

**TOWN OF WEDDINGTON  
REGULAR TOWN COUNCIL MEETING  
MONDAY, APRIL 13, 2009 - 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 April 13, 2009, at 7:00 p.m. with Mayor Nancy D. Anderson presiding.

Present: Mayor Nancy D. Anderson, Mayor Pro Tem Robert Gilmartin, Councilmembers L.A. Smith, Tommy Price and Jerry McKee, Town Attorney Anthony Fox, Finance Officer Leslie Gaylord, Town Planner Jordan Cook and Town Administrator/Clerk Amy S. McCollum.

Absent: None

Visitors: Bill Price, Mr. and Mrs. Waterson, Mike Waller, Mary Waller, Ken Sidney, Bill Reynolds, David Block, Tom Caldwell, Paul Johnson, Steve McAreavy, Anthony Burman, Barbara and Pat Harrison.

**Item No. 1. Open the Meeting – Invocation and Pledge of Allegiance.** Mayor Nancy D. Anderson called the April 13, 2009 Regular Town Council Meeting to order at 7:01 p.m. Mayor Anderson offered the Invocation and led in the Pledge of Allegiance.

**Item No. 2. Determination of Quorum/Additions and Deletions to the Agenda.** There was a quorum.

Councilmember L.A. Smith requested that Item 7A be continued. She stated, “It is my understanding that conversations are still occurring and that they are trying to work out some type of arrangement. I have been told that the majority of the homeowners would like to extend this item to the June Meeting.”

Attorney Anthony Fox asked that a Closed Session be added pursuant to NCGS 143-318.11 (1) addressing pending litigations between IB Development and the Town of Weddington.

Mayor Anderson asked that Reports from the Parks and Recreation Advisory Board and the Downtown Development Committee be added to the agenda.

Councilmember Tommy Price – Is the request to continue Item 7A at the request of the homeowners or the property owner?

Councilmember Smith - What I was told was that the property owner and the homeowners in that area are continuing to put together some type of plan. There has been a lot of paper work and leg work needed to be done to come to that middle ground and much more than they anticipated when we gave them 30 days. They have asked for an extension. What was communicated to me was that they would take another 30 days if they could get it but they really wanted to have 60 days.

Mayor Anderson - How would you feel about making that decision once we get to that item on the agenda?

Councilmember Jerry – I would like to know what they have done in the last 30 days.

The vote on continuing Item 7A is as follows:

AYES: Councilmember Smith  
NAYS: Councilmembers Price, McKee, Mayor Pro Tem Gilmartin and Mayor Anderson

Mayor Pro Tem Robert Gilmartin moved to approve the agenda with the following additions:

- Closed Session pursuant to NCGS 143-318.11 (1) addressing pending litigations between IB Development and the Town of Weddington.
- Committee Reports from the Parks and Recreation Advisory Board and the Downtown Development Committee.

All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Price, McKee, Mayor Pro Tem Gilmartin and Mayor Anderson  
NAYS: None

**Item No. 3. Presentation by Weddington High School Principal Brad Breedlove.** Mayor Pro Tem Gilmartin stated, "I had a chance to meet and talk with the Principal of Weddington High School, Mr. Breedlove. They are doing some exciting things and he is absolutely committed to this community. He is here tonight to let us know what is going on at the High School. There are several reasons why people move to Weddington. One of those reasons is the schools."

Mr. Brad Breedlove - Thank you for allowing me to be here to share with you what we have gone through over the last couple of years. I have spent some time at Monroe High School and five years at Sun Valley High School prior to coming to Weddington. My goal is to share my vision for Weddington High School as well as show you that it is a school you can be proud of. There have been a lot of changes in the last two years. We lost 600 students to Marvin Ridge High School and we will lose another 320 students to Cuthbertson High School next year. In two years we have lost 1,000 students. The reason people are moving here is primarily for the schools because they have been successful for a long time.

Weddington High School is ranked in the top 1,250 schools in America by Newsweek Magazine. We offer 19 different advanced placement courses. During the '07 - '08 school year, we had six national merit semi-finalists and four national merit finalists. Those national merit finalists have scholarships at any school they want to go to worth about \$250,000 each. About 80% of our students go to a four year university. For a public school, that is extremely high. Last year our graduating class with 550 seniors tallied up to \$9.3 million in scholarships. Only 19 of those were athletic scholarships. Most of the scholarships were academic or needs based scholarships. Weddington High School is currently recognized as a School of Distinction in High Growth. That means that across the board 89.9% of our students are at or above grade level. A School of Excellence is 90% or better. A School of High Growth means that not only did we meet our annual yearly progress in all categories but we blew it away. This past year we were also recognized as the #1 High School in the State for our graduation rate over 93%. We have had an initiative implementing benchmark testing which is an assessment that we give our students twice a semester and then we use that information for each individual child. We set up tutoring specific to that child in what areas they are deficient. Teachers make up the benchmarks based on the state exams and then we tailor the tutoring to that individual student so they know what they do well in and they also know what they don't do well in so we can spend time with them during the day and after and before school getting that extra help. This doesn't come without hard work. Our students have really made a commitment. We want to be the best and number 1 high school not only in Union County but the State of North Carolina. There is no reason we can't do that. We have the talent and resources to do that.

Our long range outlook is high academic achievement. That is the number one priority and over the last two years, we have worked extremely hard to make this level of achievement a reality and a continual expectation for Weddington High School. Our focus has been on high quality teachers. We get good quality teachers. We want to keep those teachers as long as possible. We train them and we don't want them to go somewhere else. This year, we will lose 15 teachers to Cuthbertson.

