential Development Projects) on the County's already overburdened public schools; and
- The need to protect the public health, safety and welfare.

#### **5.0 EFFECTIVE DATE**

This Policy shall become effective upon adoption by the Union County Board of Commissioners and may be repealed or modified at any time, without notice.

## **PART I**

### **ALLOCATION OF CAPACITY: 12-MILE AND CROOKED CREEK WWTPS**

#### **6.0 FIRST PRIORITY PROJECTS**

When the Current Expansion is complete and the Moratorium has been lifted, Capacity at the Treatment Facilities shall be made available to serve First Priority Projects, described in Sections 6.1 through 6.3 and specifically identified in Exhibits 1 - 3, as set forth below.

##### **6.1 PROJECTS WITH CONTRACTED CAPACITY**

A total of 283,176 GPD of Capacity at the Treatment Facilities is hereby reserved in favor of Projects for which the owner or developer has entered into a contract with Union County and provided valuable consideration to Union County, and under which the County has expressly agreed to provide sewer services to that particular Project when it is able to do so. Such contracts are identified in Exhibit 1, attached and incorporated herein by reference. Capacity at the Treatment Facilities shall be available to serve individual Projects contingent upon UCPW's receipt of a Flow Permit for the Project from NCDWQ and subject to the following terms and conditions:

- 6.1.1** As used in this Section, AProject@ means the Project or portion(s) or phase(s) thereof specifically identified in Exhibit 1.
- 6.1.2** The amount of Capacity at the Treatment Facilities available to any individual Project may not exceed the lesser of: (i) the amount necessary to fulfill the County's remaining obligation under the contract for that Project; or (ii) the amount stated in the Flow Permit.
- 6.1.3** Connection to the Treatment Facilities pursuant to this Section shall be subject to all terms and conditions stated in the contract.
- 6.1.4** It is expressly noted that pursuant to Subsection 2.2.2 of the UCPW Extension Policy, UCPW's response to a Letter of Intent (sometimes referred to as an Accessibility Letter or Availability Letter) does not represent a reservation of Capacity at the Treatment Facilities in favor of

the Project. Such response, therefore, confers no contractual rights. Similarly, Capacity at the Treatment Facilities is not reserved and no contractual rights are conveyed pursuant to receipt of an Accessibility Letter or Availability Letter issued in any other context.

## **6.2 PROJECTS WITH ZERO FLOW PERMITS**

A total of 231,135 GPD of Capacity at the Treatment Facilities is hereby temporarily reserved in favor of Projects for which NCDWQ has issued Zero Flow Permits, as shown in Exhibit 2, attached and incorporated herein by reference. Capacity at the Treatment Facilities shall be available to serve individual Projects contingent upon UCPW's receipt of a new Flow Permit Application for the Project within ninety (90) days of the Effective Date, UCPW's receipt of a Flow Permit for the Project from NCDWQ, and subject to the following terms and conditions:

**6.2.1** As used in this Section, AProject@ means the Project or portion(s) or phase(s) thereof specifically identified in Exhibit 2.

**6.2.2** The amount of Capacity at the Treatment Facilities available to any individual Project may not exceed the lesser of: (i) the amount necessary to satisfy the Project as defined in the Zero Flow Permit or cover letter thereto; or (ii) the amount stated in the Flow Permit.

**6.2.3** Failure to submit a new Flow Permit Application to UCPW within ninety (90) days of the Effective Date will result in the loss of any Capacity at the Treatment Facilities reserved in favor of the Project under this Section.

## **6.3 Projects With Denied Applications**

A total of 236,473 GPD of Capacity at the Treatment Facilities is hereby temporarily reserved in favor of Projects: (i) for which NCDWQ denied a Flow Permit Application for the Project pursuant to a letter dated March 22, 2007; and (ii) which are not included in Exhibit 2 as having received a Zero Flow Permit. Such Projects are identified in Exhibit 3, attached and incorporated by reference herein. (A copy of the referenced denial letter from NCDWQ is attached as Exhibit 4.) Capacity at the Treatment Facilities shall be available to serve individual Projects contingent upon UCPW's receipt of a new Flow Permit Application for the Project within ninety (90) days of the Effective Date, UCPW's receipt of a Flow Permit for the Project from NCDWQ, and subject to the following terms and conditions:

**6.3.1** As used in this Section, AProject@ means the Project or portion(s) or phase(s) thereof specifically identified in Exhibit 3.

**6.3.2** The amount of Capacity at the Treatment Facilities available to any individual Project may not exceed the lesser of: (i) the amount necessary to serve the Project as that Project is defined in the denied Flow Permit Application; or (ii) the amount stated in the Flow Permit.

**6.3.3** Failure to submit a new Flow Permit Application within ninety (90) days of the Effective Date will result in the loss of any Capacity at the Treatment Facilities reserved in favor of the Project under this Section.

#### **6.4 CAPACITY LIMITATION FOR ALL FIRST PRIORITY PROJECTS**

In no event may any First Priority Project receive any greater Capacity at the Treatment Facilities under Sections 6.1 through 6.3 than the amount necessary to serve the Project or portion(s) or phase(s) thereof described in the contract, Zero Flow Permit, or denied Flow Permit Application.

### **7.0 SECOND PRIORITY PROJECTS**

When the Current Expansion is complete, the Moratorium has been lifted, and Capacity at the Treatment Facilities has been reserved to satisfy all First Priority Projects, remaining Capacity at the Treatment Facilities created by the Current Expansion, if any, shall be made available to serve Second Priority Projects, described in Sections 7.1 and 7.2, as stated below.

#### **7.1 GOVERNMENT FACILITIES**

A total of 240,000 GPD of Capacity at the Treatment Facilities is hereby reserved in favor of public school facilities identified in Union County Public Schools' five-year Capital Improvement Plan as shown in Exhibit 5, attached and incorporated herein by reference. An additional 20,600 GPD of Capacity at the Treatment Facilities is hereby reserved in favor of County Projects identified in Union County's five-year Capital Improvement Plan, as shown in Exhibit 6, attached and incorporated herein by reference. Subject to approval by the Board of County

Commissioners, additional Capacity at the Treatment Facilities, if available, may be allocated to other Government Facilities. Capacity at the Treatment Facilities shall be available to serve individual Projects contingent upon UCPW's receipt of a Flow Permit for the Project from NCDWQ and subject to the following terms and conditions:

**7.1.1** As used in this Section, AProject@ means the Project or portion(s) or phase(s) thereof identified in Exhibits 5 or 6 or, for other Government Facilities, the Project or portion(s) or phases(s) thereof specifically approved by the Board of County Commissioners.

**7.1.2** The amount of Capacity at the Treatment Facilities available to any individual Project may not exceed the lesser of: (i) the amount necessary to serve the Project; or (ii) the amount stated in the Flow Permit.

