

**TOWN OF WEDDINGTON  
REGULAR TOWN COUNCIL MEETING  
MONDAY, MAY 10, 2010 - 7:00 P.M.  
MINUTES**

The Town Council of the Town of Weddington, North Carolina, met in a Regular Session at the Weddington Town Hall, 1924 Weddington Road, Weddington, NC 28104 on May 10, 2010, at 7:00 p.m. with Mayor Nancy D. Anderson presiding.

Present: Mayor Nancy D. Anderson, Mayor Pro Tem Daniel Barry, Councilmembers Werner Thomisser, Robert Gilmartin and Jerry McKee, Town Attorney Anthony Fox, Finance Officer Leslie Gaylord and Town Planner Jordan Cook.

Absent: None

Visitors: Barbara Harrison, Larry Almond, Steve McLeod, Katherine Armstrong, Paisley Gordon, Jr., Navin Amin, Joe Mosier, Walker Davidson, Brandon Wasylyk, John Wasylyk, Rob Dow, Bill Price, Kevin Caldwell, Mike Murphy, David Bowman and Jerry Kocsis.

Mayor Nancy D. Anderson offered the Invocation prior to the opening of the meeting.

**Item No. 1. Call to Order.** Mayor Anderson called the May 10, 2010 Regular Town Council Meeting to order at 7:05 p.m.

**Item No. 2. Pledge of Allegiance.** Mayor Anderson led in the Pledge of Allegiance.

**Item No. 3. Determination of Quorum/Additions or Deletions to the Agenda.** There was a quorum. Mayor Anderson asked that the following item be moved from the Consent Agenda to the Regular Agenda:

- Call for Public Hearing to Consider Polivka Land Use Plan Amendment and MX Rezoning

Mayor Pro Tem Daniel Barry asked that the following item be added to the agenda:

- Call for Public Hearing to Consider Amending the Land Use Plan for Parcels 06-150-058, 06-150-059 and 06-150-059A (Parcels 06-150-058 and 06-150-059A to go from "Traditional Residential" to "Business" and Parcel 06-150-059 to go from "Residential Conservation" to "Business")

Mayor Pro Tem Barry moved to approve the agenda with the changes noted above. All were in favor, with votes recorded as follows:

AYES: Councilmembers Thomisser, Gilmartin, McKee, Mayor Pro Tem Barry and Mayor Anderson  
NAYS: None

**Item No. 4. Walden at Providence – Road Ownership and Maintenance Discussion.** Attorney Anthony Fox - This is a request to allow the community to undertake the control and maintenance of certain segments of streets within their approved subdivision. The State has required them to submit a petition to undertake the maintenance. The State has also required that all property owners that abut each proposed rights-of-way sign the petition requesting the removal of the streets from the State system and

approving the maintenance of the streets by the Homeowners Association. The question has come to the Town as whether or not the Town has a legal statutory requirement to approve the relinquishment of State control over these streets and allow property owners to do that. There are no provisions that we have found in the statutes that require the Town's participation or input in that process. However, the State requires and seeks the Town's blessing on doing that. The Homeowners Association has produced for the Town a very detailed document. It includes both copies of the petition, copies of the public roads and appropriate footage of the roads, the actual evaluations of the streets and the proposed cost of the improvements of the streets as well as a statement from their bank showing their cash reserves and assets that the Homeowners Association has as well as an amendment prepared by Tim Sellers to the Homeowners Association bylaws that would require and impose on each of the property owners to submit and be assessed an amount for purposes of maintenance of the streets and that amount would go into a maintenance or street reserve fund that would not be accessible by other parts of the association. The question for the Town and DOT will be "Are the assets sufficient enough to maintain these streets in perpetuity?" The Town does not maintain streets but it has to protect safety, health and the welfare of the public and to determine whether or not the Town is comfortable that those interests will be protected through this arrangement by a Homeowners Association process. Do you have the assurance that this approach will ensure the appropriate maintenance of these subdivision roads in perpetuity? The risk is whether or not this mechanism is sufficient to fund adequately the ongoing repair and maintenance needs of these roads. They have provided an evaluation of the condition of the roads. The evaluations picked out certain segments of the roads that they are talking about maintaining. One road in particular is over six figures in terms of repair costs based upon evaluation of the engineer to bring that up to standard. With that one road alone, a repair cost that may tax the overall current assets of the Homeowners Association. There are issues with pavement cracking and the impaction of some of the roads. That is not just the only road that they are looking at taking over. There are other roads that have in the tens of thousands of dollars in maintenance costs. Is the mechanism sufficient and secure enough to constantly provide for foreseen and unforeseen maintenance obligations that go with this type of operation?