Activity-based instruction has helped us increase the scores. We can no longer just do drills in the classroom. We try and do as much activity-based instruction as we can to get students out of their seats, learning and putting their hands on equipment to really make authentic learning. A clean safe environment – you can't have academic achievement without a pleasant place. Students have to want to be in your school. They do not like to be in your school if it is dirty and unsafe and they will not learn. Our goal has been to offer a clean, safe environment that students want to come to. They get up early and they stay at the school late. We try and offer the best possible environment for their achievement. If you drive onto our campus, you will see an immaculate campus. Students have given back by doing it themselves because they are proud of their school and they want it to continue to be a nice place for future generations. This year we were also given an award by EPI as a super safe school. We were 1 of 10 high schools in the State to receive that award. That was a 350 page document that we had to assess our school and present back to EPI. Total quality education that is what it is all about. You have the co-curricular and extra-curricular. We have 35 clubs that give back to the elderly or the needy, doing any type of community service within Weddington and Union County Public Schools. This is something that we promote a lot and it is part of the graduation requirement. Our drama and our band are second to none. If you have ever heard our band, they constantly go into competition and they walk away superior and it shows in their work. While our Athletic Department has done well and we are very proud of all of our athletes, that is probably one area that is not keeping up with the growth that we are seeing in academics and in our co-curricular groups. We have lost 1,000 students and that plays havoc on your athletic programs. You train these athletes and they move to another school. Next year is a pivotal year for us academically and athletically. We are continuing to hire good quality coaches that have the vision that we have set forward. We are continuing to improve our facilities. We are trying to build athletic fields. We have a movement to build a weight room off of our auxiliary gym. We would like to have a two story weight room with the weight room downstairs and an area for aerobics and cardio equipment upstairs. In the evening, the Town of Weddington uses our campus by running on the trails and using our track and tennis courts. Weddington Community Church rents out our facilities. We do a lot of opening our doors to the Town of Weddington. Our hope is that the Town of Weddington is very proud to have Weddington High School and calling it their own. We want to take our current weight room and create coaches' offices. We have 40 coaches and only three offices. You can imagine having nine football coaches in a 10 x 12 office and they are not small people. We want a recruiting room. We want people to walk into our building and know that they are not only getting a first class facility but they have first class students because of the high academic achievement and because they know that our expectations for that student are extremely high.

We know we can't do it alone. These are big visions. These goals can be accomplished but it is more than just the people inside the walls of Weddington High School. It is going to take the community to help out as we continue to grow academically. We need to get out in our community. You need to see our students and the good work that they do. In closing, I have given you a glimpse of Weddington High School and some of the great things that are going on in our school. Our students and our staff make great strides toward our goal of being number one but as mentioned, we are not there yet because we have areas of need and we are working on correcting these deficiencies in the curricular, co-curricular and extra-curricular. We feel very confident that we will accomplish our goals especially when we are able to continue to build the relationships and partnerships with our local businesses and local agencies. I want to leave you with an idea of Weddington High School – something we call the Weddington experience. Two years ago, my staff and I sat down and we tried to determine what the Weddington experience is for our students. Over

the course of two years, we have determined that our students should be led by teachers and administrators that are servant leaders who pride ourselves on servicing our students. Those are our clients. The parents are our clients and we pride ourselves on serving them to the best of our ability. The Weddington experience also includes high goals and expectations for ourselves and for our students. We should be motivators each and every day and push our students to better themselves. As part of the experience, we should model the way of conducting ourselves in a professional manner and showing the strength and success of never ending work ethic. We should also have unwavering compassion for children when they fail or fall and be able to pick them up and dust them off and send them back on their way so they can learn from their mistakes so they are not repeating those mistakes. Overall, we want the Weddington experience to be a first class experience for those that we serve, the students, parents and the community. Once students move on to college, they look back at Weddington High School and their experience here, they see a school that prepared them well and this feeling of hard work and success that comes with it is so overwhelming that they will want to bring back their newly found knowledge and their skills and settle down and begin their own careers and their own families and want the tradition which is the Weddington experience. Thank you for allowing me to speak about Weddington and all the great things we have going on.

Councilmember Smith - What do you think are your two or three biggest challenges?

Mr. Breedlove - The biggest challenge right now is to redefine our culture. Losing that many resources has been very difficult. Morale in the building is not as high knowing that we are losing 15 teachers that don't want to go. Those are the challenges that we face and how are we going to rebuild. Next year will be pivotal for our school. We have a great foundation to build from. Weddington High School has been so successful for so long and we can draw from that. That is our goal and if you know our staff or me or my administration, we like to accomplish our goals. If we say we are going to do it – we are going to do it no matter what the challenges.

**Item No. 4. Public Hearing (Continued from March 16, 2009).**

**A. Public Hearing to Consider Petition to Permanently Close Part of Lochaven Road in the Lochaven Subdivision.** Mayor Anderson reopened the hearing to consider the petition to permanently close part of Lochaven Road in the Lochaven Subdivision.