**7.2 TAP ONLY PROJECTS**



A total of 14,250 GPD of Capacity at the Treatment Facilities is hereby reserved in favor of Tap Only Projects. Capacity at the Treatment Facilities shall be available to serve individual Projects contingent upon UCPW's receipt of a written request for connection to the Treatment Facilities and subject to the following terms and conditions:

- 7.2.1** Capacity at the Treatment Facilities shall be available to Tap Only Projects on a First Come, First Served basis, based on the date UCPW receives a written request for connection.
- 7.2.2** There shall be a limit of one connection (or Atap@) per parcel.
- 7.2.3** The parcel for which the tap is sought must have existed on the Effective Date.
- 7.2.4** The maximum amount of Capacity at the Treatment Facilities available to any individual Tap Only Project shall not exceed 2,000 GPD.

## **8.0 THIRD PRIORITY PROJECTS**

When the Current Expansion Project is complete, the Moratorium has been lifted, and Capacity at the Treatment Facilities has been reserved to satisfy First and Second Priority Projects as set forth above, remaining Capacity at the Treatment Facilities created by the Current Expansion, if any, is hereby temporarily reserved in favor of Projects which fail to qualify as First or Second Priority Projects, but for which UCPW has, between the dates of February 7, 2005, and February 7, 2007: (i) issued an Accessibility Letter; or (ii) received a Development Submittal. A list of Third Priority Projects identified by UCPW is attached as Exhibit 7 and incorporated herein by reference. Capacity at the Treatment Facilities, if any, shall be made available to serve individual Projects contingent upon UCPW's receipt of a Flow Permit Application for the Project within one (1) year from the Effective Date, UCPW's receipt of a Flow Permit for the Project from NCDWQ, and subject to the following terms and conditions:

- 8.1** As used in Sections 8.2 through 8.6, AProject@ means the Project or portion(s) or phase(s) thereof specifically identified in Exhibit 7 or for which an owner or developer has established eligibility for Third Priority status pursuant to Section 8.5.

**8.2** Nonresidential Projects. Capacity at the Treatment Facilities is hereby temporarily reserved in favor of Nonresidential Third Priority Projects in an amount sufficient to serve all such Projects listed in Exhibit 7 or for which Third Priority status was established pursuant to Section 8.5. Notwithstanding the foregoing, if for any reason Capacity at the Treatment Facilities is insufficient to serve all Nonresidential Third Priority Projects, Capacity at the Treatment Facilities shall be allocated to such Projects on a First Come, First Served basis, based on the date UCPW receives a Flow Permit Application for the Project.

**8.3** Residential Projects. After Capacity at the Treatment Facilities has been reserved to satisfy Nonresidential Third Priority Projects pursuant to Section 8.2, remaining Capacity at the Treatment Facilities, if any, is hereby temporarily reserved in favor of Residential Third Priority Projects. The maximum amount of Capacity at the Treatment Facilities allocated to any individual Residential Third Priority Project under this Section shall not exceed the greater of: (i) the amount of capacity needed to serve five (5) lots; or (ii) the pro-rated amount of capacity needed to serve the number of lots eligible for Capacity at the Treatment Facilities using the following formula:

$$\left[ \begin{array}{l} \text{Total number of lots} \\ \text{requested for that Project} \end{array} \right] \times \left[ \begin{array}{l} \text{Total amount of Capacity at the} \\ \text{Treatment Facilities } \textit{available} \text{ for} \\ \text{all Residential Projects } \end{array} \right) \\ \left[ \begin{array}{l} \text{Total amount of Capacity at the Treatment Facilities } \textit{requested} \text{ for all Residential} \\ \text{Projects} \end{array} \right]$$

Numbers will be rounded down to the nearest whole number. For example, if (i) a Residential Third Priority Project is shown in Exhibit 7 as requesting Capacity at the Treatment Facilities for 100 lots; (ii) the total Capacity at the Treatment Facilities available for all Residential Third Priority Projects is 300,000 GPD; and (iii) the total Capacity at the Treatment Facilities requested for all Residential Third Priority Projects is 1,400,000 GPD, then the maximum number of lots eligible to receive Capacity at the Treatment Facilities using the above formula is 21 lots, shown as:  $100 \times [300,000/1,400,000] = 21$ . The number of lots eligible to receive Capacity at the Treatment Facilities under this Section will be determined for individual Projects after all requests for Third Priority status pursuant to Section 8.5 have been resolved. Notwithstanding the

foregoing, if for any reason Capacity at the Treatment Facilities is insufficient to provide all Residential Third Priority Projects with Capacity at the Treatment Facilities in the amounts described above, Capacity at the Treatment Facilities shall be allocated to Residential Third Priority Projects on a First Come, First Served basis, based on the date UCPW receives a Flow Permit Application for the Project.

- 8.4** Failure of the owner or developer of any Third Priority Project to submit a Flow Permit Application within one (1) year from the Effective Date will result in the loss of any Capacity at the Treatment Facilities reserved in favor of the Project pursuant to Sections 8.2 and 8.3.
- 8.5** The owner or developer of any Project not appearing on Exhibit 7, but for which UCPW has, between the dates of February 7, 2005, and February 7, 2007: (i) issued an Accessibility Letter; or (ii) received a Development Submittal, may within thirty (30) days from the Effective Date submit written documentation of the same to the UCPW Director along with a request for Third Priority status. The Director may ask for additional corroborative evidence in support of the request, and may consider such additional evidence in making his or her determination. If the Director denies the request, or fails to respond within thirty (30) days of receipt of the request, the owner or developer may seek review by the County Manager, whose decision shall be final.
- 8.6** In no event may any Third Priority Project receive any greater Capacity at the Treatment Facilities under Sections 8.2 or 8.3 than the amount necessary to serve the Project or portion(s) or phase(s) thereof described in the Accessibility Letter or Development Submittal or for which Third Priority status was established pursuant to Section 8.5.

**9.0 ACCEPTANCE OF ENGINEERING PLANS**

Except as provided herein, UCPW shall not accept any new engineering plans for Projects within the service areas of the Treatment Facilities.

**9.1** For Projects or phases or portions thereof identified in Exhibits 1- 7 or for which the owner or developer has established Third Priority status pursuant to Section 8.5, UCPW will resume accepting new engineering plans beginning on the Effective Date.

**9.2** For all other Projects or phases or portions thereof in the service areas of the Treatment Facilities, UCPW will resume accepting new engineering plans when UCPW believes with reasonable certainty that a significant amount of additional wastewater treatment capacity will become available at the Treatment Facilities.

## **PART II**

### **ALLOCATION OF CAPACITY: 6-MILE COLLECTION SYSTEM**

#### **10.0 FIRST PRIORITY PROJECTS**

A total of 198,550 GPD of Capacity at 6-Mile is hereby reserved in favor of Projects for which the owner or developer has entered into an ongoing contract with Union County and provided valuable consideration to Union County, and under which the County has expressly agreed to provide sewer services to that particular Project as it is able to do so. These Projects are identified in Exhibit 8, attached and incorporated herein by reference. Capacity at 6-Mile shall be available to serve these Projects contingent upon UCPW's receipt of a Flow Permit for the Project from NCDWQ and subject to the following terms and conditions:

**10.1** As used in Sections 10.2 through 10.5, AProject@ means the Project or portion(s) or phase(s) thereof specifically identified in Exhibit 8.