Mr. Butz - The study was done in 2004. One of the things that has happened since then is the evolution of technology called microsurfacing which is going to help us tremendously. DOT is a big advocate of microsurfacing. We have an opportunity to repair these roads with the micorsurfacing in mind. There are some crucial areas that we have to ask for consideration regarding getting them back to standard such as with Valley Run Drive. We have more than enough funds to cover everything due to the low density travel on these roads and microsurfacing will allow us 15 years of no maintenance with this proposal. With that we will have the accumulation of funds because we are taking 10% of HOA dues right off the top and putting them into an account dedicated for that maintenance. The reality is that the State is not being able to help us right now.

Mayor Pro Tem Barry – You made a comment on getting help with Valley Run Drive. Have you addressed that issue with the State?

Mr. Butz – No, we had to get your blessing first. I know that they have already been out there and we have had some good conversations that have already happened.

Attorney Fox - It seems that it is really within the domain of the State whether or not to abandon or not to abandon. That is their power. They are just giving us input into that. One of the risks is if these roads are abandoned they are going to be private. At some point in the future if there is desire to rededicate them to the public, they must be up to State standards so that is why making sure that the funding mechanism is appropriate to maintain a level of quality that the State finds acceptable is so key to this endeavor.

Mayor Anderson – Usually if this were a new subdivision we would collect a performance and a maintenance bond and hold that maintenance bond until the State takes over the roads. Everyone at this table I believe realizes that the HOA would do a far better job than NCDOT.

Mr. Butz - We asked the State to take the roads over. When they did take them over, there have been very little or any improvements made since then. We have to control our own destiny. If we want to make it happen, we have to do it ourselves.

Attorney Fox - You will want to make sure future purchasers of properties have notice of how these streets have changed. The subdivision plat may show these streets being offered for dedication. I would hope that all of that would be corrected as well.

Mayor Anderson – Do you have to make a formal change to your covenants?

Attorney Fox – I have not looked at the covenants. What we would normally do if we had a subdivision that was presented to us, we would look at the covenants and make sure that the streets are shown on the plat and are protected.

Mayor Pro Tem Barry – What is the risk to the Town?

Attorney Fox – There is very little risk. NCDOT is going to require all of the abutting property owners to sign off on this but some owners in the subdivision may not be required to sign off on it if they are not abutting the streets.

Mr. Butz - We need a Resolution that you support our endeavor and then we can go to DOT and get it up to standard.

Mayor Pro Tem Barry moved that staff draft a Resolution in support of Walden at Providence privatizing the roads in their subdivision as shown in their presentation dated April 12, 2010. All were in favor, with votes recorded as follows:

AYES:	Councilmember Thomisser, Gilmartin, McKee and Mayor Pro Tem Barry
NAYS:	None

**Item No. 5. Presentation and Discussion from Wellington Woods II and III Regarding Town's Assistance with Water Project.** Mayor Pro Tem Barry stated, "I was called by the Wellington Woods Homeowners Association about some issues they were having regarding their water and they asked for the opportunity to address the Town Council."

Mr. Jerry Kocsis - I represent the Wellington Woods Homeowners Association. We have applied through the County Self-Help Program to get public water after 32 years. I represent Phase II and III and am President of the HOA. Back in 2009, we applied to the County to participate in the Self-Help Program. Water availability in the County is severely overtaxed. There is more demand than there is water. We initially applied and were told there was none available. The County Commission relocated a new priority list for the use of the water and we were fortunate enough to get ourselves allocated and we were approved in September 2009 to get the water. The cost to do that represents three streets – Auckland Lane, Davenport and Dunden Place. One other street in our community voted that they did not want to participate. The County rules state you have to have 70% participation of the homeowners. We are fortunate that we have 97% participation on those streets. Forty residents have signed up and paid the required half of the cost estimated by the County. Of the three that are not participating, one is a lot where a house burned down and we had a second home burn down over the last 32 years. Without public

water and fire hydrants that was a problem. That is why we really wanted to get the water. With forty homeowners, the County estimates for those lines to be run is \$272,000. The Self-Help Program provides \$2,200 per homeowner that participates from the County Utility Fund. We also appeared before the County Commission seeking additional funding and were successful in getting \$2,000 per household allocation out of the General Fund. That represented \$88,000 from the Utility Fund and \$80,000 from the General Fund off of that \$272,000. That still leaves a balance of \$124,000 or \$3,100 per household that the 40 homeowners will have to come up with. I would characterize our neighborhood as one that has matured out. There are not a lot of children or younger families. The cost for us is not easy to come up with. That \$3,100 does not include the plumbing connection from the meter that the County installs to the home. That could run \$3,000 to get that added on. We are requesting the Weddington Town Council to allocate a grant to us for \$20,000. That would represent a \$500 offset per household. The other three phases of Wellington Woods have public water. Wellington I just recently got water installed. Their cost was significantly less per household. Phases IV and V were built with public water. The other one went in with the Self-Help Program. My understanding was that the Town Council also gave them some assistance. We do not have a lot of services that we demand or expect in Weddington. We are asking for you to strongly consider extending to us a grant of \$20,000 to help us offset and defray these costs. There is no public sewer anywhere in that area. We are on septic. With well water you have mineral concerns. I had to spend over \$6,000 to re-plumb my house because of the mineral content in the water. It ate through the copper pipe. It is safe water but it is the mineral content. Other people have extensive filtration systems. Our lots all exceed two acres and it is fully wooded. This is a unique community because of lot size and not a lot of density. Fifty percent of the homeowners are original. They were custom built back in 1979-80.

