

November 5, 2007

The Union County Board of Commissioners met in a regular meeting on Monday, November 5, 2007, at 7:00 p.m. in the Commissioners' Board Room, first floor, Union County Government Center, 500 North Main Street, Monroe, NC. 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, Matthew Delk, Assistant County Manager, Lynn G. West, Clerk to the Board of Commissioners, Jeff Crook, Senior Staff 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 present.

***a. Invocation***

Reverend Al Lewis presented the invocation.

Reverend Lewis shared that Commissioner Mills had made him aware that Alex Kahle was tragically killed this weekend in an automobile accident. He asked that everyone observe a moment of silence remembering her parents, Pat and Dick Kahle.

***b. Pledge of Allegiance***

Following an introduction by Reverend Lewis, Scott O'Neal led the body in reciting the Pledge of Allegiance to the United States flag.

Reverend Lewis stated that he had been asked by Commissioner Mills to update the Board on the progress of the contract that Covenant Prison Ministries has with the County to conduct the Life Skills Program. He explained that the Life Skills Program is a seven-week program held at the Union County Jail.

He stated that Scott O'Neal had been enrolled in the Life Skills Program.

At the request of Reverend Lewis, Mr. O'Neal shared with the Board and the audience how effective the Life Skills Program has been in helping him to make changes in his life. He stated that he became a mentor in the program helping other inmates. Mr. O'Neal said that since his release from jail, the program has kept track of him and continued to offer him assistance with his needs. He shared that he had gone back to school and graduated with honors on his G.E.D. He further shared that he has enrolled in South Piedmont Community College fulltime working toward his degree in Business Administration.

Mr. O'Neal expressed his appreciation for the Life Skills Program in helping him make the changes in his life.

Reverend Lewis stated that when the inmates have been in the Life Skills Program, they are interviewed for the Total Care Tracking Program. He said that they also received the Second Chance Re-Entry Network Grant from the Governor's Crime Commission. He introduced Lee Little, who also works with the Life Skills Program.

Reverend Lewis stated that Probation Parole has joined with the Second Chance Re-Entry Network.

Mr. Little introduced his wife, Diane Little.

#### INFORMAL COMMENTS:

Kent Hayes, who resides on 4309 Horeshoe Bend in Weddington, spoke in opposition to the Cox Farm Elementary School as a site for the Weddington water tank. Mr. Hayes stated that he also owns the house and land at 4709 Beulah Church Road in Weddington. His concerns included that there are seven sites approved by an engineering study for the Weddington water tank site. He noted that the Cox Farm Road site was not one of the approved sites. He said that all of the engineer approved sites were bypassed

for no good reason. He stated that the Cox Farm Road site is a poor location for a water tower, and it makes placing a water tower at this site too expensive for the taxpayer owned Public Works enterprise fund.

Mr. Hayes said that the Cox Farm Road site adjoins existing homes and neighborhoods and is next to a soon-to-be built elementary school. He stated that the school board had already rejected a water tower at one elementary school as a potential hazard. He said that an industrial site next to a residential area is certain to negatively impact property values. Mr. Hayes stated that instead of relying on the professional advice of the site engineers and proceeding with the best site, the process has become a game of politics.

He said that there has been no safety hazard study or site evaluation done on this site, and no qualified engineers or impact studies were consulted prior to making this site available. He stated that the choice to make the Cox Farm Road site available is all politics. Therefore, Mr. Hayes said that the growing opposition to this site is preparing for a long, controversial public, political battle. He said that the Board was encouraged to get politics out of the site selection process and remove the Cox Farm location from the list of potential water tower sites.

Steve Nedvesky, who resides at 1056 James Madison Drive, Weddington, also spoke in opposition to the proposed water tower to be constructed on the Cox Farm Road site. He said that it was his understanding that several members of the Board of Commissioners support this location. He noted that his opposition to this site stems from two major concerns. First, he said he was concerned and found issue with the apparent additional costs associated with the water tower at the Cox Farm location. Mr. Nedvesky shared that he has heard varying reports and figures that indicate that the Cox Farm site would require additional funding in excess of \$1.2 million. He noted that these additional costs are apparently not present if one of the other recommended sites are considered, and it does not appear to be a prudent way to spend taxpayers' monies.

Mr. Nedvesky said more importantly is his second concern which is the safety of the children attending school at the Cox Farm site. He stated that no one could guarantee that a water tower accident would not occur during either the construction phase or once the water tower is operational. He requested that the Board reconsider and direct its consideration toward one of the previously recommended sites.

R. J. Cicero, who resides at 1004 James Madison Drive, Weddington, spoke in opposition to the Cox Farm Road site. He said that if the water tower is located at the Cox Farm site he would be looking at the tower from his patio. He stated that his concerns with this particular site would be: 1) his family living near this site; and 2) his youngest child would be attending Cox Farm school. Mr. Cicero said that he did not believe anyone knew how large the water tower would be. He stated that there was concern about the

tower being located at the Cox Farm site. He said that there was opposition to this site, and there would be more opposition as time goes on. Mr. Cierco stated that this site was not the right site for the water tower but suggested that it would be a perfect site for a library. He said that more opposition could be expected.

Anthony Klinkatsis, who resides at 1016 James Madison Drive, Weddington, also spoke in opposition to the Cox Farm Road site location for the water tower. He stated that there is growing opposition on this site. He presented a copy of a petition in opposition to the site containing approximately 250 signatures. He estimated that the number of signatures received on the petition would increase to over 1,000 within the next two weeks. He said that a number of people were present tonight who are opposed to the Cox Farm Road site. He asked that those in the audience who opposed the site to stand. He said that at the next Board meeting, there would be a number of persons speaking in opposition to this site, if necessary.

Mr. Klinkatsis asked that the Board add an item to the agenda tonight to abandon the Cox Farm Road site and to consider one of the sites recommended by HDR which is not located near a school.

Chairman Pressley stated an item was originally included on tonight's agenda to discuss the site location. He assured that the Board was studying the sites as a whole, and it was not considering only the Cox Farm Road site. He stated that the Board understood the citizens' concerns.

Blane Newbauer, who resides at 3059 Ancestry Circle, Weddington, requested that the Board hold a series of open forums to discuss the water tower issues. He said that he believed many people have questions and concerns about this issue and a matter of this magnitude should be discussed openly. Mr. Newbauer stated that sessions such as tonight's meeting do not provide a forum for citizens' questions and answers, and he believes that format is needed for this particular topic.

Jamie Lein, who resides at 1025 Seminole Drive, stated that he represented Firethorne Neighborhood Homeowners' Association and serves as the residing President. He stressed that he was not present tonight to represent any individual or group of individuals that are being directly impacted by this issue. He said that this issue was in regards to permission by Union County to the developer Woodcliff for an above-ground sewer pipeline solution connecting the sewer line from Firethorne to Wood Cliff. He said that the neighborhood as a whole is adamantly opposed to any type of aerial sewer solution coming into the neighborhood. Mr. Lein stated that the neighborhood was requesting that a lift station be strongly viewed as a proper and only solution for this situation. He said that based upon new information from the County and the developer, the solution would run approximately 400 feet on piers from one foot to eight feet above ground. He provided photographs of an above-ground sewer pipeline solution.

Mr. Lein said that he had to believe that diminishing the property of others to increase the property of someone else solely based on a low and/or lower cost solution is morally, ethically, if not legally wrong. He said that the neighborhood is prepared to petition and obtain signatures from each of the neighbors in this matter as well as take whatever steps to prevent an aerial solution coming into the neighborhood. He reiterated the request of the neighborhood for a lift station to be placed in the neighborhood to remedy the sewer connection between an existing established neighborhood and a newly planned development without denigrating the property values of the neighborhood.

Chairman Pressley stated that these comments concluded the informal comments.

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

Matthew Delk, Assistant County Manager, requested that Item 12 – Parks and Recreation – Jesse Helms Park Passive Area/Bridge be removed from the Consent Agenda to be brought to the Board at a future meeting.

Commissioner Mills moved adoption of the agenda as modified.

Commissioner Openshaw requested that Items 1g and 1h from the Consent Agenda be moved to the regular agenda as follows: Contracts Over \$5,000: 1g. HDR Engineering, Inc. – Task Order #40 and 1h. Hayes, Seay, Mattern and Mattern, Inc.

Commissioner Openshaw further requested that Item 9 – Minutes from the consent agenda be moved to the regular agenda.