**10.2** The amount of Capacity at 6-Mile available to any individual Project may not exceed the lesser of: (i) the amount necessary to fulfill the County's remaining obligation under the contract for that Project; or (ii) the amount stated in the Flow Permit.

**10.3** Connection to the 6-Mile Collection System shall be subject to all terms and conditions stated in the contract.

**10.4** In no event may any First Priority Project receive any greater Capacity at 6-Mile under Sections 10.2 through 10.5, than the amount necessary to serve the Project or portion(s) or phase(s) thereof described in the contract.

**10.5** It is expressly noted that pursuant to Subsection 2.2.2 of the UCPW Extension Policy, UCPW's response to a Letter of Intent (sometimes referred to as an Accessibility Letter or Availability Letter) does not represent a reservation of wastewater treatment capacity in favor of the Project. Such response, therefore, confers no contractual rights. Similarly, wastewater treatment capacity is not reserved and no contractual rights are conveyed pursuant to receipt of an Accessibility Letter or Availability Letter issued in any other context.

**11.0 SECOND PRIORITY PROJECTS**

**11.1 GOVERNMENT FACILITIES**

A total of 10,000 GPD of Capacity at 6-Mile is hereby reserved in favor of Government Facilities, subject to approval by the Board of County Commissioners. Capacity at 6-Mile shall be available to serve individual Projects contingent upon UCPW's receipt of a Flow Permit for the Project. The amount of Capacity at 6-Mile available to any individual Project may not exceed the lesser of: (i) the amount necessary to serve the Project; or (ii) the amount stated in the Flow Permit.

## **11.2 TAP ONLY PROJECTS**

A total of 14,250 GPD of Capacity at 6-Mile is hereby reserved in favor of Tap Only Projects. Capacity at 6-Mile shall be available to serve individual Projects contingent upon UCPW's receipt of a written request for connection to the 6-Mile Collection System and subject to the following terms and conditions:

**11.2.1** Capacity at 6-Mile shall be available to Tap Only Projects on a First Come, First Served basis, based on the date UCPW receives a written request for connection.

**11.2.2** There shall be a limit of one connection (or Atap@) per parcel.

**11.2.3** The parcel for which the tap is sought must have existed on the Effective Date.

**11.2.4** The maximum amount of Capacity at 6-Mile available to any individual Tap Only Project shall not exceed 2,000 GPD.

## **12.0 THIRD PRIORITY PROJECTS**

### **12.1 ACTIVE PROJECTS**

A total of 212,735 GPD of Capacity at 6-Mile is hereby temporarily reserved in favor of Projects for which UCPW has, between August 20, 2005 and August 20, 2007: (i) issued an Accessibility Letter; or (ii) received a Development Submittal. A list of Active Projects identified by UCPW is attached as Exhibit 9 and incorporated herein by reference. Capacity at 6-Mile shall be made available to serve individual Projects contingent upon UCPW's receipt of a Flow Permit Application for the Project within one (1) year from the Effective Date, UCPW's receipt of a Flow Permit for the Project from NCDWQ, and subject to the following terms and conditions:

- 12.1.1** As used in this Section, a Project@ means the Project or portion(s) or phase(s) thereof specifically identified in Exhibit 9 or for which an owner or developer has established eligibility for Active status pursuant to Subsection 12.1.4.
- 12.1.2** The amount of Capacity at 6-Mile available to serve any individual Project may not exceed the lesser of: (i) the amount identified in Exhibit 9 or the amount for which Active status was established pursuant to Subsection 12.1.4; or (ii) the amount stated in the Flow Permit.
- 12.1.3** Failure of the owner or developer of Projects qualifying for Active status pursuant to this Section to submit a Flow Permit Application within one (1) year from the Effective Date will result in the loss of any Capacity at 6-Mile reserved in favor of the Project pursuant to this Section.

- 12.1.4** The owner or developer of any Project not appearing on Exhibit 9, but for which UCPW has, between August 20, 2005 and August 20, 2007: (i) issued an Accessibility Letter; or (ii) received a Development Submittal, may within thirty (30) days from the Effective Date submit written documentation of the same to the UCPW Director along with a request for Active status. The Director may ask for additional corroborative evidence in support of the request, and may consider such additional evidence in making his or her determination. If the Director denies the request, or fails to respond within thirty (30) days of receipt of the request, the owner or developer may seek review by the County Manager, whose decision shall be final.
- 12.1.5** In no event may any Active Project receive any greater Capacity at 6-Mile under this Section than the amount necessary to serve the Project or portion(s) or phase(s) thereof described in the contract, Accessibility Letter, or Development Submittal or for which Active status was established pursuant to Subsection 12.1.4.
- 12.1.6** Notwithstanding any other provision of this Policy to the contrary, no Project may receive Capacity at 6-Mile, without prior approval from the Board of County Commissioners, if such receipt would require construction of a new pump station to divert wastewater from the service areas of the Treatment Facilities or elsewhere into the 6-Mile Collection System. In determining whether to approve a new pump station under this Subsection, the Board shall consider, among other things:
- P Overall economic benefit to the County;
  - P Impact of the Project on demand for public schools;
  - P Impact of the Project on demand for other public goods and services, such as public utilities;
  - P Impact of the Project on existing infrastructure, such as roadways; and



P Benefits created by Projects providing valuable public services, such as medical clinics.

**12.2 PART I THIRD PRIORITY PROJECTS**

A total of not less than 1.03 million GPD of Capacity at 6-Mile is hereby reserved to receive wastewater from the Planned Diversion. Once the Planned Diversion is in operation, approximately 1.03 million GPD of the wastewater treatment capacity that becomes available at the Treatment Facilities as a result is hereby reserved in favor of those Third Priority Projects identified under Part I of this Policy, to the extent that the demand for Capacity as reflected on Exhibit 7 or for which Third Priority status was established pursuant to Section 8.5 was not satisfied under Part I. Capacity at the Treatment Facilities shall be available to serve individual Third Priority Projects under this Section contingent upon UCPW's receipt of a Flow Permit Application within one (1) year from completion of the Planned Diversion, UCPW's receipt of a Flow Permit from NCDWQ for the Project, and subject to the following terms and conditions:

**12.2.1** As used in this Section, AProject@ or AThird Priority Project@ has the same meaning as set forth in Section 8.1 (i.e., the Project or portion(s) or phase(s) thereof specifically identified in Exhibit 7 or for which an owner or developer established Third Priority status pursuant to Section 8.5).

**12.2.2** Capacity at the Treatment Facilities shall be available to Projects under this Section on a First Come, First Basis, based on the date UCPW receives a Flow Permit Application for the Project.