Mr. Mike Waller – Several of the residents have come together and formed a small team to see what we could do about the charge we had from the Town Council to reach an agreement with Airborne Development regarding maintenance of the road and the dam, the insurance, the liability of that property and how to fund the entire process. We spent a lot of time emailing the first week and met at the end of the week and figured out that we needed to have a meeting with all of the residents or all who were interested. We held that meeting the Sunday following the Town hearing. Then we started breaking out the task and each member of our group had different pieces of that task to perform. We kept coming back with – it's going to take a little longer. We found out from engineers that NCDOT doesn't truly have a standard. They don't have a list of things that you give to the engineer and say this is what it has to be like if it's going to have a road on it. They say they have a few guidelines and then you have to go along and work with DENR. What it really turns out to be is a negotiation between an engineer at NCDOT and DENR. That is not a quick process. Dealing with the engineer takes longer than 30 days just to get a proposal. Not a proposal to build but a proposal on the investigation he needs to do before he can tell you what you have to do. One of our members contacted other homeowners associations. We ran across people who had such homeowners associations and perhaps had a dam with it. We then started researching our own homeowners association which turns out to be a homeowner's agreement, not an incorporated association. That turned out to be a problem. That requires legal assistance. Now we are a week and half into our time frame and we started looking for an Attorney. The earliest we had an appointment with an attorney is next Friday. We have talked to four or five different attorneys trying to

get on their calendar or trying to find out if it was the kind of work they did. Quite a few people that do homeowners work are so busy they said they would love to help but they did not have time. The other reason we wanted to talk to an attorney is to fully understand the liability of the homeowners association caring for the dam. The Homeowner's Agreement we had before did not have that as a consideration when it was formed. We contacted engineering firms and we talked to insurance companies. We do have a letter from Hartford that said they can give us a quote on an incorporated body taking out insurance on that particular piece of property in 45-60 days. We don't have a quote to bring today. All of that gets back to the charge. We don't know what we are paying for yet. We don't know fully what the engineer, the repairs and insurance will cost. Road maintenance is separate from all of the above. To come back to you tonight and say we have a proposal and we can put it all on the table and give to Mr. Johnson, we can't put the numbers behind it because we can't go to the homeowners and say we are going to need \$50 a week or \$100 a month from you. It may be we get to the end of that road and find out that it is prohibitive. We have talked to the children of the original Lochaven Corporation principals. We talked to Marshall McDowell. I talked to Bill Little, Jr. several times whose father was a principal and his father's construction company did some work on that dam at one time. We talked to several long term residents. Mr. Reynolds has been there longer than anyone else and he and I had regular conversations. Mary Ann Schulte was there when they formed the homeowners association and she is still in contact with one of the driving forces behind that formation and she did some research with him for us. We have spent a fair amount of time talking to the people who were there or have been there and about the things that went on. We did a fair amount of research into the history of trying to understand how we have gotten to this situation we are in now. We did have people talking to DENR and DOT and each of them has come back and said we have a partial answer from them. The Homeowners Association certainly needs more time even to understand what we have and understand what it takes to form a new one. The engineer can get us something in a few more days. It won't be a plan to repair. We would like another 30-60-90 days. We would like to fix the road and keep it repaired while we do that.

Councilmember Smith - Have you had anyone with the ability to tell you what repairs are needed?

Mr. Waller - One of the other things we did require and have gone through is the NCDENR file and it has some outstanding requests for maintenance. None of them seem to be critical. They were replies to Mr. Johnson's request. Beyond that we don't know what else would be needed. The engineer came out and looked at it and said okay I see what's here and let's start with that.

Councilmember McKee – Forming a Homeowners Association after the development has been developed, is that not on a volunteer basis?

Attorney Fox - Generally, the Homeowners Association is formed during the inception of the subdivision and doing after the fact would generally require 100% of those property owners to consent to the formation of the Homeowners Association. The Homeowners Association may be able to operate with less than 100% of the property owners providing the remaining of those participating in the association are willing to bear what it will cost in taxes associated with the Homeowners Association.

Councilmember McKee - If they get the Homeowners Association formed and they get good numbers starting out and things are great at first then they don't seem to be so great as time goes by and they drop off, then we are back with the dam as it is now.

Attorney Fox - Let's keep in mind what we are here for. We are here to deal with a petition before the Town to close or not close a street that appears to have been dedicated to the public for some public use. The issue we are dealing with now is if there is some solution less than this board making a determination to close or not close the street that would satisfy the parties involved. If they have reached an agreement,

the parties involved, that is satisfactory to them then that may pull the governing body back out of that discussion. The only question before us is to close or not close.

Councilmember Price - In your personal feeling do you think there has been any progress made between the two parties in the last 30 days?

Mr. Waller - We have an absolute understanding of what Mr. Johnson's position is and that is what we are working to fulfill now.

Councilmember McKee - Is Mr. Johnson aware of all of this? Are you keeping him informed of where you are at?

Mr. Waller - We have not been in close contact with him. The first week he received several proposals from the small group chatting together and from other residents who would either channel them through us or perhaps go directly to him. One fellow came up with a proposal to build a road somewhere else down through the wetlands. Not the best proposal but we took it to Mr. Johnson. We have been in contact with him but at some point Mr. Johnson said this is what I want to see and I really do not want to see any proposal that does not go towards this. At that point we have not been keeping in close touch with Mr. Johnson.

Councilmember McKee - Mr. Johnson said the dam is unsafe with nothing to back it up. You people say it is safe with nothing to back it up. I think it would be advantageous for this Council to know whether this dam in its present state is safe or unsafe. We need to have an expert to make that determination somewhere along the line. The issue was safety and yet there is no proof that it is safe or unsafe.

Mr. Waller - DENR did make two statements on that. They had not declared it unsafe.

Councilmember McKee – DENR did not inspect it, they just made statements.

Mr. Waller – The statements were that they did not declare it unsafe.

Councilmember McKee - I have a problem not knowing either way.