With there being no further additions or deletions, the motion as amended was passed unanimously.

Chairman Pressley stated that Items 1g and h from the Consent Agenda would become Items 6c and d on the regular agenda. He said that Item 9 from the Consent Agenda would become Item 6e.

#### CONSENT AGENDA:

Commissioner Mills moved to approve the items listed on the Consent Agenda as modified. The motion was passed unanimously.

**Contracts Over \$5,000:** Authorized the Interim County Manager to approve contract with Baker and Taylor for Book Leasing Program (renewal)

**Contracts Over \$5,000:** Authorized the Interim County Manager to approve contract with Baker and Taylor for Book Leasing Program for Teen Books (Renewal)

**Contracts Over \$5,000:** Authorized the Interim County Manager to approve contract with EBSCO Publishing for Auto/Small Engine Repair Reference Center Database License Agreement

**Contracts Over \$5,000:** Authorized the Interim County Manager to approve contract with the N.C. Department of Corrections, Division of community Corrections in connection with the Criminal Justice Partnership Program Grant Funding for July 1, 2007, to June 30, 2008 and Associated Budget Amendment #15

**Contracts Over \$5,000:** Authorized the Interim County Manager to approve contract with Behavioral Health Center – First Step for the Criminal Justice Partnership Program Local Service Agreement Amendment and Associated Budget Amendment #15

**Contracts Over \$5,000:** Authorized the Interim County Manager to approve Memorandum of Agreement and Grant Funding with the N. C. Department of Crime Control and Public Safety, Division of Emergency Management to Develop, Train, Equip, and Maintain Local Community Emergency Response Teams (CERT's) and Special Revenue Ordinance Amendment (SRO) #6

SPECIAL REVENUE ORDINANCE AMENDMENT									
BUDGET	General Special Revenue Ordinance Fund				REQUESTED BY	Pat Beekman			
FISCAL YEAR	FY 2007-2008				DATE	November 5, 2007			

PROJECT SOURCES				PROJECT USES			
Source	Project	Requested	Revised	Project	Project	Requested	Revised
Description and Code	To Date	Amendment	Project	Description and Code	To Date	Amendment	Project
Federal Grant	-	6,000	6,000	Operating Expense	-	6,000	6,000
					-	-	-
					-	-	-
	-	6,000	6,000		-	6,000	6,000
EXPLANATION:	Appropriate funding for 2007 (CERT) Community Emergency Response Team Grant into multi-year fund.						
DATE:				APPROVED BY:			
					Bd of Comm/County Manager Lynn West/Clerk to the Board		

**Contracts Over \$5,000:** Task Order #40 for engineering services for Preliminary Engineering Report regarding Eastern County Water Supply Short-Term Conveyance Facilities – This item was moved to the regular agenda at the request of Commissioner Openshaw.

**Contracts Over \$5,000:** Task Order #1 for engineering service for Twelve-Mile Creek Study to divert flow to CMUD – This item was moved to the regular agenda at the request of Commissioner Openshaw.

**Contracts Over \$5,000:** Authorized the Interim County Manager to approve Master Project Agreement for Engineering Services with Hayes, Seay, Mattern and Mattern, Inc.

**Contracts Over \$5,000:** Authorized the Interim County Manager to approve Contract with Hayes, Seay, Mattern, and Mattern, Inc. for programming for new emergency services facility

**Tax Administrator:** Approved Fifth Motor Vehicle billing in the grand total amount of \$1,403,417.87.

**Tax Administrator:** Approved releases for October 2007 in the grand total for all years of \$40,401.88.

RELEASES OCTOBER 2007

<b>Acct #</b>	<b>Name</b>	<b>Release #</b>	<b>Total</b>
<b>2007</b>			
03015011	HUGGINS GEORGE CYRUS HEIRS	3109	<b>1,548.03</b>
08165003	SMITH HC MRS & RP GREENE MRS	3110	<b>88.97</b>
08165003	SMITH HC MRS & RP GREENE MRS	3111	<b>85.33</b>
02239009L	TRULL OLLIE P HEIRS	3112	<b>246.35</b>
05104029	SIIMPSON DAVID T	3113	<b>1,602.42</b>
08282028	SASSER FRANCES L HEIRS	3114	<b>1,163.32</b>
08282029	SASSER FRANCES L HEIRS	3115	<b>1,134.09</b>
09366020	BARNETTE BEATRICE H & R REID	3116	<b>8,317.06</b>
07144484	WESTFIELD HOMES OF THE CAROLINAS LLC	3117	<b>1,715.11</b>
04347035	PRIMESTAR PROPERTIES INC	3118	<b>190.38</b>
06201885	PACE/DOWD PROPERTIES LTD	3119	<b>4,066.65</b>
09228173	HALL ROBERT LEE & LULA ESTHER	3120	<b>286.50</b>
09273073A	BLACK BEVERLY J	3121	<b>631.81</b>
K7048019	TAYLOR BRIAN	3123	<b>617.46</b>
N7048019	TAYLOR BRIAN	3124	<b>423.39</b>
06201884	WOOD JOHN D & KIM R	3125	<b>749.63</b>
N7048019	TAYLOR BRIAN	3126	<b>3.70</b>
09402665	EASTWOOD CONSTRUCTION CO INC	3127	<b>1,192.92</b>
09213008T	US LAND INVESTMENTS LLC	3128	<b>1,439.30</b>
09298079B09	D BALLARD CONSTRUCTION INC	3130	<b>302.50</b>



09298079B09	D BALLARD CONSTRUCTION INC	3131	140.09
09298079B08	D BALLARD CONSTRUCTION INC	3132	314.95
09298079B08	D BALLARD CONSTRUCTION INC	3133	127.65
09316002C90	HUNTER PAUL E	3136	2,252.91
09316002C80	HUNTER PAUL E	3137	6,384.04
03123019	DEAN LAND PROPERTIES	3138	1,093.89
50081173	HINSON ANGELA L & JERRY	3139	42.81
50098320	WOOTEN LUCAS L	3140	100.00
50071158	C & M #1 INVESTMENT PARTNERSHIP	3141	3,321.16
			-
			-
<b>Totals-2007</b>			<b>39,582.42</b>

<b>2006</b>			
09273073A	BLACK BEVERLY J	3122	565.71
09213008T	US LAND INVESTMENTS LLC	3129	126.91
50095917	HOWARD BETTYE GADDY	3134	79.34
50095917	HOWARD BETTYE GADDY	3135	47.48
			-
			-
<b>Totals-2006</b>			<b>819.44</b>

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<b>GRAND TOTALS-ALL YEARS</b>	<b>40,401.86</b>
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*Tax Administrator:* Approved Fourth Motor Vehicle Refund Register for the period of October 1, 2007, to October 31, 2007, in the net grand total of \$2,762.94-

*Tax Administrator:* Approved Fourth Motor Vehicle Release for the period of October 1, 2007, to October 31, 2007, in the net grand total of \$22,535.12-.

*Health Department:* Approved Budget Amendment #16 to the Smart Start Smiles Program Budget increasing Salaries and Benefits by \$9,000; Operating Expense by \$35,000; and Revenue by \$44,000 to appropriate additional funds.

*Health Department:* Approved Budget Amendment #17 to Smart Start Bilingual Health Budget increasing Operating Expense by \$4,500 and Revenue by \$4,500 to appropriate additional funds.

***Resolution in Support of Piedmont Behavioral Healthcare (PBH) Having a Substantially Equivalent Personnel System under G.S. 126-11:*** Adopted the following resolution:

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS  
UNION COUNTY, NORTH CAROLINA**

WHEREAS, in 1991 the North Carolina General Assembly amended Section 126-11 of the General Statutes to allow Area Mental Health Authorities to establish “substantially equivalent” personnel systems; and

WHEREAS, the Piedmont Area Mental Health, Developmental Disabilities, and Substance Abuse Authority (now known as PBH) was approved as a “substantially equivalent” personnel system in December 1993; and

WHEREAS, G.S. 126-11 requires that Area Mental Health Authorities periodically recertify their commitment to maintain a “substantially equivalent” personnel system when there are changes in the composition of the Area Board and to obtain approval of the Boards of County Commissioners for counties served by the Area Authority;

WHEREAS, PBH now serves a five county region including Cabarrus, Davidson, Rowan, Stanly, and Union counties;

NOW THEREFORE, BE IT RESOLVED that the Union County Commissioners reconfirm their support and approval for PBH to maintain its status as a “substantially equivalent” personnel system as allowed under G.S. 126-11 and approved by the State Personnel Commission.