- 12.2.3** The amount of Capacity at the Treatment Facilities available to any individual Project under this Section may not exceed the lesser of:
- (i) the amount necessary to complete the Project as identified in Exhibit 7 or for which Third Priority status was established pursuant to Section 8.5; or
  - (ii) the amount stated in the Flow Permit.
- 12.2.4** Failure of the owner or developer of a Third Priority Project to submit a Flow Permit Application within one (1) year from completion of the Planned Diversion will result in the loss of any Capacity at the Treatment Facilities created by the Diversion and reserved in favor of the Project pursuant to this Section.
- 12.2.5** In no event may any Third Priority Project receive any greater Capacity at the Treatment Facilities under this Section than an amount which, when combined with the amount of Capacity at the Treatment Facilities that the Project received pursuant to Section 8.0, constitutes the amount necessary to serve the Project or portion(s) or phase(s) thereof described in the Accessibility Letter or Development Submittal or for which Third Priority status was established pursuant to Subsection 8.5.

**13.0 RESERVE CAPACITY**

After Capacity at 6-Mile is reserved to satisfy First, Second, and Third Priority Projects pursuant to Sections 10.0 through 12.2, above, any remaining Capacity at 6-Mile (AReserve Capacity@) is hereby reserved and set aside for future allocation in accordance with a policy to be adopted by the Board of County Commissioners at a later date, which policy shall, upon adoption, be attached and incorporated by reference herein.

**14.0 ACCEPTANCE OF ENGINEERING PLANS**

Except as provided herein, UCPW shall not accept any new engineering plans for Projects within the service area of the 6-Mile Collection System.

**14.1** For Projects or phases or portions thereof identified in Exhibits 8-9 or for which the owner or developer has established Third Priority status pursuant to Subsection 12.1.4, UCPW will accept new engineering plans beginning on the Effective Date.

**14.2** For all other Projects or phases or portions thereof in the service area of the 6-Mile Collection System, UCPW will resume accepting new engineering plans when UCPW believes with reasonable certainty that a significant amount of additional wastewater treatment capacity will become available within the service area.

Adopted this 17<sup>th</sup> day of September, 2007.

<b>Exhibit 1</b>				
<b>Twelve Mile and Crooked Creek</b>				
<b>Contracted Capacity</b>				
<b>TREATMENT FACILITY</b>	<b>PROJECT</b>	<b># LOTS</b>	<b>GPD</b>	<b>TOTAL GPD</b>
12 Mile Creek	Fieldstone Farms	489	139,365	
	Cureton 2, 3, & 4	180	51,300	
	Cureton Retail	--	62,751	253,416
Crooked Creek	Industrial Ventures	82	29,760	29,760
				<b>283,176</b>

<b>Exhibit 2</b>					
<b>Twelve Mile and Crooked Creek</b>					
<b>Zero Flow Permits</b>					
<b>TREATMENT</b>					
<b>FACILITY</b>	<b>PROJECT</b>	<b>PERMIT #</b>	<b>Lots</b>	<b>GPD</b>	<b>TOTAL GPD</b>
12 Mile Creek	St. Johns Forest 4A	WQ0030316	46	13,110	
	Tuscanny Phase 1A	WQ0029584	74	21,090	
	Tuscanny Phase 2A	WQ0029458	31	8,835	
	Briarcrest North Phase 1	WQ0029391	20	5,700	
	Briarcrest North Phase 2	WQ0029838	70	19,950	
	Sheridan Phase 1	WQ0029254	79	22,515	
	Sheridan Phase 2	WQ0030048	43	12,255	
	Chestnut Place	WQ0029610	13	3,705	
	Lawson Phase 2A	WQ0029757	50	14,250	
	Preserve @ Brookhaven	WQ0031172	13	3,705	
	Fairhaven Phase 1	WQ0029278	184	52,440	
	Wendover @ Curry Place	WQ0029218	51	14,535	
	Wadsworth Phase 2	WQ0029745	8	2,280	
	Deerstyne (Garmons Crossing)	WQ0030201	40	11,400	
	Twelve Oaks	WQ0030126	4	1,140	
	Wesley Chase (Laney Subdivision)	WQ0029433	12	3,420	
	Stonebridge Parcel 5	WQ0029976	23	6,555	
	Cureton Phase 3	WQ0029193	32	9,120	
	Falcon Place	WQ0030099	18	5,130	231,135
Crooked Creek	None	--	--	--	--
					<b>231,135</b>

**Exhibit 3****Twelve Mile and Crooked Creek****Denied Applications**

<b>TREATMENT FACILITY</b>	<b>PROJECT</b>	<b>Lots</b>	<b>GPD</b>	<b>TOTAL GPD</b>
12 Mile Creek	Austin Village Phase 3	9	32,510	
	Lowes of Waxhaw	9	46,415	
	Waxhaw Medical Center	2	2,400	
	CHS Cureton-Waxhaw	4	37,000	
	Lawson Phase 4	100	28,500	
	Tuscanny Phase 2B	34	9,690	
	Chestnut Oaks	7	1,995	
	Village Commons @ Wesley Chapel 2	3	13,993	
	Old Hickory Phase 6	26	9,360	
	Auto Bell Newtown Rd.	2	2,300	
	St.John's Forest, Phase 4B	49	13,965	
	Shannon Vista	1	2,720	
	Stonebridge Parcel 7 & 9	125	35,625	236,473
Crooked Creek	None	--	--	--
				<b>236,473</b>



Exhibit 4

Michael F. Easley, Governor

William G. Ross Jr., Secretary  
North Carolina Department of Environment and Natural Resources

Alan W. Klimek, P.E., Director  
Division of Water Quality

March 22, 2007

Christie L. Putnam, P.E., Director  
Union County Public Works  
400 North Church Street  
Monroe, NC 28112-4804

Subject: Project Return  
Union County  
Wastewater Collection System Extension  
Union County

Dear Ms Putman:

This letter is in reference to the request for several non-discharge permits (sewer extensions) to serve the following projects received as listed in the table below are hereby returned. In accordance with North Carolina Administrative Code 15A 2T .0304 (b) the Division has determined that based on requested information provided in your March 13, 2007 letter the treatment system is not capable of accepting the additional waste represented in this permit applications. This is evidenced by flow limit violations that you have reported for the Twelve Mile Creek Wastewater Treatment plant (NC0085359). Further, this decision is based on sanitary sewer overflows at the influent structure of the Twelve Mile Creek WWTP and associated collection system despite the relatively dry weather. The increased flows that would be allowed by these permits, if granted, would serve only to worsen the frequency and severity of violations and could potentially lead to health and environmental impacts.