Mr. Johnson –This has strayed away from what Attorney Fox has said the issue is whether to vote to open or close the dam. Those statements were made and that avenue was approached which obviously puts a continued dialog toward the support of whether to open or close it. With regard to the proposals that have been made to this point, I am a bit confused. I received all of my communication through Mr. DeFiore and it seems that Mr. Waller is trying to reach a resolution which I have not been a part of. At the end of our meeting last time when I presented compelling evidence that the dam is unsafe, the homeowners group was charged to find subsidies to fund the maintenance and repair. That is the only solution - that they are willing to take over maintenance and get an insurance policy and things of that nature to relieve me of liability. However, they want me to fix the dam. I do not have much interest in the lake itself let alone the road. My fear that moving forward to table this another 30-60-90 days is if you go by that dam you will see that it has deteriorated considerably in the last 30 days. I think that if this continues we are going to lose a precious resource of Weddington. It is not graded properly. There are some cars that probably could not pass it without bottoming out on it. We need to expedite because as I said in the last meeting, I am not willing to make any repairs to it while people are using it and I am not willing to authorize any repairs because I am going to place myself in a position of liability. I want to retouch on the legalities of the HOA. Lochaven Corporation recorded to all the lake front owners' deeds that they reserve the right to form an HOA. It does not make any representation on the deeds of all the folks on the outside of the loop. The Wallers property is excluded from that original agreement. It is the right of the people around the lake

to form the HOA. The people on the outside of the loop do not. They are specifically excluded from that right. There is also mention of this HOA or this Lochaven property owners group in emails as the governing body down there – that is not an agreement. I have never seen any paperwork. That has never been recorded. It is not at the Union County Courthouse. It is just some people who have gotten together and said let's throw some gravel on this road. It is not formal whatsoever. Mr. Waller also mentioned that they didn't feel that the repairs that were in the DENR file on the dam were critical. It was clear in the letter written to me that I presented to the board stating that the lack of these repairs was going to lead to imminent failure of the dam. It was in black and white. That is definitive proof that we are on a slippery slope that I think the public cannot afford to continue to be exposed to that danger. I don't think anybody can tell you unless they actually do some form of destructive testing to the dam. I would be very concerned if someone was to go down and do some testing on the dam that would actually find out what is in the center of it. I am also against doing that because if I authorize that, if there is a failure, there would be a massive discharge of siltation which is going to wind up in the lake at Aero Plantation and it will be dispersed all along my property which is going to have a financial impact to me and my family. I would be against any type of destructive testing. Someone would have to accept that liability as is. I would like to ask one last question. I know Mr. Price and Mr. McKee were concerned about what work has been done. I think the Board was ready to make a ruling at the last meeting. I didn't want to be presumptuous and think the resources could not be raised. I wanted it to be fair and give them an opportunity to raise those funds. I don't know what people have in their bank accounts and what they are willing to spend and how important the dam is to them so I thought it would be fair to give them the opportunity and up to this time I have not had a reasonable offer other than that it is me that will foot the bills – shoulder the cost – as Mr. Waller said. I would like someone to step up and say I know this will cost at least \$50,000 or \$100,000. It is more likely \$1M which has been told to me. How much is it worth to them? Right now this is a way to buy more time to use the dam and I would like to see the commitment they have and if it is even worth it to move forward or to wait. If the Board decides that it is worth this time, during the time they are doing the research, should you decide to prolong the vote that the public no longer be placed at that risk whether it be a temporary closure or some way to stop that traffic during that time.

Mr. Waller - One minor clarification. Proposals Mr. Johnson has received from Mr. DeFiore are the result of the work that we have all done together. He has been our liaison with Mr. DeFiore. What I am doing is not separate from that. I am functioning as a spokesperson and he is the liaison with Mr. Johnson, both to Mr. Johnson and from Mr. Johnson to the group.

Councilmember Smith - I am confused by a couple of things you said. It was my understanding and my intention when we left here 30 days ago that it was the homeowners and you, as the property owner, that are charged with working together to try to come up with some agreement. Not the homeowners themselves. It is not a one-way street. It was intended to be a two-way street. You stated you had no interest in the lake or dam but you mentioned that it is a precious resource. There is some disconnect there for me. Can you clarify that?

Mr. Johnson – I was speaking figuratively with regard to Weddington as a whole. There is a lot of history down there. As I said in my presentation, Weddington was founded in one of the homes down there. I don't own any property or any lots that touch the lake. It is not my house that is going to be overlooking marsh land if it does fail.

Councilmember Smith - You are also pointing out that this dam is unsafe and a liability for you and anyone that goes back and forth across it. There has not been any testing on that by you or anyone else. Sounds like you won't allow any testing. What is the basis for your claim that it is unsafe?

Mr. Johnson – Any study that has been made on a dam with concern to safety is not something that is visible. You can't see through it. You can only look at the signs of failure which is determined by

erosion, grade, and large trees growing in the embankment. You look at the statistics at dam failures; they are typically caused catastrophically by trees that fall over.

Councilmember Smith - For this specific piece, there is no hard and fast inspection of that particular piece of property to say yes there is imminent danger or no there is not.

Mr. Johnson – Yes there is.

Councilmember Smith - Who did that inspection?

Mr. Johnson – The Department of Environment and Natural Resources. That was on the letter that I brought and presented to the Council last meeting.

Councilmember Smith - Nothing in that says to me that it is a catastrophe waiting to happen.

Mr. Johnson – It is right there. It says that eventually it is going to fail.

Councilmember Smith - Everything will eventually fail.

Mr. Johnson – My interpretation of the letter is that he is basically saying if you don't address these issues it is going to fail. I don't think he is saying that it is going to fail in 50 years in its normal lifespan. It's going to fail because of the deficiencies. If preserved and maintained properly, it could last forever. They say the average life expectancy of a dam is 50 years if it goes on unmaintained. It is because of the fact that if there is a tree that starts to grow in 50 years, it's going to be large enough to fall over and create a hole in the dam.

Councilmember Smith – I think he is putting his own credibility on the line and if he felt that dam were an imminent threat he would say something a little stronger than fix it when you can afford to or when you can get around to it. Wouldn't you think?