Adopted this the 5th day of November, 2007.

***Cooperative Extension:*** Approved reclassification of Family and Consumer Science Agent Position to Environment and Natural Resources Agent Position.

***General Services:*** Approved Change Order G-1 for Phase IV of the Government Center Renovations in the amount of \$23,672 (funding is available within the project budget which was approved in the 2006 CIP with funding authorized in the Capital Project budget).

***General Services:*** Approved Amendment #2 to the contract with Ramsay Burgin Smith Architects in the amount of \$18,540 for Communications HVAC/Emergency Power Generator (funds are available in the Government Center Renovation Project Contingency Budget).

***Disproportionate Minority Contact (DMC):*** Approved Budget Amendment #14 increasing Operating Expense by \$100,000 and Donations by \$100,000 to appropriate funds from the MacArthur Foundation for DMC Action Network.

***Unsealing of Closed Session Minutes:*** Approved unsealing a portion of the January 22, 2007, closed session minutes as recorded below:

MINUTES OF THE CLOSED SESSION OF MONDAY, JANUARY 22, 2007, AT 6:00 P.M.

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, Don Perry, County Attorney, and Ligon Bundy, Attorney at Law

At approximately 6:03 p.m., the Chairman called the special meeting to order. In open session, the Chairman moved that the Board go into closed session for the following purposes: 1) to consult with an attorney in order to preserve the attorney-client privilege pursuant to G.S. § 143-318.11(a)(3); and to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations in accordance with G.S. § 143-318.11(a)(4). The motion was passed unanimously.

Item #1. Attorney-Client Privilege:

Sealed

Item #2. EDC

Maurice Ewing, President of the Union County Partnership for Progress, briefed the Board on a potential project by Tenssylon High Performance Materials, which is a division of Armor Holdings.

Mr. Ewing described the nature of the company and stated that the company wants to expand its business in Union County. It is not located within the City of Monroe. He stated that the company's vice president and general manager, Lisa Owen, is present today and is waiting for the open session along with Kathy McLean, office manager.

He stated that the company is headquartered in Florida and the County is competing with Jacksonville, Florida, for this project. He said that the company currently employs 18 people in Union County, and it plans to expand its business into 18,000 square feet in its current location. He noted that the company's real estate investment would be \$1.1 million, and the equipment investment would be \$7.6 million for a total of \$8.7 million. He stated that the project proposes to add 40 new jobs in Phase I of the expansion, and the company will also hire two contract workers.

Mr. Ewing discussed the amount of property taxes that would be paid by the company during the grant period. He pointed out that the project would consist of two separate grants. He said that there were two expansions planned for this project, Phase I and Phase II. He stated that normally the two grants

would be integrated and the contracts overlapped, but in this particular case, only Phase I of the expansion has been approved and funded by the company's board of directors.

He said that the company does not want to include the Phase II expansion in the contract. He said that the contracts would contain a clawback agreement, which states that if the company does not meet the requirements, then it forfeits all of the grant payments. He said that there is no guarantee that the second expansion will occur.

Mr. Ewing said that the Board of Directors for the Union County Partnership for Progress has reviewed all of the details of the project and recommends approval of the grants by the Board of Commissioners. He said that the potential to expand the project is substantial.

He stated that Wes Baker, Internal Auditor, completed the estimates for the incentives. Mr. Ewing stressed that the grants are always revenue positive, because the company's property taxes must be paid before the County pays out the incentives. He said the grants are performance based with the performance resting with the clients.

With there being no further comments regarding the project, Mr. Ewing left the meeting at this time.

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**Minutes:** This item was moved to the regular agenda at the request of Commissioner Openshaw.

**Juvenile Crime Prevention Council (JCPC) Certification:** Approved North Carolina Department of Juvenile Justice and Delinquency Prevention Juvenile Crime Prevention Council Certification for Fiscal Year 2007-2008.

**Cane Creek Park – Campground Store/Sheck-in Station/Welcome Center:** Adopted Capital Project Ordinance Amendment #88

CAPITAL PROJECT ORDINANCE AMENDMENT									
BUDGET	General CPO Fund - 40				REQUESTED BY	Kai Nelson			
FISCAL YEAR	FY 2007-2008				DATE	November 5, 2007			
PROJECT SOURCES					PROJECT USES				





***Parks and Recreation – Jesse Helms Park Passive Area/Bridge:*** This item was deleted from the agenda at the request of the staff.

#### UNION COUNTY PARTNERSHIP FOR PROGRESS:

Maurice Ewing, President of Union County Partnership for Progress, provided the Board with an economic development report and stated that he was not asking for any action from the Board tonight.

He said that the Partnership has made considerable progress towards the goals and objectives outlined in its presentation to the Board in June. The areas covered in the report included: strategic planning, strategic economic development planning, economic development marketing for Union County, fund development, infrastructure, staffing of the Partnership, and facilities.

Mr. Ewing stated that the Partnership had committed to work toward a countywide environment of cooperative strategic economic planning in Union County and promised to drive a more proactive and forward thinking strategic approach to economic development. He said that the Partnership had agreed to support and help manage the Wingate and Marshville economic development planning initiative. Mr. Ewing said that the initial Request for Qualifications (RFQ's) had been sent to four well known and well respected national economic development consultants, all of whom have expressed interest on working on the project. He stated that the list of consultants would be narrowed to two and a Request for Proposals (RFP's) will be issued. He said that it is expected that the project will begin shortly thereafter with the entire project to be completed by May of 2008. Mr. Ewing stated that if this project is successful, then he hoped that there would be future opportunities to expand the model throughout the county.

He reported that last year was a record year for economic development for Union County. He said that Union County has a positive story to tell, and the Partnership is committed to developing a marketing strategy that will tell that story. He shared that a marketing committee has been established and will work closely with the Charlotte Regional Partnership, the North Carolina Department of Commerce, Duke Energy, and the Monroe Economic Development Corporation to develop a broad marketing strategy for the County. Mr. Ewing reported that the basic framework and methodology for developing that plan are in place. He said that a marketing strategy should be on paper for the Board's review by the first quarter of 2008.

Mr. Ewing said that the Partnership had committed to establish a fund development effort with a goal of \$100,000 per year for economic development. He stated that Ken Harris of Wachovia has been named chair of the fund development and the solicitation efforts are well underway. He reported that to date, 25 percent of the goal has been collected. He noted that as a part of the efforts to involve a broad cross section of local business and industry, the Partnership committed to hold two investor conferences, two real

estate forums, and two banking forums during the year. He shared that the first real estate forum was held on September 5, 2007, and the first banking forum was held on October 2, 2007. He said that the first investors' forum is scheduled for January 30, 2008.

Mr. Ewing stated that the Partnership has committed to work on expanding efforts to secure more sites, buildings, and other infrastructure needed to support commercial and industrial growth. He reported that Robert Allen has agreed to allow him to serve on the Land Use Plan Review Committee.

He said that the Partnership has also committed to underwrite a thorough professional review of the County's incentive plan that would include the competitiveness of the program, an examination of the existing guidelines, a review of processes used for presenting incentives to clients, a review of all documentation and contractual agreements and improvements to the cost benefits analysis. He shared that the cost benefit analysis is being supervised by Wes Baker, the County's internal auditor. He said that Mr. Baker is currently reviewing the existing programs to determine which of the most commonly used approaches currently in use in the area best meet the County's needs. He stated that among those currently being reviewed are the analysis used by the City of Monroe and its economic development program and those of the North Carolina Department of Commerce. He said that on October 25<sup>th</sup>, he accompanied Mr. Baker to Raleigh to meet with the economists who analyzed the State's incentive programs, and they are providing the necessary assistance to Mr. Baker so that he can parallel the State's approach where it would work best for Union County.

Mr. Ewing said that for the remainder of the incentive review, the Partnership has contracted with the Sanford Holshouser law firm to examine the other aspects of the program. He said that Sanford Holshouser is one of the most respected law firms in North Carolina and has reviewed many of the incentive programs throughout the state. He introduced Ernie Pierson, the partner in charge of this portion of their practice.

Mr. Ewing said that the Partnership had also committed to address a personnel model that called for a staff of five key people and one future position for investor relations. He stated that the three additional key positions include a Director of Economic Development, a Director of Business Retention and Expansion, and a Director of Research. He introduced Michael Cranford, Director of Business Retention and Expansion.