Project Name	Date Received	Project Type	Gallons	Project Number
Fieldstone Farms Subdivision	2/6/07	Modification	18,000	WQ0031192
Shannon Vista Subdivision	2/7/07	Modification	2,720	WQ0023478
Lawson, Phase 4 Subdivision	2/6/07	New	36,840	Not assigned
Lowe's of Waxhaw (Public)	2/2/07	New	32,375	Not assigned
Lowe's of Waxhaw (Private)	2/2/07	New	14,040	Not assigned
CHS Cureton-Waxhaw	2/2/07	New	37,000	Not assigned
Cureton, Phase I Subdivision	2/2/07	Modification	17,720	WQ0024444
Stonebridge Parcels 7&9	2/2/07	New	45,000	Not assigned
Stonebridge, Parcel 5 Subdivision	2/2/07	Modification	8,280	WQ0024788
Auto Bell Full Service Car Wash	2/1/07	New	2,300	Not assigned
Waxhaw Medical Center	2/1/07	New	2,400	Not assigned
Tuscany Phase IIB	1/31/07	New	12,240	Not assigned
Tuscany, Phase IIA	1/31/07	Modification	7,560	WQ029458
Wadsworth Subdivision Phase 2	1/30/07	Modification	2,880	WQ0029745
Chestnut Oaks	1/24/07	Modification	2,520	WQ0019104
Sheridan Subdivision-Phase 1	1/24/07	Modification	28,440	WQ0029254
Sheridan Subdivision-Phase 2	1/24/07	Modification	15,480	WQ0030048
Old Hickory Phase VI	1/24/07	New	9,360	Not assigned
Village Commons at	1/24/07	Modification	13,933	WQ0029454



Raleigh Regional Office  
1628 Mail Service Center, Raleigh, NC 27699-1628

Internet <http://h2o.enr.state.nc.us/>  
Telephone (919) 571-4700 Fax (919) 571-4718

DFNR Customer Service Center

Telephone 1 800 623-7748

Wastewater Collection System #	Project Name	Project Location	Project Status	Project Start Date	Project End Date
12 Mile Creek	MS/HS "C" Cuthbertson Rd.	Unionville, MO	Completed	2015	2015
12 Mile Creek	ES "K" Rogers Road	Unionville, MO	Completed	2015	2015
12 Mile Creek	ES "L" Cuthbertson Road	Unionville, MO	Completed	2015	2015
12 Mile Creek	ES "M" Poplin/Unionville-IT Rd.	Unionville, MO	Completed	2015	2015
12 Mile Creek	ES "N" Cox Road	Unionville, MO	Completed	2015	2015
12 Mile Creek	ES "O" Mineral Springs	Unionville, MO	Completed	2015	2015
12 Mile Creek	ES "P" Providence Rd.	Unionville, MO	Completed	2015	2015

Please be advised that you may reapply for the wastewater collection system extension permit when the improvements to the Twelve Mile Creek Wastewater Treatment plant are completed and associated permit additional fees have been paid.

If you have any questions regarding this matter, please contact Matt Matthews, Point Source Branch Chief at (417) 733-2553, ext. 917.

Sincerely,  
  
 Matt Matthews, P.E.

cc: Moonville Regional Office  
 Matt Matthews, PSD  
 Central File  
 PERCS File

Exhibit 5				
Twelve Mile and Crooked Creek				
Public Schools				
TREATMENT FACILITY	PROJECT	Lots	GPD	TOTAL GPD
12 Mile Creek	MS/HS "C" Cuthbertson Rd.	2	38,400	
	ES "K" Rogers Road	1	9,600	
	ES "L" Cuthbertson Road	1	9,600	
	ES "M" Poplin/Unionville-IT Rd.	1	9,600	
	ES "N" Cox Road	1	9,600	
	ES "O" Mineral Springs	1	9,600	
	ES "P" Providence Rd.	1	9,600	

	ES "Q" Hemby Bridge	1	9,600	
	ES "R" Antioch Rd.	1	9,600	
	MS/HS "D" Hemby Bridge	2	38,400	
	MS/HS "E" Sanford Rd.	2	38,400	
	MS/HS "F" Kensington	2	38,400	230,400
Crooked Creek	ES "J" Stallings	1	9,600	9,600
				<b>240,000</b>

<b>Exhibit 6</b>				
<b>Twelve Mile and Crooked Creek</b>				
<b>Government Facilities</b>				
<b>TREATMENT FACILITY</b>	<b>PROJECT</b>	<b>Lots</b>	<b>GPD</b>	<b>TOTAL GPD</b>
12 Mile Creek	EOC/E911	1	5,000	
	SW Regional Library (Weddington)	1	5,000	
	Waxhaw Regional Library	1	5,000	
	Public Works Operations Center	1	5,000	
	Fire Station 18 (Waxhaw)	1	600	20,600
Crooked Creek	None	--	--	--
				<b>20,600</b>

<b>Exhibit 7</b>				
<b>Twelve Mile and Crooked Creek</b>				
<b>Third Priority Projects</b>				
<b>NONRESIDENTIAL</b>				
<b>TREATMENT FACILITY</b>	<b>PROJECT</b>	<b>Lots</b>	<b>GPD</b>	<b>TOTAL GPD</b>
12 Mile Creek	Sun Valley Business Park	5	1,800	
	Newtown Gardens	15	20,320	



	Newtown Market	4	2,076	
	Shoppes @ Wesley Chapel 2	5	7,191	
	Deerstyne Commons	1	30,000	
	Prov Rd Comm 061560056N	1	2,000	
	Gateway	--	120,000	
	Prescot Village	--	60,000	243,387
Crooked Creek	Auto Bell, Indian Trail	1	735	
	Auto Zone, Indian Trail	1	360	
	Sun Valley Marketplace (Lowe's)	--	50,000	
	Century Contractors Sewer Ext.	3	1,250	
	Indian Trail Town Center	48	30,268	
	Cahill	2	5,280	87,893
				<b>331,280</b>
<b>RESIDENTIAL</b>				
<b>TREATMENT FACILITY</b>	<b>PROJECT</b>	<b>Lots</b>	<b>GPD</b>	<b>TOTAL GPD</b>
12 Mile Creek	Jackson Station	154	43,890	
	Brookhaven Phase 4	23	6,555	
	Potter Road	206	58,710	
	Bonterra	659	187,815	
	Village @ Sage Croft	474	135,090	
	Quintessa 2	115	32,775	
	Quintessa West	246	70,110	
	Secrest	915	260,775	
	Fairhaven Phase 2	176	50,160	
	Prescot Future	80	22,800	
	Longford Village	41	11,685	
	Grover Moore Place	50	14,250	
	Tuscanny 2B	98	27,930	

	Lawson Phase 4	304	86,640	
	Cureton	229	65,265	
	St.John's Forest, Phase 4B	25	7,125	
	St.John's Forest, Phase 4C	118	33,630	
	Chestnut Oaks	7	1,995	
	Stonebridge Parcel 1	68	19,380	
	Belshire	57	16,245	1,152,825
Crooked Creek	Crooked Creek Estates	50	14,250	
	Green Meadows 2nd Avenue	5	1,425	
	Indian Trail Town Center	552	157,320	172,995
				<b>1,325,820</b>

<b>Exhibit 8</b>			
<b>Six Mile Creek</b>			
<b>Contract Capacity</b>			
<b>PROJECT</b>	<b># LOTS</b>	<b>GPD</b>	<b>TOTAL GPD</b>
Millbridge	1,045	198,550	198,550

<b>Exhibit 9</b>			
<b>Six Mile Creek</b>			
<b>Active Projects</b>			
<b>NONRESIDENTIAL</b>			
<b>PROJECT</b>	<b>Lots</b>	<b>GPD</b>	<b>TOTAL GPD</b>
Providence Rd Commercial	--	70,855	
Antioch Church/Wedd-Math Rd	--	40,740	
			111,595

RESIDENTIAL			
PROJECT	Lots	GPD	TOTAL GPD
Ezzell Valley	103	19,570	
Providence Estates	40	7,600	
Antioch Church/Wedd-Math Rd	80	15,200	
Shadow Lake	48	9,120	
* The Woods	200	38,000	
* The Woods, Amenities	1	2,720	
* Cow Branch	47	8,930	101,140
			<b>212,735</b>
* See Section 11.6 regarding need for approval if receipt of capacity at 6-Mile requires construction of a new pump station.			