Mr. Johnson – I think that he is saying that the major things should be dealt with first. If he were sitting at the meeting, he would tell you that the trees need to be removed; the spillway is going to have to be addressed. He specifically states in that letter that there is seepage. These are all signs that will eventually cause this thing to fail. When they say eventually, it could be now, next week or in a year.

Councilmember Smith - You threw out some dollar figures. Where did they come from?

Mr. Johnson – Those were numbers that I was trying to throw out there in regard to commitment. I don't know how much it is going to cost. I have only been told by NCDOT that they will not try to take the road over. He came up and said if we are going to accept this liability we have to take it out and rebuild it. He said we are not going to do that because it is going to be well over \$1 million to do it and it does not serve enough people when there is a perfectly good DOT road that services every home in here. Their offer was – instead of us messing with that dam, let us pave the road and we will make it safe. It is much more cost effective for them to improve the existing right of way than it is to dump a million dollars into a dam that only a few families use.

Mayor Anderson - This has nothing to do with whether the dam is safe or unsafe. Can you prove to me that you actually own this property?

Mr. Johnson – I can.



Mayor Anderson - And that the person who sold it to you had the authority to sell it to you?

Mr. Johnson – I can.

Mayor Anderson - Is there anyone in the association who can dispute that?

Mr. Waller - Don't care to ma'am. The property lines go to the middle of the dam for the property on each side. There is no evidence thus far.

Mayor Anderson - As we sit here tonight, the property owner (the petitioner) owns the property.

Mr. Johnson – The area on the south side of the dam and on the lower side of the dam and the lake are all within the same tax parcel number. It is all one number with a road running through it and through the research that I have done at the Register of Deeds Office; there are no easements of any type that are written or recorded through that property.

Mayor Anderson - So there are no easements that refer to this as common open space?

Mr. Mike DeFiore - I did not come prepared to answer that but I feel that I could provide information to this Council to dispute whether ownership and transferred ownership was actually allowed.

Mr. Ken Sidney - There are deeds that mention ability to use the road as common thoroughfare.

Attorney Fox - There is a dispute as to the ownership of that area and whether or not that area was shown on past deeds as common area. It is not the Town's responsibility to determine ownership. The Town's responsibility is to look at the two factors and whether to deal with the closing of a street and that is whether it would deprive someone of egress and ingress or public interest is deprived.

Mayor Anderson - If he doesn't own the property, then why does he have the right to petition?

Attorney Fox - An individual who owns or abuts a road can petition. He doesn't have to own it.

Mayor Anderson - I want someone to show me on a plat or on a deed that says this is common open space.

Councilmember McKee – I think that is part of the research that is being done.

Attorney Fox – The Town can get involved for the limited purpose of dealing with a street that has been offered for dedication and now the property owner is seeking to close it. The individual residents have a recourse outside of the Town to go through the courts to determine whether or not their rights and their deeds gave them a right to use that street that goes over the dam. That is not our issue. That is their fight. What I am trying to do is keep the Town from fighting the inappropriate battle.

Mr. Johnson – It seems odd. The way you are representing this is basically the Town is acting as a mediator.

Attorney Fox - The Town pursuant to the petition is exercising its rights to have a hearing for the closure of the street. As a part of its decision making, the Town has allowed the parties the opportunity to see if they can come together and work out a solution that is amicable to them before they ultimately make a decision.

Councilmember Smith moved to continue the public hearing to a date and time subject to the decision on Item 7A of the agenda.

All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Price, McKee and Mayor Pro Tem Gilmartin  
NAYS: None

**Item No. 5. Public Comment.** There were no Public Comments.

**Item No. 6. Approval of Minutes.**

**A. February 9, 2009 Regular Town Council Meeting Minutes.** Councilmember Smith moved to approve the February 9, 2009 Regular Town Council Meeting minutes. All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Price, McKee and Mayor Pro Tem Gilmartin  
NAYS: None

**B. March 9, 2009 Special Town Council Meeting Minutes.** Councilmember McKee moved to approve the March 9, 2009 Special Town Council Meeting minutes. All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Price, McKee and Mayor Pro Tem Gilmartin  
NAYS: None

**Item No. 7. Consideration of Public Hearing.**

**A. Consideration of Petition to Permanently Close Part of Lochaven Road in the Lochaven Subdivision.** Councilmember Smith moved to postpone consideration of the public hearing until the June 8 Town Council Meeting.

Mayor Anderson – Attorney Fox, this petition was presented to us in February. By delaying our decision, does the Town incur any liability for some catastrophic event that might happen?

Attorney Fox - There is no way of knowing what can happen in the future. We have competing evidence about whether or not the dam is safe or unsafe from the two different camps stating opinions regarding the condition of the dam. Can you be sued – of course you can – if someone was to get injured as a result of some catastrophe happening as a consequence of the dam’s failure? Is that foreseeable? That is a question for you to weigh. If that action did happen there are a couple of defenses that the Town has.

Mayor Anderson - I would ask Councilmember Smith if she would amend her motion to include allowing the property owner to temporarily close the road and also for the homeowners to place actual money in escrow to measure their willingness of commitment.

Councilmember Price – I would probably agree with you if they know the road is temporarily closed they will probably come in with every piece of information they can scrounge up next time instead of not much of any information but I do not think you need to put any money in escrow.

Attorney Fox – The authority is to either close or not close the road. We don’t have control over roads and do not maintain them.

Mayor Anderson - They have been working very hard. I want to clarify something I stated earlier. Of course I care whether the dam is safe or not but there is a safe road to go around.

Mr. Johnson – Whose liability is it?

Councilmember McKee - I will vote for 60 days if that is the last of it.