He said that Kyle Costello, who is a senior at Wingate University, has rejoined the Partnership's staff part-time to assist with research requirements.



Mr. Ewing shared that the Partnership's office is currently located in the Chamber of Commerce's building. He said that the Chamber has allowed it to stay at this location rent free until a final decision can be made on a permanent location for the Partnership. He assured that any new space that would be occupied by the Partnership would be in keeping with the requirements of internationally accredited economic development organizations and will be large enough to efficiently accommodate the long-term staffing needs.

He provided the Board with a brief client activity report. He shared that SVC Valves in Indian Trail is expanding and creating four new jobs and investing \$500,000 in new equipment. Further, he shared that Radiator Specialty has announced that it will move its corporate headquarters to Indian Trail to accompany the manufacturing facility that it has in the County. He said that this would create 45 new jobs and an investment in excess of one million dollars in real estate improvements. Mr. Ewing said that it is hoped that there will be an announcement soon on an attractive new commercial project in western Union County.

Mr. Ewing shared that the Partnership has responded to 40 inquiries since July 1<sup>st</sup>. He said that he expects site searches to continue to be strong throughout the remainder of the fiscal year, but the housing market scare and the potential rising of interest rates have cooled economic growth a bit. However, he said the lower value of the dollar is having a positive impact on international development. He stated that Charlotte remains one of the premiere regions in the nation for new business, and in general, the local economy remains strong and is likely to continue that way for some time to come. Mr. Ewing assured the Board that the Partnership has made significant progress since its last meeting with the Board in June.

Ernie Pierson, founding partner of the Sanford Holshouser firm, commented on the details of the incentive plan review. Mr. Pierson said that he thought his firm could bring a broad view of what is occurring in local economic development incentive in the state. He said that his goal is to use his 18 years of experience to help the County have an incentive program that is as competitive as it needs to be without ideally spending one penny more than has to be expended to get a project and that will be legally defensible.

Mr. Pierson described that there would be four areas that would be looked at in the incentive program: incentive policy, incentive agreements, how incentives work in terms of the process, and an opinion of counsel as to the validity and enforceability of the program. He said that his firm would work through the County's professional staff and the Partnership Board.

#### PUBLIC WORKS DEPARTMENT:

*a. Union Regional Water System Assessment Resolution*

Chairman Pressley stated that this resolution had been a long time coming, and he described it as a step in the right direction getting a waterline into the Pee Dee River Basin and working with Anson County.

Christie Putnam, Public Works Director for the County, stated that it was her understanding that Anson County would be considering a similar resolution during its December meeting.

Chairman Pressley said that he had noticed one change in the resolution. He said at one time there had been discussions regarding 30 million gallons versus 20 million gallons. He said that he was under the impression that it was 30 million gallons and questioned the source of the information. Ms. Putnam responded that the 20 million gallons was from the master plan. She said that a part of the exercise that will be brought forth in the future is to re-evaluate the long-term needs prior to any formalization of an agreement with Anson County.

The Chairman shared that he along with the Vice Chairman had several meetings with representatives from Anson County. He said he was very excited about the opportunity for a long-term water supply for Union County.

Vice Chairman Baucom added that this would be one of the key events that the Board would look back on and say that this event will have made a difference to the quality of life in Union County going forward. He expressed appreciation to Andy Lucas, County Manager of Anson County, and the cooperative spirit at the staff level, Anna Baucom, Chairman of the Anson County Board of Commissioners, and the Commissioners' cooperative spirit. He said that this was regionalism and was two counties sharing availability and sharing needs.

Following the reading of the resolution into the record by Chairman Pressley, Vice Chairman Baucom moved its adoption.

### **Union Regional Water System Assessment Resolution**

**WHEREAS** Union County is experiencing significant population growth and is anticipated to need an additional 20 million gallons per day of water to meet its current and future residential and industrial needs for the next 20 years, and

**WHEREAS** Union County has a desire to develop a long term water source in the Yadkin-Pee Dee Basin to reduce existing and eliminate the need for any additional inter basin transfer from the Catawba Basin, and

**WHEREAS** Anson County's future economic prosperity and the long-term financial viability of its water system depends on its ability to continually sell finished water to surrounding jurisdictions, and

**WHEREAS** Anson and Union county's traditional and emerging residents and industries all depend on reliable supplies of clean water, reasonable utility costs and an attractive natural environment, and

**WHEREAS** Union County's ability to receive reasonably priced, high quality water in excess of 4 million gallons per day on a consistent basis from Anson County is contingent on several infrastructure improvements within its storage and distribution system and,

**WHEREAS** Union County is interested in studying the scope, feasibility and costs associated with system improvements in order to meet Union County's growing water supply needs in an effort to meet demand projections;

**NOW THEREFORE BE IT RESOLVED** that the County of Union engage the services of HDR Engineering to work in collaboration with Hobbs, Upchurch and Associates, on behalf of Anson County, to study the cost of required system upgrades needed to deliver a water supply in excess of the current contractual terms allocating the cost of these services to the beneficiary party, and

**BE IT FURTHER RESOLVED** that the County of Union calls upon the governing board of Anson County to enact a resolution of similar scope to affirm this joint study focused on regional cooperation, natural resource stewardship and identifying the most cost-effective solution for providing water to the citizens of both Anson and Union counties.

Adopted this 5<sup>th</sup> day of November, 2007.

Commissioner Openshaw said that it was responsible to line up a new water source, but the County should learn from history. He stated that the County needed to avoid making the same mistakes it had made the last time it obtained a new water source. He stressed that the County should plan how to manage its growth so that the taxpayers are not constantly being asked for higher taxes and additional revenue sources such as the transfer tax.

He commented that the current taxpayers are going to pay for the future growth stimulated by this water source and its debt. Commissioner Openshaw said that what he was looking for is a plan of how to have an equitable way of distributing the cost of

growth so that the taxpayers are not the sole source of funds. He said that he would like to know a ballpark figure of the cost of this project. Chairman Pressley responded that he believed that was what Hobbs and Upchurch would be providing to the Board. He said that the money would come from the enterprise fund and was not taxpayers' money. He stated that the money would come from the users of the system and developers.

Commissioner Openshaw stated that the monies would come predominantly from the taxpayers. He said that the taxpayers would be the predominant source for any expansions to the system. He said that user fees would provide for future growth predominantly. He stated that until there was a plan and the Board began working on a plan on how to deal with the problems created, he could not support the resolution.

Vice Chairman Baucom said that the only question he would have for Commissioner Openshaw would be "How did he propose to meet the present needs?" Commissioner Openshaw countered with a question: "why was the County continuing to issue water permits when it is in a water restricted situation?" Vice Chairman Baucom responded that there are obligations that the previous boards have exposed the County to. Commissioner Openshaw said that he did not believe that this issue had been thoroughly examined and there had not been a public hearing held on the sewer allocation policy nor had the policy been reviewed by the Public Works Advisory Board.

Chairman Pressley said that there was an obligation of the Board to keep water for the citizens of the County. He said he thought for sure that Commissioner Openshaw would have supported this additional water supply.

Commissioner Openshaw agreed it is responsible to line up an additional water source, but it is irresponsible to repeat the same mistakes of the past. He said that the last time there was a new water source, there was a quote in a newspaper article that "There would be growth beyond the wildest expectations." He stated that had proven to be true. He stressed that the Board needed to work on a plan not after getting the water source and questioned why the plan could not be worked on simultaneously. Chairman Pressley noted that Commissioner Openshaw had referred to the problems that the Board has caused in the past. He stated that the current Board has not caused the problems, but it is trying to correct problems that have been made in the past. The Chairman said this is closer than any other Board has gotten to getting a water source which might be an unlimited source without an interbasin transfer. He stated that while he agreed that there needs to be a plan, he emphasized that the Board needed to act when the time is right to act which is now.

Commissioner Lane said that he agreed with Commissioner Openshaw on certain aspects, but he also agreed that the Board needs to act on the water source. He asked the amount of time it would take for the County to get the water into its system from Anson County. Ms. Putnam responded that it is hoped that the near term solution would be within two and a half to three years and long-term would probably be closer to seven years. Commissioner Lane said that it would not relieve the current problems that have been caused by the drought. He stated that the Board needed to be working simultaneously on a plan for water allocation. He said that the taxpayers would have to pay for a great deal of the project because the water would be available for more development in the area which would necessitate construction of more schools.