RESOLUTION SUPPORTING TOLLS FOR THE MONROE BYPASS AND CONNECTOR:

Vice Chairman Baucom moved adoption of the Resolution of the Union County Board of Commissioners Supporting Tolls for the Monroe Bypass and Connector. The motion was passed by a vote of four to one. Chairman Pressley, Vice Chairman Baucom, Commissioner Lane, and Commissioner Mills voted in favor of the motion. Commissioner Openshaw voted against the motion.

**RESOLUTION OF THE UNION COUNTY BOARD OF COMMISSIONERS SUPPORTING TOLLS FOR THE MONROE BYPASS AND CONNECTOR**

**THAT WHEREAS,** Union County is one of the fastest growing counties in North Carolina; and

**WHEREAS**, the rapid growth has increased the demand on the County's roads and in particular on U. S. 74 being the primary cross-country road and it passes through the heart of the county; and

**WHEREAS**, the Monroe Bypass is crucial to the general welfare of the County due to its positive impact on mobility, traffic safety, economic development, etc.; and

**WHEREAS**, the North Carolina Turnpike Authority is preparing the required NEPA documents and moving in a positive fashion for construction of facilities in 2012 and 2013; and

**WHEREAS**, preliminary estimates show approximately thirty million dollars in currently allocated Transportation Improvement Program (TIP) funds that may be able to be re-programmed; and

**WHEREAS**, the Mecklenburg-Union Metropolitan Planning Organization must make a decision with regard to tolls on the Monroe Bypass; and

**WHEREAS**, it is anticipated that if the Monroe Bypass is tolled, it can be completed more quickly.

**NOW, THEREFORE, BE IT RESOLVED** by the Union County Board of Commissioners that it fully supports tolling of the Monroe Bypass and Connector and further requests that all persons who pay property taxes in Union County be exempted from paying any tolls in connection with the Monroe Bypass and the Connector and that any savings realized through the re-programming of TIP funds be returned and utilized in Union County for other road projects.

REQUEST TO RE-ESTABLISH THE TARGETED ROAD IMPROVEMENT PLANNING (TRIP) COMMISSION:

Commissioner Lane moved to re-establish the Targeted Road Improvement Planning (TRIP) Commission.

Chairman Pressley said that he thought the request had been to appoint by townships and two at large.

Commissioner Lane stated that the TRIP Commission had been instrumental in making the public aware of road problems in the area. He said from a personal standpoint, he had highlighted the four-laning of U.S. Highway 601. He stated that he thought the Commission should be re-established since Larry Helms was no longer a representative to the NCDOT Board.

Chairman Pressley said that the Board needs to direct staff to draft responsibilities and duties of the Commission. He asked Commissioner Lane if he would agree to amend his motion to re-establish the Commission and direct staff to prepare draft responsibilities and guidelines for the Commission and bring the recommendations to the Board for approval.

Commissioner Openshaw and Vice Chairman Baucom stated that they had not received the information in their packages to which the Chairman was referring. The Chairman stated that the information that he had was from minutes of prior Boards of Commissioners.

Commissioner Openshaw offered a substitute motion to re-establish the Commission and that each Commissioner appoint a member to the TRIP Commission and request that each of the municipalities appoint a member to serve on the Commission.

Chairman Pressley asked Mr. Crook if he could bring drafts for both options: 1) members appointed by township with two members at large; and 2) each Commissioner and each municipality having an appointment on the TRIP Commission. He stated that he thought the duties and responsibilities would be the same in both scenarios. He asked Commissioner Openshaw if he would be agreeable with the staff presenting both options for the Board's consideration. Commissioner Openshaw agreed to amend his motion for staff to bring both options to the Board for appointment of members to the TRIP Commission.

Following the discussion, the motion passed unanimously.

#### COUNTY RADIO COMMUNICATIONS SYSTEM:

Kai Nelson, Finance Director, referred to the information provided in the agenda packages labeled Scenarios "A" and "B". He provided the Board with an updated Scenario "A." He explained the difference in the updated version and the one contained in the agenda package was the number of subscriber units.

Mr. Nelson provided the Board with background concerning this project stating that it was one of the projects listed in the adopted Capital Improvement Program (CIP). He said that this project was included in the CIP for several reasons: 1) to address

coverage deficiencies; 2) to address a federal mandate relative to rebanding by the year 2013, which would essentially make the current radio system obsolete; and 3) to deal with inoperable issues on a national basis. Mr. Nelson said the question that was left unanswered in the CIP adoption was “Who pays for this system?”

He stated that the question of “Who pays for the system?” is a very critical one because there is a clear and very significant impact on the County’s general fund tax rate. He said how the Board answers this question could have an impact of close to three million dollars per year on the General Fund and the General Fund tax rate. He reminded the Board that one cent in the current year’s tax rate generates \$1.7 million. Mr. Nelson stated that there are some unanticipated ancillary financing issues that have materialized over the past few months. He explained that this project from its outset was intended to be financed over a period of time, approximately 10 years relative to the infrastructure, and approximately five years on the portables and base radios. He stated that the financing of the project requires approval by the Local Government Commission of the State of North Carolina. He said that when the County goes to the Local Government Commission, it must have a clear financing plan which has to incorporate the answer to the question of “Who pays?” and how the County will pay for this project.

Mr. Nelson stated that the other problematic issue is that a year ago, there was a jail project in the CIP and one of the thoughts had been to piggyback the financing of the radio system with the jail financing. He said that loaning \$10 to \$15 million dollars for potentially 1,600 radio units located in various locations, equipment on towers, some of which are owned by the County and some of which are not owned by the County is somewhat problematic. He stated that the staff is before the Board to size up the larger projects and to ask the Board several questions and try to gain a consensus on the answers to those questions.

He explained the items listed in Scenario A under Subscriber Units. He said that these items total \$5.2 million and represent approximately 1,600 units. He noted that included in the Municipal Law Enforcement Agencies are the following: Waxhaw, Stallings, Wingate, Marshville, and Monroe. He stated that other municipals as described in the scenarios are chiefly comprised of the City of Monroe and include Monroe Electric, Water Resources, and Parks and Recreation. Mr. Nelson pointed out that what is not included in the list is “Who should pay for subscriber units?” He said that if the answer to the question was that Union County should pay for all the subscriber units for all users, this list could potentially grow larger. He stated that there are approximately \$5.2 million in subscriber units shown on the scenario, and \$10.9 million in infrastructure. He said that the good news was that the \$10.9 million had been almost \$15 million.

