

**TOWN OF WEDDINGTON
REGULAR TOWN COUNCIL MEETING
MONDAY, JUNE 8, 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 June 8, 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: Andrew Pelick, Valerie Pelick, Bill Price, Bill Reynolds, Walter Staton, Barbara Harrison, Pat Harrison, Ken Evans, Jane Evans, Robert E. Henderson, Richard Propst, Elizabeth D. Propst, Werner Thomisser, Mike Hault, Craig Horn, Barry Groome, Wes Bertram, Michael Johnson, Roger and Teri Strom, Joe and Susan Weil, R. Todd Tuttle, Debby Block, Bill Maynard, Neldina Maynard, Bob Davis, Clayton Loflin, Robyn McAreavy, Steve McAreavy, David Banick, Matt Berti, Tina Carney, Ken Dowd, Gene Harrington, Walker Davidson, Joyce Helms, Kristina Rogers, Paul Johnson, Melissa Emerine, Chad Emerine, Mary Waller, Mike Waller, Bob Jones, Joy Jones, Brian Carlton, Janice Propst, Mary Ann Schulte Maxson and Karen Jones.

Item No. 1. Open the Meeting – Invocation and Pledge of Allegiance. Mayor Nancy D. Anderson called the June 8, 2009 Regular Town Council Meeting to order at 7:06 p.m. Mayor Anderson led in the Pledge of Allegiance and offered the Invocation.

Item No. 2. Determination of Quorum/Additions and Deletions to the Agenda. There was a quorum. Councilmember L.A. Smith moved to change the agenda as follows:

- Removal of Item 9C from the agenda
- Rearrange order of public hearings so that the Public Hearing to Consider a Petition to Permanently Close Part of Lochaven Road in the Lochaven Subdivision was heard before the budget.

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. Public Hearings.

A. Public Hearing to Consider a Petition to Permanently Close Part of Lochaven Road in the Lochaven Subdivision (Continued from April 13, 2009). Mayor Anderson reopened the public hearing to consider the petition to permanently close part of Lochaven Road in the Lochaven Subdivision.

The Town Council received documents from the petitioner Paul Johnson and Bob Henderson, Attorney for the Lochaven residents. They are both attached to the minutes as exhibits.

The Town Council received the following:

- Copy of Petition to Close Road from Airborne Development, LLC
- Letter dated February 13, 2009 from R. Todd Tuttle Clarifying Information on the Petition
- March 16, 2009 Special Town Council Meeting Minutes

Councilmember McKee - Due to getting this documentation late Friday and our legal department not getting it until today, I suggest we postpone discussion on this matter. I do not think it will do any justice to proceed with this tonight.

Mayor Anderson - We can continue with the hearing and have more information presented since we have everyone here. We can proceed with the presentation.

Attorney Bob Henderson – I am representing Mr. Mike DeFiore and the neighbors who have supported his efforts. I hope that the materials that I gave you speak for themselves. Mr. DeFiore came to my office several weeks ago and posed to me a problem they have before them. I told him that I had been involved in a number of situations similar to what he was faced with. Before we could give it the analysis that is really needed, we had to go to the Register of Deeds and find out exactly what is there. There is a long history for the neighborhood. We spent a lot of time assembling all the plats associated with the neighborhood, the various deeds from the original Lochaven Corporation, the deeds to the petitioner and some of the deeds that he has conveyed out. What we found was that this was a neighborhood that has evolved from the early plat back in 1957 and the later plat of 1972, which I included in all of your materials. You will find representative deeds that are Exhibits 3, 4, 6, 7 and 8. It gives you a cross-section over time of what those deeds look like. Let's look at the plat that is the most important that was recorded in 1972. This together with one other plat is Lochaven. The dominant features of this particular neighborhood are the lake and open space. They are actually shown on the plat as one continuous parcel. By today's standards, this would be a little unusual because the lots all run to the middle of the road. The road actually crosses over the lake and open space areas just as it crosses over other lots, which is to say there is an easement across it. That means everything in terms of the legal status of these features. It is because under North Carolina law - if I buy a lot over here and it is with reference to this plat I don't buy just my lot, I buy my lot and the common areas that are all part of that subdivision. That is what I bargained for because those amenities are important to me. In the case of Lochaven, the lake and open space are literally at the center of the community. In North Carolina, it is long established law. The North Carolina Courts specifically say that when you record a plat like this, you dedicate the street to the use of the lot purchasers and those claiming under that and each purchaser requires the right to have the streets kept open for his reasonable use. There are other cases that actually say that if you make reference to the plat and talk about a road in affect the map is incorporated by reference into the deed. Unless you agree to give it up, you have your piece of it because that is what you have bargained for when you bought into that subdivision. I think that is especially important in these circumstances because the statute under which the petitioner seeks to withdraw from dedication requires you to do three things. You must find the closing of the road is neither detrimental to the public interest nor detrimental to the property rights of any individual. I am persuaded by the letters from the fire department and the letters that I have seen about the dam from DENR. There is no question that the folks have property rights as distinct and enforceable as the rights they have in the particular lot they own. There may be safety related reasons but it is not the province of you folks now because under the statute – if they have property rights and it is detrimental to them, it is your job to not close this road.