Commissioner Mills said that he had spoken with some of the council members from the City of Monroe. He stated that the Board of Commissioners will be meeting with the City Council on November 19, and they would be interested in looking at some type of partnership for water.

Commissioner Openshaw said that Union County is a county without water and does not have a major river. He stated that he understood why the water is needed, but he does not want the same mistakes that have been made in the past to be repeated. He said that he thought the Board needs to begin committing to work on a system.

Commissioner Mills moved to call the question on the previous motion.

Chairman Pressley interjected that he did not believe that the Planning Board has approved one subdivision since he has been on the Board. He said that his point was that the Board was trying to be responsible but it would take three to seven years. He stated that without looking at the development side, there are people in the County who have contaminated wells that are begging for water on the eastern side of the County. He reiterated that the Board has a responsibility that someone else has put the Board in with sewer and water.

Commissioner Mills questioned if there had been any new water permits issued. Ms. Putnam responded that new water permits have been issued. Commissioner Mills said that he thought issuance of new water permits had stopped. Ms. Putnam replied that they have stopped issuing new commitments to new subdivisions.

Commissioner Mills reiterated his motion to call the question. The Chairman stated he had not recognized Commissioner Mills' motion and authorized the Vice Chairman to make his comments.

Vice Chairman Baucom stated that this was a real opportunity for Union County to be proactive in working with Anson County in obtaining a long-range water source. He said that it has been a long time since Union County has had this opportunity. He stated that there have been several people who have come before this Board who are on well water that have high levels of arsenic, which are in a large portion of Union County. He said that if the Board wants to address the health issues of the citizenry of Union County, there must be long-range water sources. Further, he added that if the Board wants to be proactive, there needs to be a long-range water source from the eastern side. He said that he was going to be very disappointed if this vote was not a unanimous one.

Commissioner Mills said that the long-range planning in the past had been in the western part of the County with the Catawba River.

Commissioner Openshaw said that he would vote with the Board if there could be assurance that the Board would work on a plan that is better than the current plan and the taxpayers would not be burdened with the entire cost of the growth that would come from this project.

Vice Chairman Baucom responded that he was very much in favor of addressing the County's present land use plan. He said that he would like to see the land use plan being addressed now.

Vice Chairman Baucom asked for clarification on the second part of Commissioner Openshaw's statement. Commissioner Openshaw said that the current residents of Union County would pay for the growth from this project. He stated that a presentation was made to the Public Works Advisory Board at its last meeting where two scenarios were presented. He said one scenario was that exclusively the new residents would pay and the second scenario was that essentially everyone would pay, which is vastly predominantly the existing taxpayers.

Vice Chairman Baucom responded that the one thing he wanted to make sure of is that there is a water source for Union County for his grandkids and their grandkids. He said that water is an absolute must. He said that working for a good plan was what this Board was about and questioned how much better it could be than what it was working for at the present time. He emphasized again that this is a great opportunity for Union County and said that the Board was and always would work for better plans.

Commissioner Mills again called for the question.

Commissioner Lane asked if a friendly amendment would be accepted.

Chairman Pressley responded that there did not need to be any additions to this motion. He called for a vote on the motion.

The motion was passed unanimously.

***b. Water Conservation Ordinance***

Chairman Pressley requested that Christie Putnam, Public Works Director, share her recommendations for revisions to the County's Water Conservation Ordinance.

Ms. Putnam stated that the Board previously revised the Water Conservation Ordinance to allow watering one day per week to conform to the low inflow protocol with Duke Energy. She said since that time, the Public Works Advisory Board and the Drought Management Advisory Group associated with Duke Power both have recommended the elimination of lawn watering. She stated that the amendment to the Ordinance before the Board tonight would have the following effect:

1. Prohibit the watering of lawns
2. Provide that shrubbery, trees, flowers, and vegetable gardens may be watered by hand or by drip irrigation.
3. Decriminalize the Ordinance by deletion of the criminal penalties to better position the County to retain the now significant civil penalties generated by the violation of the ordinance.

Following the explanation by Ms. Putnam, Commissioner Lane moved adoption of the amended and restated Water Conservation Ordinance:

**WATER CONSERVATION ORDINANCE**

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

**BE IT ORDAINED** by the Union County Board of Commissioners that water conservation is deemed to be necessary when water demand by customers connected to the Union County water system reaches the point where continued or increased demand will

equal or exceed the treatment and/or transmission capacity of the system. When water demand results in the condition whereby customers cannot be supplied with adequate water to protect their health, safety, or property, then the demand must be substantially curtailed to relieve the water shortage.

Article I  
Declaration of Water Shortage

Section I: Applicability of Ordinance

In the event (i) it appears there is a sustained demand of 80% of the Union County water system treatment and/or transmission capacity (average daily flow); or (ii) Duke Power Company LLC, doing business as Duke Energy Carolinas, LLC, declares a Stage 1 Low Inflow Condition pursuant to the Comprehensive Relicensing Agreement for the Catawba-Wateree Hydro Project (FERC Project No. 2232) dated December 22, 2006, to which Union County is a party, thus compelling certain voluntary water use restrictions by Union County, then in either such event the Director of the Union County Public Works Department, hereinafter referred to as the “Director,” may recommend to the County Manager that voluntary water conservation measures be implemented. The County Manager, following consultation with the Board of Commissioners, may declare a Stage I Voluntary Water Shortage Condition requesting voluntary water conservation by consumers. The County Manager, following consultation with the Board of Commissioners, may, with or without the recommendation of the Director, declare that a Stage II, Stage III, or Stage IV Mandatory Water Shortage Condition exists and require mandatory conservation measures upon occurrence of any conditions precedent for declaring such Condition, as hereinafter set forth. In declaring any Water Shortage Condition pursuant to this Ordinance, the County Manager may limit the applicability of the requirements of this Ordinance to certain sections of the County, whether by township or other description. For purposes of this Ordinance, the phrase “following consultation with the Board of Commissioners” shall mean consultation during a regular or special meeting of the Board of Commissioners when possible, but where delay would endanger the public health, safety, or welfare, as determined by the County Manager, such consultation may be made by the County Manager with members of the Board of Commissioners on an individual basis outside the confines of a formal meeting. The County Manager shall report the declaration of a Water Shortage Condition to the Board at its next regular meeting.

The declaration of a Water Shortage Condition becomes effective immediately upon issuance by the County Manager. Upon declaration of any stage of Water Shortage Condition, the County Manager shall issue press releases to local television, radio and/or print media to inform the public of the voluntary or mandatory water use restrictions. Upon declaration of a Stage II, Stage III, or Stage IV Mandatory Water Shortage Condition, the County Manager shall also cause notice of such restrictions to be either inserted



into customers' water bills or separately mailed to customers as soon as reasonably practicable.

Article II  
Stage I Voluntary Water Shortage Condition

Section I

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

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

Section II

In the event a Stage I Voluntary Water Shortage Condition is declared, the following guidelines shall apply, and the public shall be encouraged to adhere to the following:

- a. Limit car washing to the minimum.
- b. Limit lawn and garden watering to that which is necessary for plants to survive.
- c. Do not wash down outside areas such as sidewalks, patios, parking lots, service bays or aprons, etc.
- d. Do not leave faucets running while shaving or rinsing dishes.
- e. Water shrubbery to the minimum required, reusing household water when possible.
- f. Limit use of clothes washers and dish washers and when used, operate fully loaded.

- g. Use of showers for bathing, rather than bathtub, and limit showers to no more than four (4) minutes.
- h. Limit flushing of toilets by multiple usage.
- i. The use of disposable and biodegradable dishes is encouraged.
- j. The use of flow-restrictive and water-saving devices is encouraged.
- k. Limit hours of operation of water-cooled air conditioners.
- l. All residents, businesses, and institutions are requested to temporarily delay new landscape work until the water shortage has ended.
- m. Use only hoses with spring-activated nozzles when watering lawns and gardens.