Pat Beekman, Homeland Security Director, stated that the approximately \$4 million difference was because Motorola had come in significantly lower on the costs than it had originally thought. He said that there are still other opportunities for savings.

Vice Chairman Baucom questioned if staff had a recommendation. Mr. Nelson stated that there are many examples of joint radio systems deployed throughout the State of North Carolina and throughout the nation. He said that there is not a uniformed model in terms of how the costs are allocated. In terms of subscriber units, he stated that by and large, most of the models that were surveyed, the subscriber units are a cost of the agencies. In terms of infrastructure, he said that was where there are municipal county systems, often the municipalities and the counties have some kind of partnership relative to those costs. He said that it is clear in the survey, that the agencies pay for the subscriber units with a great deal of sharing on infrastructure.

Mr. Nelson stated that it should come as no surprise that the Fire Commission, the Fire Chiefs Association and municipalities have expressed their preference for the County's general fund to pay 100 percent of the costs.

Commissioner Mills requested that the Board have an opportunity to hear from some of the colleagues in the fire service.

Chris Griffin, Chief of Beaver Lane Volunteer Fire Department, stated that based on several conversations in various meetings through the Fire Commission, it is recommended that the County fully fund the costs for the fire services. He stated that from the fire service side as a volunteer chief and a contract agent to the County, if the fire departments have to pay the cost of the system, it would only increase the departments' budgets. He said that through the Homeland Security Director, there are grants for the radio system.

Mr. Beekman shared that the County has received approximately \$700,000 in grants earmarked for this system. He said that through cooperation with Charlotte Mecklenburg and Gaston County, each of these three entities has a \$3.3 million grant request for infrastructure costs. Mr. Beekman stated that it would not be known whether the County would be awarded that grant until November or December. He said that it would ultimately become a policy decision of where the \$700,000 in subscriber units would go.

Chief Griffin said this is a very technological advanced system. He said that the fire service community wants the responsibility of who owns the equipment and who services and maintains the equipment to be in one place. Vice Chairman Baucom asked Mr. Beekman would the County need full control of the equipment to be eligible for grant funds. Mr. Beekman responded that had nothing to do with it.

Chairman Pressley asked about responsibility if the County owned the equipment and allocated it to the fire departments and the radios are damaged. He said that it seemed that the fire departments would have to be responsible for a certain amount of radios. Chief Griffin responded that he could not answer that question.

Johnny Blythe, Chief of Hemby Bridge Volunteer Fire Department, stated that most of the fire departments carry a Marine rider on their insurance policy that would cover small equipment.

Mr. Beekman commented that he had contacted all of the law enforcement agencies as well. He said that he believed there was a strong argument not to have some citizens double pay for a system but for everyone to pay equally for the system. He stated that the only way he could see that being possible is for the County to pay for it. Mr. Beekman said that it would be his recommendation that every citizen in essence only pays once. Vice Chairman Baucom asked for clarification whether Mr. Beekman was speaking to infrastructure only, which Mr. Beekman replied was correct. He said it was his recommendation that the County pay for and maintain the infrastructure.

Mr. Nelson pointed out that there was a figure of \$537,000 for maintenance of the infrastructure shown in the information. He said that the recommendation of the staff would be that the County assume financial responsibility for the infrastructure costs and infrastructure maintenance costs. He said that would be approximately \$10.9 million plus the \$537,000 maintenance on the infrastructure and that each user would be responsible for their units and the subscriber units maintenance. Mr. Nelson stated that in connection with the Department of Homeland Security (DHS) grants, the staff's recommendation would be that if there is a DHS grant for infrastructure, that grant would obviously reduce the County's infrastructure costs. Further, he said if there is a DHS grant for portables and mobiles, the Board would allocate those resources first to the fire departments and those volunteer fire departments that are fiscally distressed, however the Board defines the term of fiscally distressed.

Commissioner Mills said that the Fire Commission and the Fire Chiefs Association had considered that if the County owned the units and one broke, they could swap the broken unit. He said that what staff was proposing is for the users to pay their own maintenance. Mr. Nelson added his proposal also included the users paying their own capital cost of acquisition.

Commissioner Mills commented that he was having a difficult time asking volunteers to give their time and then have to purchase their own radios. Mr. Nelson said that he had reiterated it several times that it is a function of the County's general fund tax rate.

Chief Blythe returned to the podium and introduced himself as President of the Fire Chiefs Association and the Fire Chief of Hemby Bridge Volunteer Fire Department. He said that he understood Mr. Nelson's comments. He said that it did not matter whether it is the County's budget or Monroe Fire Department's budget, it was still coming out of the same pocket. He said that an average



radio is \$2,800 and then it has to have a software package which brings the total radio costs to \$3,500. Chief Blythe said that it was going to impact the residents of the County irregardless of where funded.

There was discussion regarding the DHS grants, and Mr. Beekman stated that any agency could apply for the funding but the applications needed to go through the Homeland Security Director's Office.

Commissioner Openshaw questioned why Public Works would need to be on the new system. Mr. Nelson stated that by the year 2013, the frequency which it uses will no longer be in operation. Mr. Beekman added that Public Works plans to stay on the current system until the new banding. He said that they were not looking at putting non-first responder agencies on the new system until it is necessary.

Vice Chairman Baucom stated that all the costs shown for the new system would not be incurred immediately. Mr. Beekman responded that was correct. He stated that hopefully there would be an opportunity for bulk purchasing that would reduce the costs.

Monroe City Fire Chief Ron Fowler said that he had expressed his views through the County Fire Chiefs' Association, Mr. Beekman, and the County Fire Commission. He said that he would like the County decision regarding the costs of the system to be equitable to all citizens. He said since it was a Public Safety radio system for fire, law enforcement, and emergency medical services, he would like for the County to fund as a public safety system countywide. He stated that he wanted to make sure that the City of Monroe Public Safety, either fire or police, has the same services that the County is providing for the volunteer fire departments or Sheriff's Office. He stressed that from his perspective, he wanted it to be fair and equitable across the board.

In response to a question by Chairman Pressley, Mr. Nelson stated that if the County were to pay the cost of the entire system, it would cost the County close to three million dollars per year. Chairman Pressley asked if tax bills could include an item showing the amount of taxes attributable to public safety. Mr. Nelson said that he would have to consider the implications of placing a countywide tax rate for the radio system.

Mr. Crook interjected that he believed the staff had looked into this previously, and it made more sense to show the one and a half cents for the radio system rather than showing a separate tax rate.