Councilmember McKee - What do you mean by detrimental to property rights?

Attorney Henderson - If I had the rights to a road to be there and it is no longer there, I think that is detrimental. The cases that I have been involved with in the past have been a different scenario than this. What I have seen in the past is when the original developer is finished and he has pieces of land left over, he conveys them and someone tried to carve out just one more lot out of the open space and you have to go out and enforce it. This is not any different. It just happens to be that they are trying to close the road and perhaps get control over the road assuming that he has the right to tell people they can't go across it. That is unlawful. He does not have that right. He owns this property subject to the rights of the folks who live here and they have the right to use it. There may be safety issues but they are not his to enforce.

Attorney Fox - It seems like the statutes are a little bit unclear because it talks about what the public can be heard on but then it talks about what the Council can decide to exercise the power of closure of the street under. Detriment is the factor that one is heard on. If it appears to the satisfaction of the Council after hearing that the closure of the street or alley is not contrary to the public interest and that no individual owning property in the vicinity of the street or alley or in the subdivision which it is located would thereby be deprived of reasonable means of ingress or egress to the property, it turns a little bit and is inconsistent. It says you come and you are heard on the question of whether or not closure would be detrimental to your public interest or to the property rights of the individual. When it talks about Council action, it talks in a different vein about what Council looks at and Council looks at reasonable egress and ingress and public interest.

Attorney Henderson - I wrote it off as being in-artfully drafted because I think you have to give meaning to the earlier part of the section where it talks about public interest. I don't know how you can interpret that statute and then in the decision ignore those criteria. I would contend that it is all of the above.

Attorney Fox - It appears to me that you advised your client that there may be some rights that the individuals have with regards to the retention of the closing of the roadway. You would agree that those rights are independent of this board and this Council.

Attorney Henderson - I would agree that there are both rights that are actionable by individuals and enforceable in addition to the public rights. There is the whole question of public dedication versus easement rights. There are property rights involved here. This is not a case where Airborne owns this property and no one else has rights to it. That is not the law.

Mayor Anderson - The question that I have is who owns the property. I was satisfied that the petitioner owned the property but then when I looked at the packet, I realized that even though he owns the property an easement has already been granted back in 1955 and that those easements follow the property no matter what.

Attorney Henderson - Precisely, if the property cannot be bought or sold without those easements being in place and the rights for the lake. It says it right there on the face of the deed. It identifies the lake and the open space and it refers to the plat. There are actually two deeds, one for Airborne in December 2006 and then another December 28, 2007. Airborne actually conveyed out just about everything but the lake and the open space. What is left in Airborne is mostly these two and the rest was pushed down to the Ranger Land Holdings, LLC for reasons you can imagine.

Mayor Anderson - I also see that there is some discussion as to whether or not there are any covenants.

Attorney Henderson - There are and that is in Exhibit 5. By today's standards, they are very primitive.

Mayor Anderson - That is specifically spelled out in number 6 – the use of the lake. It appeared to me that use of the lake by the lot owner shall be subject to rules and regulations but it clearly granted them the use of the lake.

Attorney Henderson – When they recorded this saying lake and open space; that is in effect dedication to the neighborhood of those spaces. That is under the law. When these cases go to court, they don't go to the jury. The judge decides these kinds of things. Most of the cases you see are summary judgment cases. This one would be also. The plat is very clear.