Article III  
Stage II Mandatory Water Shortage Condition

Section I: Compliance

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

Section II

In the event (i) a Stage I Voluntary Water Shortage Condition declaration is ineffective in adequately reducing demand; (ii) maintenance of the system (whether preventive or breakdown maintenance, or due to an event of force majeure) requires a reduction

in demand; (iii) mandatory restrictions are required to comply with any permit for the system issued by applicable state or federal authorities; (iv) sustained water demand exceeds 95% of the Union County water system treatment and/or transmission capacity (average daily flow); or (v) Duke Power Company LLC, doing business as Duke Energy Carolinas, LLC, declares a Stage 2 Low Inflow Condition pursuant to the Comprehensive Relicensing Agreement for the Catawba-Wateree Hydro Project (FERC Project No. 2232) dated December 22, 2006, to which Union County is a party, thus compelling certain mandatory water use restrictions by Union County, then upon occurrence of any such event the County Manager may issue a declaration that a Stage II Mandatory Water Shortage Condition exists. Such declaration may prohibit any one or more of the types of water uses regulated under a Stage I, Stage III, or Stage IV Water Shortage Condition, provided that the County Manager, in his discretion and acting in the best interests of the health, safety, and welfare of the citizens, may further regulate usage on the following bases: (i) time of day; (ii) day of week; (iii) customer type, including without limitation, residential, commercial, industrial and institutional; and (iv) physical attribute, such as address. After consultation with the Board, the County Manager may also take such other measures as deemed necessary to give effect to the intent of this Ordinance.

Article IV  
Stage III Mandatory Water Shortage Condition

Section I: Compliance

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

Section II

In the event (i) a Stage II Mandatory Water Shortage Condition is in effect and the system demand still exceeds system capacity; or (ii) Duke Power Company LLC, doing business as Duke Energy Carolinas, LLC, declares a Stage 3 Low Inflow Condition pursuant to the Comprehensive Relicensing Agreement for the Catawba-Wateree Hydro Project (FERC Project No. 2232) dated December 22, 2006, to which Union County is a party, thus compelling certain mandatory water use restrictions by Union

County, then in either such event a Stage III Mandatory Water Shortage Condition may be declared. In addition to any voluntary and mandatory guidelines already in effect, it shall be unlawful to use water supplied by the Union County water system in the following manner:

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

#### Article V

#### Stage IV Mandatory Water Shortage Condition

##### Section I: Compliance

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

availability of water from other sources.

## Section II

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

- a. To induce water into any pool.
- b. Use water outside a structure for any use other than an emergency involving a fire.
- c. Fire protection to be maintained by drafting of ponds, rivers, etc., wherever possible.
- d. The use of throw-away utensils and plates is encouraged and recommended at all eating establishments.
- e. To operate an evaporative air conditioner which recycles water except during operating hours of business.
- f. Use potable water for road construction practices, i.e. compaction and washing.

## Article VI

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

- a. Water Shortage Conditions will expire when the County Manager, after consultation with the Board of Commissioners and upon recommendation of the Director, deems that the condition which caused the water shortage condition has abated.

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

## Article VII

### Section I: Enforcement

- a. Compliance with the provisions of this Ordinance shall be enforced by personnel of the Union County Public Works Department, hereinafter referred to as “UCPW,” independent contractors engaged by UCPW for such purpose, and such other personnel as designated by the County Manager.
- b. The use of water from the Union County water system by a customer in violation of any mandatory water conservation control imposed pursuant to this Ordinance is unlawful. For purposes of this Ordinance, the term “customer” shall mean any person or entity in whose name Union County Public Works maintains an account for water use. Further, the refusal or failure of a customer or other person acting on the customer's behalf to cease immediately a violation of a water conservation control, after being directed to do so by a person authorized to enforce the provisions of this Ordinance, is unlawful. Each customer is responsible for any use of water that passes through the service connection associated with the customer's account or otherwise passes through the customer's private water system.
- c. Any customer who violates or permits the violation of any mandatory water conservation control imposed pursuant to this Ordinance shall be subject to civil penalties as follows: (i) a warning for the first offense; (ii) a civil penalty in the amount of one hundred dollars (\$100) for the second offense; and (iii) a civil penalty in the amount of five hundred dollars (\$500) for the third and subsequent offenses. Each day that a violation of a mandatory water conservation control occurs shall be considered to be a separate and distinct offense.
- d. Violations shall be accumulated by customers so long as this Ordinance, in any of its stages, is continuously in effect and until no stage of this Ordinance has been in effect for a period of one (1) calendar year. Violations of any mandatory water conservation control of any stage shall accumulate with violations of other stages. Should a customer move, or cease and renew service, during the period described herein, the customer's violations shall continue to accumulate as if such move or cessation had not occurred.

- e. Each civil penalty assessed against a customer pursuant to this Ordinance shall be added to the customer's water bill and shall be paid in the same manner as the payment of water bills. A customer's partial payment of a water bill shall be applied first to satisfaction of the civil penalties. Failure to pay all or any portion of a water bill, including any civil penalty assessed pursuant to this Ordinance, in a timely manner may result in the termination of water service.
- f. The violation of any water conservation control or provision of this Ordinance may be enforced by all remedies authorized by law for noncompliance with county ordinances, including without limitation the assessment of a civil penalty and action for injunction, order of abatement or other equitable relief; provided, however, that no violation of any water conservation control or provision of this Ordinance shall be a basis for imposing any criminal remedy.

## Article VIII

### Section I: Discontinuance of Service

In addition to the payment of any civil penalty assessed pursuant to Article VII of this Ordinance, a customer shall be subject to termination or restriction of water service following four or more violations of any water conservation control imposed pursuant to this Ordinance. Water service will not be restored at such service connection until the customer agrees to such terms as determined by the Director to be reasonably necessary or advisable to ensure the customer's compliance with such water conservation controls as are then in effect or may be imposed pursuant to this Ordinance and the payment of all the customer's obligations, including, without limitation, all outstanding charges for water service, civil penalties and all other fees, amounts and penalties charged in accordance with the provisions of this Ordinance. If a customer violates such a term or condition, the customer shall be subject to a civil penalty of up to \$1,000.00 in addition to any other remedy authorized pursuant to this Ordinance and termination of water service through such service connection for up to a minimum period of 15 days. Service may be restored thereafter in accordance with the provisions of this Article.

A customer whose water service is terminated pursuant to this Article shall not be entitled to notice and an opportunity for a hearing in advance of such termination. Although service of notice and an opportunity for hearing are not conditions precedent to termination of service, UCPW will endeavor to provide such notice as soon as reasonably practicable after a decision is made to terminate such service. A customer whose service is terminated pursuant to this Article or who receives notice of such a termination shall have five calendar days after termination of service or receipt of notice of termination, whichever is later, to appeal such termination to the Director, or his/her designee, by delivering a written notice of appeal. A hearing shall be held on such appeal within

three business days of receipt of the notice of appeal, or by such other date as approved by the Director, or his/her designee, and the customer.

#### Article IX

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

#### Article X

##### Section I: Severability

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

#### Article XI

##### Section I: Effective Date

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

This fourth amendment and restatement of this Ordinance shall become effective upon adoption by the Board of Commissioners on November 5, 2007 (the "Effective Date"). The Ordinance is restated in this manner solely to facilitate review by the reader by obviating the need to integrate multiple documents. Any declaration of a Water Shortage Condition made prior to the Effective Date and not rescinded shall remain in full force and effect. Though amended, this Ordinance shall be deemed to be continuously in effect such that enforcement of violations committed prior to the Effective Date shall continue unaffected.



Commissioner Lane said that he was pleased that the Board was considering the amended and restated Ordinance which would prohibit watering of lawns.

Commissioner Openshaw said that he had received a number of e-mails, telephone calls, and correspondence regarding wells used for irrigation. He stated that it was his understanding that Matthew Delk, Assistant County Manager, would be providing the Board with an update on this matter.

Mr. Delk responded that he had a report that he was ready to present whenever the Board thought it was appropriate. He stated that he had planned to brief the Board regarding this issue during the Manager's Comments.

Commissioner Openshaw said that he would like for there to be some type of review of the matter other than in the Manager's Comments. He noted that the Public Works Advisory Board does not have provisions for public comments during its meeting, which he said that he would like to be added to their meetings. He stated that it needed to be inclusive with the Public Works Advisory Board and the public. He questioned whether the Board members would have an opportunity to comment on this issue during the presentation in Commissioners' Comments.

Commissioner Mills requested that the Board hear Mr. Delk's report at this time, and Vice Chairman Baucom agreed that this would be the appropriate time for the Board to be briefed on this matter.