Councilmember Gilmartin - You said Wellington Woods Phase I got water installed at a significantly lower rate? Why was that?

Mr. Kocsis - They applied several years ago and the costs were less. Part of our development, Phases II and III front on Potter Road and they were able to get the water for \$900.00 which included the meter and everything simply because the 16" pipe running down Potter Road was put in by the County and all they had to do was connect.

Finance Officer Leslie Gaylord - We have \$15,204 left in the Fund Balance and it can only be spent on water and sewer expenditures. We need to research to make sure that it has not expired. I can pull the original financial statements to see when it came in and if there is something in there that says what it was for. It has been here for years.

Mayor Anderson – There was a previous request from Fox Run. We denied that because they could not get a high enough percentage of the residents and some of the Councilmembers felt that we should not force the other residents in the subdivision to hook into the water system.

Mr. Kocsis – Engineering has been completed by the County through their hired engineering firm. Anticipated construction will start probably in September. No contracts have been let yet. We are working very closely with the County. We want to be a part of the bid process to make sure that we get the best bid possible. We have worked very hard for the last 18 months.

Finance Officer Gaylord – We were thinking that it is not actually a grant but maybe money that a previous Council set aside for that purpose. I just have to research it. I assumed that it was something that was on other town's financial statements but when I called the auditors they have never heard of it. I would move pending research and making sure that the money is available to be spent for that purpose.

Mayor Anderson – Will this be a show stopper if the money is not there?

Mr. Koscis – No, it cannot be because we have already done the paperwork and paid out the money. There are some people that have had trouble. One foreclosure has already occurred and the person had to pull out. We feel that after 32 years we have never appeared here and asked for anything. It will be for the betterment of Weddington and we are investing that money.

Mayor Pro Tem Barry moved to give \$20,000 to the Wellington Woods Subdivision, Phases II and III by using the remaining grant money contingent upon verification by the Finance Officer and \$5,000 from the general fund. All were in favor, with votes recorded as follows:

AYES: Councilmember Thomisser, Gilmartin, McKee and Mayor Pro Tem Barry  
NAYS: None

**Item No. 6. Public Hearings.**

**A. Public Hearing to Review and Consider a Conditional Use Permit Application for the Addition of Three (3) Tennis Courts at Weddington Swim & Racquet Club located at 4315 Weddington-Matthews Road, Weddington, NC 28104.** Mayor Anderson opened the public hearing to consider the Conditional Use Permit Application for the Weddington Swim and Racquet Club. Attorney Fox swore in the following individuals wishing to give testimony: Jordan Cook, Kevin Caldwell and Mike Murphy.

The following Exhibits were entered into evidence by the Town Planner:

- Exhibit 1 - Application dated 2/24/10
- Exhibit 2 - Staff Memo dated 5/10/10
- Exhibit 3 – Aerial Photograph
- Exhibit 4 – Zoning Map showing property and adjacent properties
- Exhibit 5 – Actual plans submitted by the applicant

Town Planner Cook – Weddington Swim and Racquet Club requests a Conditional Use Permit (CUP) for the addition of three tennis courts and the modification of an existing five tennis courts. They are only adding three tennis courts. They are shifting around and resurfacing five tennis courts to make room for the new tennis courts. They have 13 tennis courts now and will have 16 once this is completed. Tennis courts are accessory structures and require a CUP because they are within a developed country club as defined by our code. These tennis courts do comply with all the required setbacks. Screening and landscaping has been provided using existing materials. They already have screening and landscaping in the area. A chain link fence will match what is already out there around the existing tennis courts. I specifically talked with the applicant about parking. They do have sufficient parking as required by our code. There are two conditions of approval.

1. The lighting plan must be approved. Our Lighting Engineer is currently reviewing that.
2. USI Engineers comments must be addressed prior to construction.

At the March 22<sup>nd</sup> Planning Board Meeting, the Planning Board did give this project a favorable recommendation.