Attorney Fox - We are here tonight because what is presented to this governing body is a request to close a portion of a road that has some issue of being irrevocably dedicated under the 299 provisions and it seems to me that power to close a road includes private roads, provided there has been a dedication. That is almost regardless of what the deed interest in that may be. If you have some comments on that part of it, that might be helpful.

Attorney Henderson - The question is do they have the power – I think I would agree with you. The only distinction I would make is usually when you see withdrawals from dedication, it is where a road is platted but never built. That is not that unusual because things change. These roads have been built and they are out there. This is an unusual fact pattern. You have a road that is out there and is being used and they are asking to have it withdrawn and you have a room full of people saying don't. I have never seen that in 30 years. You will see in my letter, the last case that I cite is a 2006 case. A unanimous decision by North Carolina Court of Appeals and it is extraordinary. It is not under this statute. It is under the statute where the withdrawal is within the 15-year period where the road hasn't been built.

Attorney Fox - If the Council were to close this portion of the road under the statute, ownership of the road would go ½ to each of the abutting property owners on both sides. That property owner owns both sides. If that road were closed that would mean that property owner – if he were to then barricade it – would take that risk in light of what the interest or injuries might be as a result of these deeds of the property owners.

Attorney Henderson - Here is why, in my opinion, that it is so important that you don't close this thing. It will make a huge mess. If you think about what we have got here – the neighbors have a right on top of a right here. The first question is, if you do this, do they still have the right for the road to be kept open – not as a public road – but for the road to be kept open. They made that deal when they bought into this subdivision. The answer to that is - yes they can still keep that road open if they choose to enforce it. Even that aside, the ownership of that property - it is lake and open space. No one has a right to barricade that. Even if it is not a road – no one has the right to exercise dominion and control over it. It is there for the benefit of the neighbors. If we have to litigate that, I hope you help us avoid that result because that is not where we need to end up. It is a single parcel and even if you wipe that road out, the fact that the title in normal circumstances reverts by right to the two halves, there are in effect not two halves here. Even if there are, it is subject to the rights of the neighbors and they have no right to use it. The notion that I have seen in some marketing materials, this might be in effect water frontage for other lots. That is just not happening. That right is not there to be given. This is already the neighborhood's.

Councilmember Smith - Are the property rights of that lake and open space affected by whoever may be the caretaker or who has historically been the caretaker of that property? A lake and the open space are in effect the property of the homeowner.

Attorney Henderson - It is subject to the rights of the homeowners.

Councilmember Smith - If the homeowners have not contributed to the care of that open space does that have any role in this debate?

Attorney Henderson - I don't think that it does and I am not saying that is a good result. There is no legal support for that being a requirement. What is unfortunate is today we would have 86 pages of restrictions laying out the lake and who is responsible for it. We don't have that here. It worked because this was developed by folks and they just took care of it and as long as everyone held to the original concept there was no big fuss about it and things went along and worked well for more than 50 years. It is a problem now because someone is changing the concept. The neighbors are willing to initiate whatever changes are necessary in terms of title to the property, financial responsibility to get it to contemporary standards.

Councilmember McKee - The cases that you are referencing here - how close in similarity are these cases or are they just cases involved with open space? I don't understand the relevance of any of these cases. You were also talking about a 2006 decision was a different statute. What does a different statute have to do with the statute that this is falling under?

Attorney Henderson - They are dealing with the same issue. I can give you as many cases on common area as you want.

Councilmember McKee - I am looking for one that is similar to this one.

Attorney Henderson - The Cleveland Realty versus Hobbs Case on the second page is a good one. They had playgrounds and golf courses. This is not an uncommon situation.

Mr. Mike DeFiore - I want to advise the Council that we heard loud and clear last time that you mentioned the interest of the property owners of Lochaven taking over maintenance and some responsibility for the dam - we have made a lot of progress on that. There are certain people who are not in favor of what I am about to say. There is support from the majority of the residents for an incorporated homeowners association which will be responsible solely and exclusively for dam maintenance and operations. We amassed \$10,000 in yearly donations from these people. You mentioned at the last hearing about accepting dedication. Not sure what that means but if that means if someone is willing to be responsible for the maintenance and operation of the dam - it's us. We have done a lot of work to satisfy Mr. Johnson's concerns. We have two people sitting on the board who are lake front property owners. Their interest is represented. We have contacts for DENR. We have safety procedures and we are ready to do the testing that is necessary on the dam to bring it up to DENR specs.