Mr. Delk said that his information had been taken from some research, most of which is data that is publicly available via the internet from the State's website and also through the opinion of the staff attorney. He noted that there are several issues of law that are relevant to this matter including several state statutes as well as an ordinance that has been adopted by the Union County Board of Health. He stated that the ordinance provides detailed guidelines for the construction and site placement of wells on property and includes such stipulations as the registration requirements for well contractors, a requirement that they be permitted and certified by the State of North Carolina, and also requirements for site placement which are designed to protect the quality of the water but not so much the levels of water in the wells.

Mr. Delk commented that beginning July 1, 2007, the Board of Health began monitoring the number of permits issued. He said that since that time, there have been approximately 212 well permits with plans drawn up and permitted by the County's Health Department. He shared that 112 well permits have been issued for drinking purposes which would be deemed as an essential use, and

109 well permits were issued for irrigation purposes which would be deemed as a non-essential use. Mr. Delk stated that once the permits are issued, by State law, they are valid for five years.

He also noted that the State makes a number of its decisions on well water through the Division of Water Resources under DEHNR in Raleigh. He said that the State has on its web page a great deal of detailed information including one item of information that is critical to the County that wells are monitored statewide through test wells. He stated that there is one test well in Union County located in Monroe, which has been monitored by the State since 1969. He said that test well is approximately 400 feet deep, and the water level has been approximately 19 feet below the surface of the ground all the way down to approximately 29 feet. Mr. Delk said at the present time, the water level in the test well is at the bottom of that range.

He stated that from all the information that the staff has found, the regulations are in place to regulate the quality of water through the Environmental Health and was not originally designed to address the County's concerns. He referred to a memorandum written by Jeff Crook, Senior Staff Attorney, which basically states that the County's options are virtually nil as far as addressing water being used for a non-essential method similar to the way that the County's distributed water system is monitored. Mr. Delk said that his recommendation would be, and it is also an effort that is developing statewide at this time through the Association of County Commissioners, that the Board has the option of directing the staff to develop a resolution for the Board's consideration requesting the state to address the issue. He noted that Wake and Guilford Counties are also dealing with the same issues. He stated that he believed that the State would address the issue and believed that Union County's request would add weight to the request.

The Chairman requested a copy of the legislative request by Wake County. Mr. Delk responded that a resolution has not been drafted at this time.

Commissioner Openshaw shared that the essence of his concern is basically in periods of drought getting the well users on the same page with the County water users. He said that if there is a drought, it means that groundwater is also in peril. He said that it bothers him that in periods of drought, everyone's lawn is dead except for the resident who has a well or is watering illegally. He stated that these were the gist of his concerns and he was not looking necessarily to stop people from drilling wells.

Commissioner Mills added that he thought the concerns occurred when someone is on a municipal water system, be it county or city, and then circumvent the restrictions by drilling a well. He clarified that he was not referring to agriculture, turkey houses, etc. He stated that he would like to ask that the Board take Mr. Delk's recommendation and request Mr. Crook to draft a resolution to bring to the Board for consideration.

Chairman Pressley reminded that a motion was on the floor to adopt the amended and restated Water Conservation Ordinance. He questioned whether Commissioner Mills suggestions would be an amendment or substitute motion. Mr. Delk suggested that it could be a separate motion to direct the staff to prepare an appropriate resolution. The Chairman sought the advice of the Senior Staff Attorney of whether or not this item could be added to the agenda at this time. Mr. Crook advised that he believed the item could be added to tonight's agenda, but recommended that the Board dispose of the substantive motion regarding the Water Conservation Ordinance.

Following further discussion, Mr. Delk noted that the staff would have to take some creative reasoning in developing the resolution for the Board's consideration, because it involved dealing with two separate rule making entities—the Board of Commissioners ultimately controlling Public Works and how the County administers and enforces the terms of the drought restrictions and also the Board of Health and its authority to administer the State's statutes in relations to permitting. He said that part of the challenge in Raleigh will be to take the County's concerns and marry those in a program that will work. At the request of Chairman Pressley, Mr. Delk clarified that he was not referring to the present Ordinance but to the resolution that the staff would be drafting for the Board's consideration.

The Chairman called for a vote on the original motion to adopt the amended and restated Water Conservation Ordinance. The motion was passed unanimously.

Chairman Pressley then moved to add an item to the agenda to discuss directing staff to draft a resolution requesting that the State address this issue. The motion was passed unanimously.

Commissioner Mills moved that the Board accept the recommendation of Mr. Delk to direct staff to develop a resolution requesting that the General Assembly provide guidance and authority for counties to handle well usage for non-essential purposes and that the draft resolution be presented to the Board for consideration.

Vice Chairman Baucom questioned whether Commissioner Mills had included in his motion the intent to exclude agricultural uses with agricultural being use of the land for profit.

Commissioner Mills said that if residents are already municipal water customers, either county or city, and the County is in a drought, then wells should not be permitted for irrigation purposes and water restrictions are in place.

Mr. Delk noted that in the interest of time, the staff only had limited time to review an extremely extensive set of laws and regulations. He pointed out there are already provisions in some of the regulations to define what the permitting process should and should not do. He suggested that it might be best that the motion be left as general as possible so that Raleigh can help direct the County in this matter.

Vice Chairman Baucom stressed that he wanted to make certain that agricultural uses are excluded. Mr. Delk stated that as he understood it, it is the intent that agricultural use is providing for job and food basis and is considered essential uses. Vice Chairman Baucom said that he understood, but emphasized that he wanted certainty that these uses were excluded. He said that he did not want someone misinterpreting the intent and wanted it added to the motion.

Commissioner Mills agreed to amend his motion accordingly.

Commissioner Openshaw stated that water is a monopoly, and he is not opposed to someone drilling a well because they can save money. He said that he was concerned about in times of a drought, as Commissioner Mills had discussed, they should have to be a part of the whole and play by the same rules.

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

CONTRACTS OVER \$5,000 (These items were moved from the Consent Agenda at the request of Commissioner Openshaw):

***Item 1g from the Consent Agenda - HDR Engineering, Inc. – Task Order #40:***

Commissioner Mills stated that he would like to ask a question of Ms. Putnam before this item is discussed. He questioned what the status was on Stage 4 of the water restrictions.

Ms. Putnam responded that as of last week, Duke Power's estimate for implementing Stage 4 of the restrictions would take place in the spring of 2008.

Chairman Pressley asked if that estimate was taking into consideration any rainfall that the County might receive during this time. Ms. Putnam responded that it was not taking that into consideration.

Commissioner Mills said that hopefully eliminating all lawn watering would help to postpone that time even further. Ms. Putnam said that the estimate was based on the current demand and any additional conservation measures would prolong the implementation of Stage 4.

Commissioner Openshaw stated that Item 1g – Task Order #1 with HDR Engineering Services for a preliminary engineering report regarding Eastern County water supply was addressed with his vote on Item 6a on the agenda. He moved approval of Task Order #40 with HDR Engineering, Inc. for engineering services for a preliminary engineering report regarding eastern County Water Supply short-term conveyance facilities. The motion was passed unanimously.

***Item 1h from the Consent Agenda – Task Order #1 with Kimley-Horn & Associates:***

Commissioner Openshaw said that he had voiced his concern during the joint meeting with the Public Works Advisory Board on August 20, 2007, with the diversion line. He said that numbers had been discussed between 1,000,000 million gallons and 1.3 million gallons. He questioned whether these numbers have changed. Ms. Putnam responded that the numbers have changed and stated that the numbers are now closer to 1.5 million gallons.

Commissioner Openshaw asked if sewer would be diverted from the Crooked Creek area. Ms. Putnam said that it would be diverted from anywhere that drains into the Crooked Creek or Twelve-Mile Creek Basins. Commissioner Openshaw asked if the sewage would be going to Mecklenburg County. Ms. Putnam verified that this was the purpose of this project. He questioned how much capacity would be remaining. Ms. Putnam responded that pursuant to the Sewer Allocation Policy based on the petitions that have been made and ruled upon by the Public Works Department, there was no capacity left.

Commissioner Openshaw asked if the diversion line would serve everyone on the Sewer Allocation Policy. Ms. Putnam said that from her initial running of the numbers, there is no capacity remaining. However, she said that she needed to verify that this is correct. She said that the diversion line would serve everyone identified in the policy or has been added per the petition process. Commissioner Openshaw said that he would like to have a one-on-one conversation with Ms. Putnam to review the list. He stated that if there were no sewer left, then his point would be moot. He shared that his concern was that if a gigantic diversion line is being constructed and if it is going to be used all from the one area, it would be essentially eliminate all economic opportunities for people in the Six Mile Creek Basin. He said that a question he would have for the Public Works Advisory Board would be to consider an equitable distribution of that asset. He suggested that this is an issue that the Board might want to look at in the future. Commissioner

Openshaw said if there is no capacity left, then he had no problem with this Task Order, but he did believe that it is an issue that deserved recognition.