Mayor Pro Tem Barry – For the record, I am a member of the Swim and Racquet Club.

Attorney Fox - You disclosed you are a member of the Weddington Swim and Racquet Club. Would you be able to make a decision solely on the evidence and not be influenced by your membership in the club?

Mayor Pro Tem Barry – Yes.

Mr. Mike Murphy - The use will not materially endanger the public health or safety if located where proposed and developed according to plan. We are shifting around courts. We are using some of our available space to add additional tennis courts to serve our membership. All of the additions will be built to the same safety specifications that we have had for our other projects. The reconfigured tennis courts will still be the same setback requirements that currently exist for the current tennis courts. The Town Planner has confirmed that we have met the conditions and specifications. The use will not substantially injure the value of adjoining or abutting property. It will not do anything to injure or hurt their property values. The lighting is well within the specifications. We like to think we have been outstanding neighbors. We have removed all of our stadium lighting and have not had very many complaints. The location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and will be in the general conformity with this chapter and the Town's land development plan. It will not endanger the public. The Town's Engineer has signed off on the drawings. We do meet the zoning requirements. It is continuing the use that has been there for 30 years.

With there being no further comments or questions, Mayor Anderson closed the public hearing.

**B. Public Hearing to Consider Proposed Text Changes to Section 58-151 Temporary Signs of the Weddington Code of Ordinances (Continued from the April 12, 2010 Regular Town Council Meeting).** Mayor Anderson reopened the public hearing to consider proposed text changes to Section 58-151. The Town Council received a copy of the amended text change.

Town Planner Cook - It was the decision of the Council to have a couple of the Councilmembers and myself get together and talk about this text change. Councilmembers McKee, Thomisser and I did get together and looked at this language and revised it a bit. We took out two things. Under Section 58-151 (a) – We took out “may not be renewed or extended”. We felt that we have defined special events. Businesses or civic uses could have a special event. We figured why limit them. If they want to have those back to back, there is no need to say they can't be renewed or extended. In Section 1 – the very last sentence it says that any such sign shall be no greater than 20 square feet and shall be limited to one sign per address and it said that no address may have more than four temporary sign permits per year. We had that limit of four on it. Again we have defined special events and this definition is pretty stringent so we felt that we did not need to limit the amount to four. It will be difficult to meet that definition to begin with.

With there being no comments for or against, Mayor Anderson closed the public hearing.

**Item No. 7. Public Comment.** Mr. Bill Price – I sat here last month and listened to citizens express their concerns about some issues such as speeding and open burning. We don't need any more ordinances that will not be enforced. It is each and everyone's responsibility to watch their speed. If you get out of here on the edge of the road in the morning or in the late afternoon, 95% of people going down the road are on the cell phone. I may run off the edge of the road but it won't be because of the cell phone. It will be because I am reaching over to adjust the heat or the air on my truck. Regarding Open burning – the lady stated to place your limbs and debris beside the road and it would be picked up. I don't know of any garbage service or waste service in the area that will pick up household or construction garbage. It is your responsibility if you burn such stuff to wet it down around the area and to stay out with the fire and make sure that it doesn't get out of control. We have control over these issues. It is called personal liability and responsibility.

**Item No. 8. Consent Agenda (Public Hearings to be held June 14, 2010 at 7:00 p.m. at the Weddington Town Hall).**

**A. Call for Public Hearing to Review and Consider Proposed Text Changes to Article VIII – Board of Adjustment.** Mayor Pro Tem Barry moved to call for a public hearing to review and consider proposed text changes to Article VIII – Board of Adjustment. The public hearing is to be held June 14, 2010 at 7:00 p.m. at the Weddington Town Hall. The Town Council received a copy of the proposed text change. All were in favor, with votes recorded as follows:

AYES: Councilmember Thomisser, Gilmartin, McKee and Mayor Pro Tem Barry  
NAYS: None

**B. Call for Public Hearing to Review and Consider Proposed Text Changes to the B-1 and B-2 Zoning Districts.** Mayor Pro Tem Barry moved to call for a public hearing to review and consider proposed text changes to the B-1 and B-2 Zoning Districts. The public hearing is to be held June 14, 2010 at 7:00 p.m. at the Weddington Town Hall. The Town Council received a copy of the proposed text change. All were in favor, with votes recorded as follows:

AYES: Councilmember Thomisser, Gilmartin, McKee and Mayor Pro Tem Barry  
NAYS: None

**C. Consideration of the Extension of the Construction Trailer in the Preserve at Brookhaven Subdivision.** Mayor Pro Tem Barry moved to extend for one year the construction trailer in the Preserve at Brookhaven Subdivision. All were in favor, with votes recorded as follows:

AYES: Councilmember Thomisser, Gilmartin, McKee and Mayor Pro Tem Barry  
NAYS: None

**D. Consideration of Proclamation Designating May 15 as Peace Officers' Memorial Day and May 9 – 15 as National Police Week.** Mayor Pro Tem Barry moved to approve Proclamation P-2010-04 designating May 15 as Peace Officers' Memorial Day and May 9 – 15 as National Police Week. All were in favor, with votes recorded as follows:

AYES: Councilmember Thomisser, Gilmartin, McKee and Mayor Pro Tem Barry  
NAYS: None

**TOWN OF WEDDINGTON  
PROCLAMATION DESIGNATING MAY 15 AS PEACE OFFICERS' MEMORIAL DAY  
AND MAY 9 - 15 AS NATIONAL POLICE WEEK  
P-2010-04**

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

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

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

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

**NOW, THEREFORE, I**, Mayor Nancy D. Anderson of the Town of Weddington, call upon all citizens of Weddington and upon all patriotic, civic and educational organizations to observe the week of May 9 – 15, 2010, as Police Week with appropriate ceremonies and observances in which all of our people may join in commemorating law enforcement officers, past and present, who, by their faithful and loyal devotion to their responsibilities, have rendered a dedicated service to their communities and, in so doing, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

I further call upon all citizens of Weddington to observe May 15, 2010, as Peace Officers' Memorial Day in honor of those law enforcement officers who, through their courageous deeds, have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty, and let us recognize and pay respect to the survivors of our fallen heroes.

In witness thereof, I have hereunto set my hand and caused the Seal of the Town of Weddington to be affixed this 10<sup>th</sup> day of May, 2010.

**Item No. 9. New Business.**

**A. Call for Public Hearing to Consider Polivka Land Use Plan Amendment and MX Rezoning.**

Mayor Anderson – I feel very uncomfortable with this because we are adjoining property owners. Also, if this zoning should occur then a sewer line would be placed through our farm. I would receive money for the easement. You must recuse yourself if there is a financial gain which I believe there is. I don't believe I can be unbiased about this matter.

Councilmember Gilmartin moved to recuse Mayor Anderson in the discussion of this matter. All were in favor, with votes recorded as follows:

AYES: Councilmember Thomisser, Gilmartin, McKee and Mayor Pro Tem Barry  
NAYS: None

Councilmember Gilmartin moved to call for a public hearing to consider the Polivka Land Use Plan Amendment and MX Rezoning Request. The public hearing is to be held June 14, 2010 at 7:00 p.m. at the Weddington Town Hall. All were in favor, with votes recorded as follows:

AYES: Councilmember Thomisser, Gilmartin, McKee and Mayor Pro Tem Barry  
NAYS: None

The Town Council received a copy of the Conditional Zoning Application.

**Item No. 10. Consideration of Public Hearings.**

**A. Consideration of Conditional Use Permit Application for the Addition of Three (3) Tennis Courts at Weddington Swim & Racquet Club located at 4315 Weddington-Matthews Road, Weddington, NC 28104.**

Mayor Pro Tem Barry moved to approve the Conditional Use Permit Application for the Weddington Swim and Racquet Club because there was no one present to speak in opposition; the evidence that was presented by the applicant was that the use would not materially endanger the public health and safety; the use is similar to the current use; the use meets all required conditions which has been supported by the Town Planner's testimony; the use does not change the setback requirements; the lighting on the area has been improved; the location and character if developed is in harmony with the existing land use plan. The motion was subject to the following conditions:



1. The lighting plan must be approved.
2. USI Engineers comments must be addressed prior to construction.

All were in favor, with votes recorded as follows:

AYES: Councilmember Thomisser, Gilmartin, McKee and Mayor Pro Tem Barry  
 NAYS: None

**B. Consideration of Proposed Text Changes to Section 58-151 Temporary Signs of the Weddington Code of Ordinances.** Councilmember McKee moved to adopt Ordinance O-2010-04 approving proposed text changes to Section 58-151. All were in favor, with votes recorded as follows:

AYES: Councilmember Thomisser, Gilmartin, McKee and Mayor Pro Tem Barry  
 NAYS: None

**AN ORDINANCE TO AMEND  
 SECTION 58-151  
 OF THE CODE OF ORDINANCES  
 OF THE TOWN OF WEDDINGTON  
 O-2010-04**

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WEDDINGTON THAT SECTION 58-151 OF THE CODE OF ORDINANCES BE AMENDED AS FOLLOWS:**

**Sec. 58-151. Temporary signs.**

(a) *Banners, pennants and temporary signs.* The following temporary signs are permitted after the zoning administrator has issued a temporary sign permit, for a total period not to exceed 30 days.