Mayor Anderson - Have you already formed an HOA?

Mr. DeFiore - We are ready to form the HOA but it requires working with a different attorney and we have to retain him. If the Council decides to close the road, that all has to be undone. If you let us know and keep it open, we will take steps to form a HOA and present to you information you need to be secure that this road will be maintained.

Councilmember McKee - Is the HOA volunteer? You said not everyone wants to be in it. What happens if they sell their property and move and a new owner comes in? He doesn't have to honor that obligation since there is no deed restriction.

Mr. DeFiore - It is a very unconventional situation which is why retaining an attorney is going to be more expensive. It is possible to find people who agree to be part of the HOA now that when they sell their lots, people that purchase their lots will be bound. If I am serving on the board, I have to agree that if I sell my property my obligation carries over to the next people. The concern of after 20 years we will be

in the same position that we are now because no one is around because everyone sold and moved out could be corrected.

Councilmember McKee - The owners of the property that want to form this association are going to put it on their deeds of their successors to honor their obligation to maintain this dam and road. If you sell your land tomorrow and I came to buy it – would I be obligated to continue your financial obligation to repair this?

Mr. DeFiore - Yes, the attorneys didn't describe how that would happen but they said it could be done.

Councilmember McKee - The majority is in agreement? Can individuals agree to do it or does everyone in the HOA have to agree?

Mr. DeFiore - My understanding is that one of the requirements for joining the HOA if you want the road open will be that you have to bind future purchases of your lots to be a part of the Homeowners Association.

Mr. Paul Johnson – I am the petitioner. I put some documents on the table for your reference. Attorney Henderson comments only on two portions of the criteria to close the road. You have the detrimental to public interest and detrimental to the property rights of an individual. Mr. Henderson was not here for the initial presentation so a lot of this information that came up in his presentation has already been covered by the board and in that presentation that I originally made dispels a lot of things that were said. With regard to detrimental to public interest, the hearings have included letters from the Wesley Chapel Fire Department and the Providence Fire Department both of which explicitly state that the requested road closure would be a considerable public safety issue. The former Homeland Security Director Pat Beekman had gone out there and he informed me that the area would not be used by any of the fire trucks or emergency response vehicles due to the condition of the dam. Obviously, Mr. Beekman is no longer the Homeland Security Director and I believe Mr. Speer is the Fire Chief and he was at the last meeting. His comment with regard to that was he feels those homes are adequately served and meet the State guidelines for emergency response. He did not think that was an issue of public interest. Regarding Item #2 under detrimental to public interest, Mr. Henderson cites the creation of a dead end street over one mile in length is not only problematic for fire safety but it would create additional problems from the potential deadly loss of time in critical and medical care or the simple loss of daily convenience. I would assume that the critical medical care would be an ambulance response which Mr. Beekman and other representatives from Homeland Security state is not an issue. Item 3 under detrimental to public interest, Mr. Henderson writes that consideration of dam safety is the province of the NC Department of Environment and Natural Resources which has recently confirmed the dam to be low hazard and not in immediate danger of failure. There is a document that comes from Scott Harrell who is with the NC Department of Natural Resources saying that it is not in imminent danger of failure if the necessary repairs are made to the dam. The repairs have not been made to the dam. There is significant consideration that needs to be made with regards to its safety. Mr. Harrell also stated to me that they are not a road commission – they are a dam safety commission. They have a specific set of guidelines that they go by with regard to the classification of the dam whether there are low, high or intermediate safety concerns. They do not take into consideration the road on top of the dam. They are only concerned with the fallout from the failure of the dam. If the dam fails what they are concerned with is the damage it will cause downstream. It is a low lying area so there are no schools and there is considerable distance between the lower side of the dam and the next lake which would be Aero Plantation. The only consideration they make is that there is a discharge of siltation that is going to wind up in the lake at Aero Plantation which would significantly affect their property values as well. Those were the three major points that Mr. Henderson made with regard to public interest. With regard to the detriment to property rights of individuals the first point that was made was that when the Lochaven residents purchased their