There was discussion regarding the Mill Bridge pump station.

Commissioner Lane stated that he thought that CMUD was reluctant to negotiate for additional sewage. He asked if CMUD's position had changed. Ms. Putnam responded that there have been additional discussions with CMUD, but there has been no additional answer received from CMUD.

Following the discussion, Commissioner Mills moved approval of Task Order #1 with Kimley-Horn & Associates for engineering services for 12-Mile Creek study to divert flow to CMUD. The motion was passed unanimously.

MINUTES (This item was moved from the Consent Agenda to the Regular Agenda at the request of Commissioner Openshaw):

Commissioner Openshaw stated that the minutes were voluminous and he had not had a chance to fully read the minutes. He requested that the Board allow delay of action on the minutes until the November 19<sup>th</sup> meeting to provide him time to review them.

Chairman Pressley and Vice Chairman Baucom questioned if there were any time sensitivity to approving the minutes. Jeff Crook, Senior Staff Attorney, advised that there was no time sensitivity to approving the minutes tonight.

Commissioner Openshaw moved to delay action on this item for two weeks to allow the Board more time to review the minutes. The motion was passed by a vote of four to one. Chairman Pressley, Vice Chairman Baucom, Commissioner Mills and Commissioner Openshaw voted in favor of the motion. Commissioner Lane voted against the motion.

TAX ADMINISTRATOR:

*a. 2008 Property Reappraisal*

John Petoskey, Tax Administrator, stated that on March 12, 2007, the Board adopted a resolution to conduct a reappraisal in 2008. He explained that the next step in the process would be to present the Board with a schedule of values. He presented the Board with copies of the schedule of values on market and use values. He stated that the schedule consists mainly of numbers and tables

which are derived primarily from the computer system. He also presented a copy to the Clerk to the Board for official keeping in her office for review by the public.

Mr. Petoskey stated that the rules are designed for uniformity and equity, and the schedule is sufficiently detailed for his staff to be able to make the appraisals and be able to adhere to them. He said that there is a statutory process that allows for a hearing which he proposed be scheduled for Monday, November 19. He explained that the schedule is being submitted in accordance with the statute that requires that it be submitted 21 days prior to the adoption which would be December 3. He said that if the Board approves the schedule, there shall be an Order of Adoption and a copy of the schedule will remain in the Tax Administrator's Office and the Clerk's Office for public inspection for 30 days thereafter. He further stated that the present use schedule which is the use value for farming, horticulture and forestry properties follows the recommendation of the Use Value Advisory Committee and will require a separate order of adoption on December 3.

He stated that it is anticipated that based on the current sales ratio study available from the State and projections that the Tax office is making, there will be a tax base increase in the neighborhood of 20-25 percent. He said until the schedule is applied, it is not known how it will translate down from property to property. Mr. Petoskey stated that prior to the time that the change of assessment notices are mailed, he would come back to the Board with statistics and summaries to provide an idea of the impact. He said that the requested Board action tonight would be to: 1) Receive the Uniform Schedule of Values, Standards, and Rules; 2) Set the public hearing; and 3) Direct the Clerk to publish the notice of public hearing.

Following the presentation, Vice Chairman Baucom moved in block that the Board: 1) receive the Uniform Schedule of Values, Standards, and Rules; 2) Set the public hearing on the proposed Schedules, Standards, and Rules for Monday, November 19, 2007, at 7:00 p.m.; and 3) Direct the Clerk to the Board to publish Notice of the public hearing. The motion was passed unanimously.

#### WORK SESSION WITH THE CITY OF MONROE ON NOVEMBER 19, 2007, AT 5:00 P.M.:

Chairman Pressley stated that he had met with Mayor Kilgore from the City of Monroe to talk about some of the challenges that the City and County are facing. He said they realize that both entities have a lot in common; and, therefore, he thought it would be good to have the two boards meet along with staff and have a round table discussion. He said that the joint meeting is scheduled for Monday, November 19, 2007, at 5:00 p.m. beginning with a reception. He said that the actual meeting would begin at 5:30 p.m. and would be open to the public.

## 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. Adult Care Home Advisory Committee (1 vacancy)

At this time, Commissioner Mills recognized Bill Stroud of Grace Baptist Church, who had joined the meeting. He asked Mr. Stroud if he had information that he wanted to share with the Board.

Mr. Stroud issued an invitation to the Board to attend Grace Baptist Church's open house on Sunday, November 11, 2007. He said that he had sent a letter to the Board inviting them to attend and he provided them with a post card containing directions to the church.

Chairman Pressley stated that he would be unable to attend on November 11 due to his being out of town.

## INTERIM MANAGER'S COMMENTS:

Richard Black, Interim County Manager, had no comments and had relinquished his time to Mr. Delk for the discussion that had taken place on the irrigation wells.

Chairman Pressley asked Matthew Delk, Assistant County Manager, if he had any comments. He had no additional comments.

## COMMISSIONERS' COMMENTS:

Commissioner Openshaw said that the Vietnam Moving Wall was a great honor to the veterans and to Union County. He said that there had been over 35,000 visitors to the Moving Wall with over 15,000 students and visitors who had traveled from as far away as Florida and West Virginia. He stated that he had been asked to express appreciation to the County for the services that it extended in regards to the Moving Wall. He said that he had been told that the Moving Wall provided closure to many veterans and their



families. Commissioner Openshaw shared that on Sunday, November 11, at 7:00 p.m., there will be a dedication of the memorial park that was installed at the Indian Trail VFW for this event. He said that he was delighted with the attendance for the Moving Wall.

Commissioner Openshaw wished good luck to the candidates in tomorrow's municipal elections. He thanked them for committing their time and service to the citizens of Union County.

Commissioner Mills said that the election is tomorrow, and the meeting video will not be shown until after the election takes place.

Commissioner Mills also commented on the Moving Wall. He expressed appreciation to Bill Stroud for the invitation extended for the Open House at Grace Baptist Church. He noted that November 11 was Veterans Day. He reminded everyone that on the 11th day of the 11th month at the 11th hour, the armistice was signed in for World War I in 1918. He encouraged everyone to thank the veterans. He expressed appreciation to Mr. Delk for his service in the military.

He asked everyone to remember Dick and Pat Kahle whose daughter was killed in an automobile accident over the weekend.

He commented that tonight's meeting had been a good one. He extended congratulations to Commissioner Lane for his upcoming wedding.

Commissioner Lane shared that he would be married on Saturday, November 10, 2007.

Commissioner Lane said that he thought he had taught Alex Kahle in his class.

He also commented on the Moving Wall stating that it was very significant to him since he had served in Vietnam and had lost several friends while in service in Vietnam. He shared that he had visited the main wall in Washington, D.C. He said he was very happy that the Moving Wall had been brought to Union County. He stated that the citizenry had supported the event very well.

Vice Chairman Baucom expressed appreciation to the Indian Trail VFW, the volunteers, and businesses who contributed to bringing the Vietnam Memorial Moving Wall to the County.

He expressed congratulations to Wade Broome for 46 years of continuous attendance at the Monroe Civitan Club.

Vice Chairman Baucom shared that CMC-Union had received approval for a Certificate of Need for tripling the size of the emergency room at the hospital and in addition, it will have a fulltime CT scanner at CMC-Union. He said that healthcare is a tangible that goes to the quality of life that is often taken for granted. He expressed appreciation to CMC-Union for being progressive in healthcare.

He, too, congratulated Commissioner Lane on his upcoming wedding.

Chairman Pressley said that the Moving Wall was a wonderful experience and it was good that the gardens would remain. He complimented the committee for its work on bringing the Moving Wall to the County.

He said he was committed to working on the County's problems and working toward a plan and to exhaust every opportunity to make sure that the citizens of the County have the necessary resources that are becoming scarce. He thanked Commissioner Mills for his efforts in working with CMUD.

With there being no further comments or discussion, at approximately 8:52 p.m., Vice Chairman Baucom moved to adjourn the regular meeting. The motion was passed unanimously.