- (1) Except for temporary off-premises signs authorized under Section 58-151 (a)(3) of this Code, special event signs set out below, unlighted portable signs, banners and wind-blown signs such as pennants, spinners, flags and streamers for special events, grand openings and store closings. Any such sign shall be no greater than 20 square feet and shall be limited to one sign per address. For the purposes of this section, special event shall mean any festive, educational, sporting or artistic event or activity for a limited period of time, which is not considered as part of the normal day-to-day operations of the group, organization or entity.

Adopted this 10<sup>th</sup> day of May, 2010.

**Item No. 11. Old Business.**

**A. Update from Providence VFD Chief Dave Banick regarding the Station's Space Needs Study.** Chief Dave Banick – The Station's space needs study has come in at \$10,000. You have a letter in your packet dated April 22, 2010 from Mr. Scott Garner with Garner & Brown Architects. We are ready to move forward on the project.

Mayor Pro Tem Barry moved to give \$10,000 to the Providence VFD to be used towards the station's space needs study. All were in favor, with votes recorded as follows:

AYES: Councilmember Thomisser, Gilmartin, McKee and Mayor Pro Tem Barry  
NAYS: None

**Item No. 12. Closed Session.** Mayor Pro Tem Barry moved to go in to Closed Session based on the following:

- Consideration of Approval of December 14, 2009, March 8, 2010 and March 22, 2010 Closed Session Minutes
- NCGS 143-318.11 (a)(3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged,
- NCGS 143-318.11 (a)(5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract, and
- NCGS 143-318.11 (a)(6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.

All were in favor, with votes recorded as follows:

AYES: Councilmember Thomisser, Gilmartin, McKee and Mayor Pro Tem Barry  
NAYS: None

Mayor Anderson advised that Councilmember Gilmartin had left the meeting after the Closed Session (9:52 p.m.) due to work issues.

**Item No. 13. Old Business.**

**A. Consideration of Appointment to the Parks and Recreation Advisory Board.** Councilmember Jerry McKee moved to appoint Mike Lee to the Parks and Recreation Advisory Board. All were in favor, with votes recorded as follows:

AYES: Councilmember Thomisser, McKee and Mayor Pro Tem Barry  
NAYS: None

**B. Consideration of NCLM Municipal Environmental Assessment Coalition Project Participation Agreement.** Mayor Pro Tem Barry moved to participate in the Municipal Environmental Assessment Coalition Project through the NCLM at a cost of \$1,000. All were in favor, with votes recorded as follows:

AYES: Councilmember Thomisser, McKee and Mayor Pro Tem Barry  
NAYS: None

**Item No. 14. New Business.**

**A. Consideration of Ordinance to Repeal Annexation Ordinance O-2010-01 for David Michael Turner, Cecil E. Turner and Carolyn Y. Turner on Potter Road.** The Town Council received a letter

from Mr. and Mrs. Cecil Turner and Mr. Michael Turner requesting that their voluntary annexation request be repealed.

Attorney Fox - The actual annexation that you adopted was an annexation that was conditioned upon them combining lots. The annexation ordinance contained a condition which they now have indicated they are not willing to meet. The annexation is not effective because they never combined the lots. If they are not going to exercise that option, then the annexation will never become effective.

Councilmember McKee - If we drop those requirements, is there some way we can still annex them under voluntary annexation?

Attorney Fox - They can always re-petition and submit the same petition for reconsideration. The action that has been taken on that is that if you have an ordinance that is still out there, one could arguably entertain a motion to reconsider the approval and remove that condition from it. The question that will be raised is whether or not they still want to go forward with the annexation because what you have now is indication of the desire to withdraw the petition. The law provides someone can petition for voluntary annexation. The petitioner can withdraw anytime prior to acceptance. They base their request on the fact that you required them to combine these lots at a cost. If you take this action and the property is not annexed but if they want to come back to you and re-petition without any conditions being put on the property then they can certainly do that. First you have to remove the condition then you have to get them to agree that they are willing to accept it and that they want to go forward. We might just defer action. Have a conversation with them and then we can figure out procedurally if we can entertain a motion to reconsider to adopt an ordinance that will remove that condition. The ultimate question of the board is if you would be willing to accept the property into the Town without the recombination.

Mayor Pro Tem Barry moved to defer consideration of the Turners' request to allow Town Planner Cook to talk with them about how they would like to proceed. All were in favor, with votes recorded as follows:

AYES: Councilmember Thomisser, McKee and Mayor Pro Tem Barry  
NAYS: None

**B. Discussion and Consideration of Developing a Policy Regarding Usage of Town Attorney.**

Mayor Pro Tem Barry moved to approve the following Town Council Policy on utilization of the Town Attorney:

**TOWN COUNCIL POLICY ON UTILIZATION OF TOWN ATTORNEY**

The Mayor and each member of the Weddington Town Council shall have equal access to the Town Attorney. The Mayor and each Councilmember shall use their discretion when utilizing Town Attorney services since such services are provided on an hourly basis. Should the Mayor or Councilmember (upon consultation with the Town Attorney) determine that a request for Town Attorney legal services will generate legal fees in excess of two (2) hours of an attorney's work product time, then the item shall require prior approval of the Council before the work is performed.