lots they acquired, not just their particular lot, but also the rights and the enjoyment of the lake and open area and streets created and reserved by the developer for their benefit. One of the exhibits that Mr. Henderson had placed in your packets is the covenants. There are explicit instructions as to the rights of the lake. I don't think that there is any assumption that really needs to be made about what the rights are because it is spelled out. Mr. Henderson says my plans are not consistent and I have changed the direction of the development. I don't feel that I have done that. Everything that I have moved forward with has been consistent with the covenants. If you look at the covenants it specifically says what the rights are. It says who they affect and who is governed by them and what has to be done with regard to the changing of them. It is about the safety and well being of the folks that enjoy that benefit. There is a significant safety risk and it has been noted by the State of North Carolina Dam Safety Division. Regarding being detrimental to property rights of any individual, Mr. Henderson cites that these are increasingly common features of residential developments. If this were now, it would be a 150 page document. We are dealing with something that is archaic in nature and that is the way it has been done and it hasn't been changed and no one has taken the liberty to do so. We are stuck with governing based on the way they were left in 1958. Under the use of the lake, it shows that those privileges can be changed from time to time based on those same criteria. Regarding that the petitioner now seeks to develop additional lots and seeks to change the original development concept by closing this road and asserting dominion control over the dam, I have not tried to develop additional lots. These lots are the same lots that I have owned and have never been changed. They were established and subdivided and surveyed in 1958. I have not added any lots and am not trying to take a common area and carve another lot out of anything. It is the same developmental plan and the same strategy. My only concern here is the dam and its safety. This is a very confusing situation for me. As a landowner I have to be concerned about the dam. It is a simple issue when it comes down to the criteria to make the decision. The only responsible thing to do is one of two things – either close the dam or repair the dam to the standard which everybody expects as they drive down the road. People are leaving a State governed roadway and going on to an unkept, unmanaged, known hazard and they are unaware of the fact that they could be putting their life in jeopardy. People fly down through that area. I am fine with keeping the road open. My only wish is that it is maintained and kept to the same standard that everybody assumes is safe and you would have to say that the standard would be the NC Department of Transportation standard. Everyone keeps mixing the two terms of common space and open area. Mr. Fox, can you give me a clarification on that? It is on the plat as being open space and that is consistent with R-CD zoning?

Attorney Fox - Sometimes the terms are used interchangeably. Sometimes it may have specific meaning as it relates to a deed restriction. I have no way of knowing that without reviewing the materials here. Common space and open space is generally a zoning term that is used to define an area that it is left open and undeveloped for recreational park purposes.

Mr. Johnson - It is possible that open space could be considered space that is to be left alone and not used.

Attorney Fox - Open space or common space can also be if you have a multi-family facility – it could be the buildable land in the middle of the multitude of townhouses that people can go and grill out on.

Mayor Anderson - I was present at the meeting with Mr. Beekman who was then the Homeland Security Director of Union County and I do remember him expressing concern about the weight of the trucks going across the dam but I do not recall him saying he would not allow them to go across. He did say he would be cautious about it and would want to further investigate it. To say he would in no way let trucks go across it I think is overstating it. You stated that you had not made any changes to the plat – I do not know who did it but the plat recorded is different than what is developed now. I do not know who made those changes. Changes have been made to the plat.

Mayor Anderson discussed easements and referenced Exhibit 8 and felt that it appears that there is an easement that follows that property with the ownership.

Attorney Fox - I have not reviewed this. It does appear that it creates the dam to be open and offered to the public. I would like more time to review.