The vote on the motion is as follows:

AYES: Councilmembers Smith and McKee  
NAYS: Councilmember Price and Mayor Pro Tem Gilmartin

Mayor Anderson broke the tie by voting in the affirmative.

**Item No. 8. Old Business.**

**A. Consideration of Parks and Recreation Advisory Board Appointment.** The Town Council received copies of applications. Councilmember Price moved to appoint Ms. Stephanie Belcher to the Parks and Recreation Advisory Board. All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Price, McKee and Mayor Pro Tem Gilmartin  
NAYS: None

**B. Consideration of Downtown Development Committee Appointments.** The Town Council received copies of applications.

Councilmember Price informed the Council that he was not going to make his appointments to the Committee.

Councilmember McKee moved to decrease the number of members to the Downtown Development Committee from 12 to 10. All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Price, McKee and Mayor Pro Tem Gilmartin  
NAYS: None

**C. Consideration of the Reduction of the Union County Public Works Letter of Credit for the Devonridge Subdivision.** The Town Council received the following memo from Town Administrator/Clerk Amy McCollum:

Per the attached letter from Mike Garbark, Assistant Director from Union County Public Works, please consider reducing the water and sewer letter of credit for the Devonridge Subdivision from \$429,017.00 to \$61,270.40. In light of the discussions held at the Retreat regarding a proposed policy on future reductions of Letters of Credit or Bonds, I ask that the Town Council consider reducing this bond since staff's work with the developer in this issue was prior to those discussions.

The Town Council received the following memo from Mr. Mike Garbark, Assistant Director, with Union County Public Works:

The record map for the above mentioned subdivision has been reviewed by this department and found to be satisfactory. Water and Sewer plans for this subdivision have been approved by both Union County Public Works and NCDNR. Water was approved under serial #06-00466, dated April 19, 2006. Sewer was approved under permit #WQ0030099, dated April 11, 2006.

The letter of credit recommendations to retain **\$61,270.40** as outlined in our letter dated November 21, 2007 for this map is still requested. This amount covers activation, final asbuilts and the one year warranty repair guarantee. After we have activated the water/sewer and received final asbuilts we can reduce the letter of credit recommendation to \$42,901.70 which is 10% of the total cost of the water/sewer infrastructure. This amount will remain in effect for a period of one year after final inspection by UCPW.

Developers are requested to notify builders as lots are developed, that water meters will not be set if sewer cleanouts, water boxes, valves or their appurtenances have been damaged or improperly positioned. Water meters will not be set if concrete driveways have been located over meter boxes and their appurtenances. Arrangements for these repairs or modifications must be made prior to requesting meters to be set.

The developer is responsible for all locates needed during construction until such time that a residence is fully occupied on any particular street.

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Councilmember Price moved to reduce the Union County Public Works letter of credit for the Devonridge Subdivision from \$429,017.00 to \$61,270.40. All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Price, McKee and Mayor Pro Tem Gilmartin  
NAYS: None

**D. Discussion Regarding Transportation Issues from Town Retreat.** The Town Council received the following memo from Town Planner Jordan Cook:

The following transportation items were discussed during the 2009 Town Council Budget Retreat. After establishing Town Council consensus, the Town will draft a letter to Barry Moose of NCDOT. Below is a bullet point list of topics discussed:

- Sidewalks along Providence Road- Town Council decided to allow NCDOT to continue as planned on proposed sidewalks. Conduit to be installed for future light fixtures along sidewalks.
- Weddington Church Road Realignment - Town Council endorsed the realignment with the condition that the Church must close their current driveway. Barry Moose (NCDOT) has secured funding for the realignment project as it was presented at the Retreat. There are currently ongoing discussions with the Church.

Mayor Anderson advised that ongoing discussions have been occurring with Church leadership and they are still working to find the best place to put the road. The Town does not know the route and it is still being negotiated. Mayor Anderson asked, "Is it safe to say that the Town will be in favor of what the Church and NCDOT agree to if it is within the general concept that has been discussed previously?" The Council agreed.

- Street Landscaping- Landscaping plan and implementation to be a coordinated effort between Town of Weddington and NCDOT Landscape Architects.

Councilmember Price recommended allowing NCDOT to complete all work associated with the widening and then the Town can augment and enhance after their work is completed.

- Hemby Road Sidewalks- Sidewalks to be installed by HOA group(s) if they wish to do so.

- Sidewalks along Weddington Road- Town of Weddington to fund sidewalks along the north side of Weddington Road.
- Mast Arms at Intersections- Mayor Anderson to poll Town Council at next regular meeting regarding mast arms cost to the Town and benefits.

Mayor Anderson stated, “I thought I was in favor of this but after having discussions with Councilmember Price and he pointing out that we already have overhead wires there and putting up mast arms is not going to make those overhead wires go away. The poles are already there for those wires and it is a lot of money to spend for something that is not going to improve the aesthetics. What is the cost benefit for us? We want an aesthetically pleasing intersection but it is not going to change the fact that we have all these overhead wires already. Money might be better spent on landscaping.”

- Highway 84 and Weddington-Matthews Road Traffic Circle- NCDOT currently performing a congestion study to determine feasibility of a traffic circle.

Mayor Anderson stated, “We do not have the results yet. It upsets me that they will go ahead with the plan that they have and if the feasibility says that we can do it, then they will dig up the pavement.”

Councilmember Price stated, “I want NCDOT to do everything here that they are supposed to do and if they have to dig up asphalt, so be it. Has Barry Moose said if that circle goes in does it change anything from the rest of Highway 84 from the circle to Providence Road?”

Mayor Anderson - It would take the left hand turn lane going to Weddington-Matthews Road out.