Adopted this 10<sup>th</sup> day of May, 2010.

All were in favor, with votes recorded as follows:

AYES: Councilmember Thomisser, McKee and Mayor Pro Tem Barry  
NAYS: None

**C. Call for Public Hearing to Consider the Proposed Budget for Fiscal Year 2010-2011 and to Set the Tax Rate (Public Hearing to be held June 14, 2010 at 7:00 p.m. at the Weddington Town Hall).**

The Town Council received a copy of the proposed budget for Fiscal Year 2010-2011. Mayor Pro Tem Barry moved to call for a public hearing to consider the budget for Fiscal Year 2010-2011 and requested that Finance Officer Gaylord add a Merit Increase for the following Town Employees: Leslie Gaylord, Jordan Cook Kim Woods, Tonya Goodson and Amy McCollum. All were in favor, with votes recorded as follows:

AYES: Councilmember Thomisser, McKee and Mayor Pro Tem Barry  
NAYS: None

The Council advised the Finance Officer that based on quotes that they received tonight that they did not want to pursue the installation of conduit for future street lighting.

**Item No. 15. Update from Town Planner.** The Town Council received the following update from Town Planner Cook:

- The Helms Property MX Rezoning Application and Land Use Amendment will be on the June 14, 2010 Town Council agenda for Public Hearing and Consideration.
- The Planning Board approved the Temporary Use Permit Application for the DrumStrong event. This event is scheduled to be held on May 15-16, 2010 at Misty Meadows Farm.
- Union County Public Schools (UCPS) has completed the burn on the two houses located on the school property on Cox Road. The brick house was burned on April 3<sup>rd</sup> and the gray house was burned on April 28<sup>th</sup>. UCPS will now hire a contractor to remove the remaining debris from the property.

The timing of the debris removal will depend largely on the weather.

- Possible text changes for the B-1 and B-2 zoning districts have been reviewed and approved by the Planning Board. These text changes will allow any revisions to the existing shopping center, bank, gas station, medical offices, gym and Town Hall to be legislative rather than quasi-judicial (Conditional Zoning Permit rather than a Conditional Use Permit). A rezoning of these parcels will also need to take place.

The text amendments will be on the June 14, 2010 Town Council agenda for Public Hearing and Consideration.

- All municipalities participating in the Carolina Thread Trial had a kick-off meeting with the Trust for Public Land (hired consultant) on May 6<sup>th</sup>. *Mayor Pro Tem Barry requested to be the Council liaison for this issue.*

**Item No. 16. Public Safety Report.**

**A. Discussion of Resolution R-2008-16 Adopted on December 8, 2008 Regarding the Providence Volunteer Fire Department.** Councilmember Thomisser moved to approve Resolution R-2010-07:

**TOWN OF WEDDINGTON  
RESOLUTION CONDITIONALLY CONSENTING TO INCLUSION IN THE**

**PROVIDENCE FIRE AND RESCUE SERVICE DISTRICT  
R-2010-07**

**WHEREAS**, part of the Town of Weddington (“Town”) currently lies within the Providence Volunteer Fire Department Fee District (the “Fee-Supported Fire District”); and

**WHEREAS**, the provision of fire protection and rescue service (“Fire Services”) within the Fee-Supported Fire District is currently funded by a Fire Fee, with a maximum allowable rate of \$50; and

**WHEREAS**, pursuant to The County Service District Act of 1973, G.S. 153A-301 through 153A-310, (the “Act”), the Union County Board of Commissioners (the “Union County Board”) may define one or more county service districts within which the County may assess taxes to pay for the provision of Fire Services within the district(s); and

**WHEREAS**, the Union County Board is considering abolishing the Fee-Supported Fire District and the corresponding Fire Fee, and establishing a new tax-based Providence Fire and Rescue Service District (the “Service District”) to provide Fire Services within the same geographic area currently served by the Fee-Supported Fire District, as shown on Exhibit A, attached and incorporated by reference herein; and

**WHEREAS**, in accordance with the Act, tax revenues collected to support the proposed Service District may be used only to provide Fire Services within that Service District and may not be reallocated to any other County fund or program; and

**WHEREAS**, a resolution of the governing body of the Town of Weddington consenting to inclusion in the proposed Service District is required by the Act if such territory is to be included therein;