Mr. Clayton Loflin - We were here before and I was part of the property owners that conveyed the property to Mr. Johnson. When I moved to Lochaven, I was given a copy of the restrictions on these properties. It says very plainly that these restrictions apply to the above described metes and bounds. If you look at those it means all of the lots that abut the lake to the center of the road going around the lake. Other people that bought lots on the other side of the road and in the new sections were given copies of these covenants and restrictions which plainly say the use of the lake is restricted to these property owners. The rules and use of the lake is reserved by Lochaven Corporation and can change from time to time. The folks that started this stated it was a safety problem and arrived at the fact that these restrictions were written for the people that owned property abutting the lake. The lots were all four sided with four dimensions that do not extend into the lake. The corporation reserved the lake, the land under it, the dam and the wetlands down below it for their own use. It is curious that when Lochaven sold the land that Mr. DeFiore lives on now these restrictions were given to that buyer the Wyants but when they conveyed it to Mr. DeFiore to show that they are basically irrelevant and don't apply to his land they were left off of his deed. His deed is sitting there with no restrictions and no covenants whatsoever. It makes me feel good to know that the Town of Weddington has some very strict zoning laws because when you get right down to it the lots on the outside perimeter have no restrictive covenants. If these are actually in effect, then those were actually written to say they could have 1/3 acre lots. This is not the finest piece of descriptions or covenants I have ever read and I have been a licensed realtor for 50 years. This is a very unusual case. When the State took over Lochaven Road, they refused to take over the dam and the road leading down to it. There are signs on either side of the road that says State maintenance ends here. It is a farm pond and was built in the 40's. Dirt has been added to it but has never been built or designed as a State maintained road. The State would not even consider taking it over. I would encourage you tonight to say that Mr. Johnson has made a reasonable request due to the liability and the cost of building the dam to State specs that he would like to close this because it is unsafe. It is deteriorating rapidly. Farm ponds only have so many years and this one is reaching that age. Let him close the road and if the property owners have some rights let them take Mr. Johnson to court and settle it there. I don't think it is a Town Council decision. If you would let him close the road, then we will solve it in the neighborhood.

Councilmember McKee - Is the description you have recorded?

Mr. Loflin - Yes. This is the one everyone refers to. It is not well written but you can tell that the owners of the property who are selling it to people around the lake are saying you can't do but certain things with it. You can use the lake but we can change the rules. I know they changed the rules five to ten years ago to say no more motorboats. The last time I called the sheriff to tell him there was a guy down there with a motorboat he said that is private property and I am not going to touch it. The schools won't even let school buses use it. It is a shortcut used by a lot of people for way too long and the damage is being done. The dam needs to be fixed and brought back so it protects the water in the lake. That lake is extremely important to Lochaven. We also worked to try to get that road paved and I think it is going to be the ultimate answer to the safety and the ingress and egress for all the school buses, garbage trucks and everything else. The first thing we need to do is get the road closed so we can move on to step two.

Attorney Henderson - With respect to the 1957 restrictions, they don't say what he just indicated in my opinion. This was recorded in 1972 and it was at that time that these rights were unquestionably created. The lake was not reserved to the corporation to make the lake come and go. It says the use of the lake shall be subject to rules and regulations issued from time to time which rules shall be for the common

enjoyment health and safety of all owners. It' the kind of language you would expect, not language giving the right to unilaterally make the lake pull away or in any way limiting the rights of the people on this plat to the use of the lake.

Mayor Anderson – Our legal counsel is advising us as he reviews the materials presented tonight for the Lochaven subdivision.

Councilmember McKee moved to continue the public hearing until the July 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

B. Public Hearing to Consider the Proposed Budget for Fiscal Year 2009-2010 and to Set the Tax Rate. Mayor Anderson opened the public hearing to consider the proposed budget for Fiscal Year 2009-2010 and to set the tax rate. Finance Officer Leslie Gaylord reviewed the proposed budget with the Council and public. A copy of the proposed budget is attached to the minutes.

Finance Officer Gaylord - We started with the Planning Retreat back in March. Every year we come up with an operating budget for the Town - what it costs us to run the Town on a day-to-day basis. Then we ask how much more revenue and expenses will we have. We decided we have \$170,000 if we use the 3 cents tax rate. We also did a 2 ½ cents tax rate to have a comparison and it came out with an operating budget of \$22,000. We said what else do we want to do? We had a whole laundry list of items that we went through and discussed and ultimately what we want to have on that. Based on what we picked, the Council decided to leave the tax rate at 3 cents and these are some items that are non-operating that they chose to fund.

- Parks and Recreation - \$15,000 to partner with the schools and community to have events.
- Painting and maintenance of the Town Hall – \$10,000.
- Replace the oldest computer in Town Hall and to buy an additional laptop - \$3,000.
- Salary increases recommended by The MAPS Group - \$13,500.
- Contract labor for litter pickup, creation of website and outside scanning of Town documents - \$10,000.
- Consultant to prepare a Downtown Master Plan - \$75,000. It would still be discussed by the Town Council on which consultant the Town would hire.
- Streetscaping (Welcome to Weddington Markers, lighting, etc.) - \$32,500.
- Catawba Lands Conservancy - \$1,000.
- WCWAA - \$10,000 - The Council has stipulated that any expenses that we incur relating to their violation will be deducted from their donation.
- Donation to Union County Public Schools for Weight/Fitness Room – This is only a placeholder until the Council decides how much or to give at all.