Vice Chairman Baucom questioned whether this matter was time sensitive. Mr. Nelson responded that the Board needed to make a decision soon for several reasons. He said that before contracts could be finalized and executed with both Motorola and

Charlotte, the financial relationships need to be determined, and he would need to go to the Local Government Commission to persuade it that this is a good opportunity to finance. Vice Chairman Baucom asked if action needed to be taken tonight or if it could wait until October. Mr. Nelson responded that the latest possible date for a decision would be the first meeting in October.

Vice Chairman Baucom moved to table action on this matter until the Board of Commissioners' first meeting in October.

Commissioner Openshaw stated that he did not believe that the County should be paying for the subscriber units and maintenance for other municipals. He said that he believed it was a sign of gratitude for the County to pay for the units and maintenance for the fire and police. He asked what the maintenance costs for the units would be. Mr. Nelson responded that the maintenance for the subscriber units would be approximately \$50 per year per unit. Commissioner Openshaw stated that this was one cost that he could contemplate passing on even to the volunteers. He agreed with Commissioner Mills that he could not see the volunteer fire departments paying for the subscriber units.

Following further discussion, Mr. Nelson asked the Board what further information was needed in order to make a decision or if the Board had sufficient information and just needed time to review the information. It was a consensus that no additional information was needed from staff.

The Chairman called for a vote on the motion to table action on the matter until the first meeting in October. The motion was passed unanimously.

#### ANNOUNCEMENT OF VACANCIES ON BOARDS AND COMMITTEES:

Chairman Pressley announced 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 the age of 18; 4) Juvenile Defense Attorney; and 5) member of the business community
- b. Board of Adjustment (one vacancy for Alternate Member to fill an unexpired term ending May 2009)
- c. Nursing Home Advisory Committee (three vacancies)

#### INTERIM MANAGER'S COMMENTS:

Richard Black stated that 85 North Carolina counties have been declared disaster areas because of crop damage due to the drought. He said that this declaration makes low income emergency disaster loans available to farmers who could not get credit elsewhere. He stated that major losses in crops include corn, cotton, hay, pasture, peanuts, soy beans, and tobacco. He said that the USDA's report shows 85 counties where at least 30 percent or greater loss of at least one significant crop, and Union County is on that list.

Mr. Black shared that on Thursday, September 20, 2007, a growth summit will be held at the Embassy Suites Convention Center in Concord. He said that the summit would be in connection with how growth affects schools, roads, education, economic development and would be from 2:00 p.m. to 7:30 p.m. He asked that if any of the Board members plan to attend the summit, that they notify him by Tuesday. He said that David Murdock, the Developer of the North Carolina Research Park in Kannapolis, is one of the speakers, and a chief economist from Wachovia would also be speaking. He stated that it was a good agenda and was applicable to what Union County is experiencing with growth.

Mr. Black announced the appointment of Matthew Delk, Assistant County Manager, for the County. He said that Mr. Delk brings with him a wealth of leadership and managerial experience and is currently the County Manager of Halifax County, North Carolina, where he has served the last six years. He stated that Mr. Delk holds the rank of Captain in the South Carolina Army National Guard, and is the Commander of the 1782 Engineering company in Lancaster. He said that his military service includes an assignment in Iraq, as a commander of an engineer firefighting detachment where he received a Purple Heart and the Army Accommodation Medal for Valor in Combat. Mr. Black stated that Mr. Delk will be coming to the County on October 8 and will be responsible for providing operational support, policy oversight and organizational leadership for a group of County departments including the associated boards and committees.

#### COMMISSIONERS' COMMENTS:

Commissioner Lane stated that the Boll Weevil Festival was held in Marshville this past weekend which was well attended. Further, he said that on September 6, 2007, Industry Appreciation Week was celebrated in Union County. He said that he had participated in the golf tournament in connection with that celebration.

Commissioner Openshaw said that there was a telephone poll conducted regarding the transfer tax. He stated that there was a series of questions asked during the poll which included a number of questions about the transfer tax. He said that he wanted to

correct one of the misstatements that was made during this survey, that it was vehemently insisted that all the money from this transfer tax was going to water and sewer. He stated that all the money from the transfer tax would go exclusively to school construction.

He said that he believed the current water conservation policy is inadequate to protect the citizens' investment in their plants and making their homes look good. He said that he was concerned with the water situation in the county. He said that the County does not have the capacity to deliver the water, and there are water pressure issues.

Lastly, he quoted Winston Churchill that "the farther backward you look, the farther forward you see." He said that he was sorry to say that the sewer allocation policy adopted tonight is essentially the sequel to the developer commissioners of yesteryear and all but guaranteeing the citizens higher taxes and the potential lessening of their safety.

Commissioner Mills commended Pat Beekman, Neil Speer, Fire Services, and the Bakers Volunteer Fire Department regarding a fire that had been burning for a number of weeks in the St. John's Forest Development. He said that the situation had been resolved, and it was becoming a health issue.

He stated that the Board had requested him, as the school liaison, to assist with the traffic concerns and he had talked with Terry Byrum, Fire Chief, Wesley Chapel Volunteer Fire Department. He expressed appreciation to Robert Nichols, Larry McKinney, Dave Carter, and Bart Richards, from Wesley Chapel Volunteer Fire Department, who have volunteered to help with directing traffic at the new elementary school at New Town Road. He stressed that the County receives a huge benefit from the volunteer fire departments, and if the County had to pay for those services, the costs would be astronomical.

Commissioner Mills said that he, his daughter and his nephew attended the Boll Weevil Festival.

He said tonight's meeting had been a good one.

Vice Chairman Baucom stated that *Ink Magazine* has been publishing each year its top 500 fastest growing companies in the nation. He said that the magazine has expanded its list this year to the top 5,000 of independently owned companies in the United States based on percentage growth. He stated that Allan Byrum, Byrum Heating and Air Conditioning in Marshville, North Carolina, made this list as 2287<sup>th</sup> of the top 5,000 in the nation. He said that when narrowed down to the Charlotte area, Byrum Heating and Air Conditioning became the 21<sup>st</sup> in the Charlotte area. He congratulated Mr. Byrum and his staff. He said that company has been in business since approximately 2000.

Vice Chairman Baucom expressed appreciation to ConMet because it is expanding its operation in Union County and employs approximately 275 people in the County.

He also expressed appreciation to Jim Carpenter, President of the Union County Chamber of Commerce, for being elected as President of the North Carolina/South Carolina Association of Chamber of Commerce Executives for 2007/2008.

Vice Chairman Baucom also expressed appreciation to Mr. Black, Interim County Manager, and the staff for their work on the sewer allocation policy that was adopted tonight. He said that he realized it was a diligent effort.

Chairman Pressley expressed sympathy to the family of Don Kerr at the loss of his father, Mr. Joe Kerr.

He thanked Brett Vines for providing the Board with information regarding the “thumbs down” that one of the newspapers had printed that the County was wasting water. He stated that Barry Wyatt, General Services Director, had contacted the landscape company and checked the irrigation and determined it was not running from the County’s property. He said that he was glad that staff had followed through on this matter.

With there being no further items for discussion, at approximately 11:21 p.m., Vice Chairman Baucom moved to adjourn the regular meeting. The motion was passed unanimously.