- Northern Connection Road- Town Council generally supported this connection (Providence Road to Weddington-Matthews Road). Funding could be a shared responsibility between property owners, NCDOT and Town of Weddington.

Mayor Anderson - I wanted to know your thoughts on funding that. There was some discussion at the Retreat about the possibility of the Town using the \$2.3 million we have as a placeholder for the Rea Road project. We were not able to use that because the development does not become available until 2013. Barry Moose suggested that we consider moving some of that money from Rea Road to pay for the northern connector road and traffic circle. We can move that up by loaning money to NCDOT.

Councilmember Price advised that he would definitely vote against that proposal.

Mayor Anderson stated, “I want to make sure that this accurately describes our feeling before I give to Barry Moose and NCDOT.”

Finance Officer Leslie Gaylord will find NCDOT model agreements that have been used for Concord and Cary for road projects.

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

**A. Consideration of Appointment to Union County Transportation Advisory Board.** The Town Council received the following letter dated March 24, 2009 from Matthew Delk, Assistant Union County Manager:

Please find attached a copy of the document that describes the newly-created Transportation Advisory Board. This information has also been distributed electronically to your municipal staff.

The Commissioners created this Committee and charged it to “investigate, evaluate, advise and make recommendations to the Board of Commissioners concerning all matters relating to transportation within Union County, including, but not limited to, the need for construction, operation, relocation, or improvement of streets, bridges, sidewalks, and bikeways, as well as the possible establishment and improvement of alternative methods of mass transportation.”

The Committee will consist of one member appointed by each Town’s governing body (elected official or town resident). Five members from unincorporated Union County who are located in areas not served by the focus of a municipality; one member of the Chamber of Commerce; one member of the Union County Public School system; and one member representing parks and greenways. The Committee will be facilitated by the Commissioners representing the Mecklenburg-Union Metropolitan Planning Organization (MUMPO), currently Commissioner Tracy Kuehler, and the Rocky River Rural Planning Organization (RRRPO), currently Commissioner Allan Baucom.

I hope that you will consider this opportunity to appoint someone to represent your municipality on this important Committee.

Councilmember McKee moved to appoint Mayor Anderson to the Union County Transportation Advisory Board. All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Price, McKee and Mayor Pro Tem Gilmartin  
NAYS: None

**B. Consideration of Releasing the Union County Public Works Bond for Lake Forest Preserve, Phases IA and IB.** The Town Council received the following memo from Town Administrator/Clerk McCollum:

Per the attached letter from Mr. Mike Garbark, with Union County Public Works, please consider releasing the bonds for Phase 1A and 1B of the Lake Forest Preserve Subdivision in the amount of \$347,243.78.

Please let me know if you have any questions. Thanks.

The Town Council received the following memo from Mr. Mike Garbark, Assistant Director, with Union County Public Works:

IA - Union County Public Works Department has inspected the materials and workmanship of the water and sewer distribution systems which has been installed in the above mentioned subdivision. We find this project to be in substantial compliance and intent of the approved plans and specifications and hereby recommend releasing the current letter of credit (\$302,813.10) for this project.

IB - Union County Public Works Department has inspected the materials and workmanship of the water and sewer distribution systems which has been installed in the above mentioned subdivision. We find this project to be in substantial compliance and intent of the approved plans and specifications and hereby recommend releasing the current letter of credit of (\$44,430.68) for this project.

Councilmember Price moved to release the Union County Public Works Bond for Lake Forest Preserve, Phases IA and IB. All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Price, McKee and Mayor Pro Tem Gilmartin  
NAYS: None

**C. Consideration of Proclamation Proclaiming April as Child Abuse Prevention Month.**  
Councilmember Smith moved to approve Proclamation P-2009-02:

**PROCLAMATION  
TOWN OF WEDDINGTON  
CHILD ABUSE PREVENTION MONTH  
APRIL 2009  
P-2009-02**

**WHEREAS**, preventing child abuse and neglect is a community problem affecting both the current and future quality of life of a community;

**WHEREAS**, Union County Department of Social Services accepted 1,969 reports of child abuse representing over 4,295 children in 2008; 36.9% of these children were under 5 years old;

**WHEREAS**, of the 575 victims and family members served at United Family Services' Rape Crisis and The Tree House Children's Advocacy Center during 2008, over 78% of the children served were under the age of 18;

**WHEREAS**, 36% of the children served by the Tree House Children's Advocacy Center were sexually abused by other children;

**WHEREAS**, child abuse and neglect not only cause immediate harm to children, but are also proven to increase the likelihood of criminal behavior, substance abuse, health problems, and risky behavior;

**WHEREAS**, all citizens should become involved in supporting families to provide safe, nurturing environments for their children giving them the opportunity to grow up to be caring, contributing members of the community;

**WHEREAS**, effective child abuse prevention programs succeed because of partnerships created among social service agencies, schools, faith communities, civic organizations, law enforcement agencies, and the business community;

**THEREFORE, I DO HEREBY PROCLAIM** April as Child Abuse Prevention Month and call upon all citizens, community agencies, faith groups, medical facilities, elected leaders and businesses to increase their participation in our efforts to support families, thereby preventing child abuse and strengthening the communities in which we live.

Adopted this 13<sup>th</sup> day of April, 2009.

The Town Council received a copy of the following email from Pamela B. Caskey, South Region Director for United Family Services, Inc.:

Child Abuse is a growing concern in our community. Please help us in creating awareness about Child Abuse and Sexual Assault in Union County by wearing blue ribbons and completing a proclamation for Child Abuse Prevention Month and Sexual Assault Awareness Month. Thank you for your support.

The Town Council also received information regarding the Blue Ribbon Campaign.