**WHEREAS**, the Town of Weddington supports the Providence Volunteer Fire Department and wants to ensure that the Fire Department is adequately funded and that all Town of Weddington and Union County residents receive adequate Fire Services. The Town Council is concerned, however, that Town residents and other western Union County residents are not paying comparable tax rates for comparable Fire Services and that this problem may continue upon creation of the Service District. Although the tax rate for the proposed Service District has not been established, the Town Council understands that its tax rate could be \$.055 per \$100 of value, whereas other Town residents and other western Union County residents pay lower taxes for comparable Fire Services; and

**WHEREAS**, the Town Council has determined that it is in the best interests of the Town of Weddington and its residents to consent to Town territory being included in the Service District, but only in accordance with a certain condition designed to help ensure that tax liability for Fire Services is distributed equitably among Town residents and other residents of western Union County.

**NOW, THEREFORE, BE IT RESOLVED** that the Town of Weddington supports Union County’s desire to abolish the existing Fee-Supported Fire District and establish a new Providence Fire and Rescue Service District in accordance with the condition described below; and

**BE IT FURTHER RESOLVED** that the Town of Weddington consents, subject to the conditions described below, to inclusion within the Providence Fire and Rescue Service District of: (i) that territory lying within the municipal limits of the Town of Weddington and currently included with the Fee-Supported Fire District, as indicated in Exhibit A, and (ii) such additional territory currently included within the Fee-Supported Fire District, as indicated on Exhibit A, as may hereafter be annexed by the Town of Weddington. This consent is expressly conditioned on Union County altering the

boundaries and/or tax rates of the various fire service districts in western Union County so that tax liability for Fire Services is equitably distributed among Town residents and other western Union County residents. If Union County has not altered said boundaries and/or tax rates by July 1, 2010, such that the Town Council is satisfied that tax liability for Fire Services is equitably distributed, the Town of Weddington may thereafter, solely within its discretion, fully and completely withdraw the consent granted in this Resolution.

Resolution R-2008-16 was originally adopted the 8<sup>th</sup> day of December, 2008.  
This Resolution was renewed on the 10<sup>th</sup> day of May, 2010.

All were in favor, with votes recorded as follows:

AYES: Councilmember Thomisser, McKee and Mayor Pro Tem Barry  
NAYS: None

**B. Possible Budget Increase for Union County Deputies.** The Town Council received an article dated May 6, 2010 that was in the Enquirer-Journal regarding the deputy budget increase to Indian Trail from Union County.

**C. Monthly Reports.**

**Weddington Deputies – 257 Calls**

**Providence VFD**

Union County	Fire: 26	EMS: 6	Total: 32
Mecklenburg County	Fire: 6	EMS: 0	Total: 6
Monthly Total: 38			
Monthly Training Hours			
Fire: 352.5	In House:	351.5	On-Line: 1
EMS – 42			

Providence also provided Run Times and Run Data and the income and expense budget performance and balance sheet for April 30, 2010.

**Item No. 17. Update from Finance Officer and Tax Collector.**

**A. Finance Officer’s Report.** Finance Officer Gaylord advised that at the next meeting she will provide the Town Council with a Budget Amendment for the current year’s budget. The Town Council received the Revenue and Expenditure Statement and Balance Sheet for April 1, 2010 to April 30, 2010.

**B. Tax Collector’s Report.** Monthly Report – April 2010

Adjust Under \$5.00	\$(233.61)
Advertising Charge	\$877.14
Interest Charges	\$279.67
Pay Interest and Penalties	\$(313.12)
Refunds	\$38.87
Taxes Collected:	
2009	\$(3,510.88)
2008	\$(538.71)

2007	\$(61.80)
2006	\$(36.56)
2005	\$(33.36)
2004	\$(102.42)
As of April 30, 2010; the following taxes remain outstanding:	
2001	\$9.18
2002	\$89.53
2003	\$199.83
2004	\$159.59
2005	\$310.18
2006	\$229.04
2007	\$595.91
2008	\$7,445.44
2009	\$27,370.94
Total Outstanding:	\$36,409.64

Delinquent ad was published 04/25/2010 in the Charlotte Observer.

**Item No. 18. Council Comments.** Mayor Anderson advised that DrumStrong was this upcoming weekend.

**Item No. 19. Adjournment.** Councilmember McKee moved to adjourn the May 10, 2010 Regular Town Council Meeting. All were in favor, with votes recorded as follows:

AYES: Councilmember Thomisser, McKee and Mayor Pro Tem Barry  
NAYS: None

The meeting ended at 10:33 p.m.

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Nancy D. Anderson, Mayor

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Amy S. McCollum, Town Clerk