All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Price, McKee and Mayor Pro Tem Gilmartin  
NAYS: None

**Item No. 10. Update from Town Planner.** The Town Council received the following memo from Town Planner Cook:

- The Request for Proposals (RFP) for a Downtown Master Plan is in its final drafting stages. The Downtown Development Committee will review and make recommendations on the document at their April 9 meeting.
- Several of the Text Amendments discussed at the retreat are near completion and will be on the April 27 Planning Board agenda and June 8 Town Council agenda.
- The Town of Weddington has issued Weddington High School a building permit for the proposed batting cages with a condition that states that the High School property must be rezoned from R-CD to ED via a staff initiated rezoning.

**Item No. 11. Update from Town Administrator/Clerk.** The Town Council received the following memo from Town Administrator/Clerk McCollum:

**Items Needing Council's Direction**

Mayor Anderson received a call from Sheriff Cathey. He is applying for grant money to fund 15 officers for a 3-year period that will pay for their salaries for three years. He offered one to the Town of Weddington. The Town's obligation would be \$25,000 to \$30,000 total for the three years. On the fourth year, the Town would have to pay the officer's full salary. If the Town declines, the Town of Indian Trail wants all of the deputies. (The Council agreed not to pursue at this time.)

**Upcoming Events/Meetings**

Downtown Development Committee Meeting – April 9, 2009 (6:30 p.m.)

Litter Sweep Clean up Event - May 2, 2009 – Meeting at 9:00 a.m. at the Weddington Corners Shopping Center for Donuts and Coffee.

The 2009 Congressional Art Competition is being sponsored by the Town of Weddington and House Representative Sue Myrick. This event will be held on May 17 at the Weddington Town Hall from 2:00 to 3:30.

Union County Night with the Charlotte Knights – Be a part of a special game recognizing Union County on Friday, May 1 beginning at 7:15 p.m. Tickets are \$6.00. For more information, call (704) 357-8071 Ext. 2109.

**Other Items**

New website will be completed within the next two weeks.

Town Hall closed for Good Friday, April 10, 2009.

Interlocal Agreement between Union County and Weddington relative to the Optimist Park issue was approved during a Special Meeting on Thursday, April 9, 2009.



**Minimum Housing Updates**

Rick Hunt (Beulah Church Road) - Another hearing was held on March 23, 2009. The following action was taken: The Board of Adjustment will retain jurisdiction over this matter during the progress of construction and repair. The property is to remain cleaned and the structure secured throughout the repair period. A building permit to perform the necessary repairs shall be issued by Union County and a copy submitted to the Town no later than May 18, 2009. A copy is to be provided to the Town as soon as it is received. A Board of Adjustment Meeting will be held on May 18, 2009 to review the permit issued by Union County and to set future deadlines for completing the required repairs to the extent they differ from what is currently in the January 28 decision.

Riley Property (Matthews-Weddington Road) – Per our Code Enforcement Officer, the property owner has advised him that they are planning to demolish the property.

**Item No. 12. Committee Updates.** Councilmember Smith gave a brief committee update. She reported that the Downtown Committee is working on a Request for Proposals for a Downtown Master Plan. She advised that the Weddington Corners Shopping Center would love to see the connector road. The Town is working with the Shopping Center on a Shop Weddington concept with flyers and information in the Town newsletter encouraging people to shop the local businesses. The Parks and Recreation Advisory Committee is planning the Litter Sweep Event.

**Item No. 13. Public Safety Report.**

<b>Providence VFD</b>	<b>Fire</b>	<b>EMS</b>	<b>Total</b>
Mecklenburg County	6	3	9
Union County	20	6	26
Monthly Total			35

The Town Council received Providence VFD’s Financial Statements.

**Wesley Chapel VFD**

February – 102 Calls

March – 86 Calls

**Deputies – 440 Calls**

**Item No. 14. Transportation Report.** Mayor Anderson advised that the developer will help fund the traffic light at Antioch Church Road and Weddington-Matthews Road and they are hoping to get that completed when school stops.

**Item No. 15. Update from Finance Officer and Tax Collector.**

**A. Finance Officer’s Report.** The Town Council received the Revenue and Expenditure Statement and the Balance Sheet for March 1, 2009 to March 31, 2009.

**B. Tax Collector’s Report.** Monthly Report – March 2009

Adjust Under \$2.00	\$ .18
Discoveries	\$634.78
Releases	\$(121.03)
Pay Interest and Penalties	\$(150.54)

Interest Charges	\$258.07
Refunds	\$61.74
Taxes Collected:	
2007	\$(166.01)
2008	\$(6,041.48)
As of March 31, 2009; the following taxes remain Outstanding:	
2001	\$9.18
2002	\$89.53
2003	\$210.27
2004	\$290.19
2005	\$428.35
2006	\$904.92
2007	\$2,504.07
2008	\$31,485.74
Total Outstanding:	\$35,922.25

**Item No. 16. Council Comments.** Mayor Anderson thanked Councilmember Price, Mayor Pro Tem Gilmartin and Attorney Fox on their work to help resolve the violation issues at the Optimist Park.

**Item No. 17. Closed Session.** Councilmember Smith moved to go into Closed Session pursuant to NCGS 143-318.11 (1) addressing pending litigations between IB Development and the Town of Weddington. All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Price, McKee and Mayor Pro Tem Gilmartin  
NAYS: None

**Item No. 18. Adjournment.** Councilmember Price moved to adjourn the April 13, 2009 Regular Town Council Meeting. All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Price, McKee and Mayor Pro Tem Gilmartin  
NAYS: None

The meeting adjourned at 9:52 p.m.

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Nancy D. Anderson, Mayor

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Amy S. McCollum, Town Clerk