Finance Officer Gaylord - When we do the budget we want to do the worst case scenario by budgeting the revenues the lowest we think that they may come in and the expenditures at the highest. Legally we are required to have a balanced budget. All of the items above total \$270,000. We had \$170,000 in our operating budget and \$100,000 is an appropriation from fund balance. We had a meeting with the Providence VFD today. They would like additional funding. They have a short fall budget for the year. We have been contributing to the fire department a grant and a subsidy totaling \$150,000. That level of funding is in there at \$150,000 again for this year. There are no current plans through Union County to build a library. We don't have any cash outlay budgeted for the current year for the library.

Mayor Anderson - We funded what was asked for from the fire department. There was a change of leadership. We had a meeting this morning with the acting Chief at the fire department. We discussed some additional needs that they might have. We funded 100% of the initial request. It was not until we sought them out because we realized there was a change in leadership that we initiated a meeting and asked them if there were other requests and he will be speaking to that.

Finance Officer Gaylord - Transportation Issues (Connector Road between Weddington-Matthews Road and Providence Road and a traffic circle here at Highway 84 and Weddington-Matthews Road), the talk about doing that is to advance funding to DOT to be paid back. It is anticipated if any expenses in 2010 would be the design implementation of that road and that is currently not in the budget nor is there any money in the budget to speed up or assist with a light at Hemby Road and Weddington-Matthews Road. Those items were all discussed but not currently funded. The total budget is \$1.2 million dollars. The fire department has asked for \$30,000 to \$100,000 more. We currently fund their three paid firefighters and that funding is not covering the cost of insurance and benefits associated with them. The firefighters cost them \$180,000 and we are only paying them \$150,000.

Acting Fire Chief David Banick – The Town has been gracious enough to fund us for our daytime program with three firefighters 6 am -6 pm for \$150,000. Currently we are running short of at least \$30,000 a year. Every year we start out \$30,000 in the hole. We are currently covering 90% of the Town of Weddington. We have done run analysis for the last couple of years. During the day time we get a fire truck out the door in under a minute and half. When we go past 6 pm at night, when the day staff leaves our run numbers go up about 45 seconds and then at midnight it goes up over a minute and that is because of the delay of volunteer members having to drive to the station and then get to the truck. We would like to receive additional funding to cover the cost of the day time program. We are asking for an additional total of \$100,000 because we are taking some training initiatives on top of what we have already started as far as getting our members to Fire Fighter 1 and Fire Fighter 2 levels. Also incorporated in that extra money is covering our shortfall and we would like to institute a program to help these two people on duty 6 am – 6 pm so when we get an alarm for service we can continue to get the truck out the door in less than 90 seconds. When we did a run analysis we did beat it for the last two years. It showed 6 am-12 pm, we get a truck out in a minute and 28 seconds. From 12 noon – 6 pm, we get out the door in a minute and 24 seconds. From 6 pm – 12 midnight, we get out the door in roughly two minutes and 18 seconds. From 12 midnight to 6 am, we get out in 2 minutes. These are very good numbers but there are regulations that state the opportune response time from dispatch to truck on the scene is six minutes and right now we are already taking up two plus minutes into that six minutes to get a truck en route. Every year we start out with \$30,000 in the hole. At night time our volunteer levels are up to almost full capacity. The benefit of having someone in station at all times is when the alarm goes off; we get the truck out as quick as possible. It also allows the volunteers instead of having to drive to the station to pick up a truck, they can go directly to the residence or incident scene and therefore our manpower time is reduced. A lot of times it will only involve two trucks from Providence and if worse came to worse the two people on duty would get the trucks out the door. Our heaviest time of day for runs is 12 noon - 6pm. This is about 35% of our calls. In the morning 6 am – 12 noon is our third busiest time of the day. The daytime coverage works but actually our second busiest time of the day is 6 pm – 12 midnight. It is almost 30% of our call volume. We would like to eliminate having a delay of 45 seconds on the second heaviest time of the day. We would like to get our trucks out as soon as possible.

Councilmember McKee - Have you approached Union County to get them to contribute to that fund or are you going to?

Acting Chief Banick - Mecklenburg County subsidy is going to stay the same as the last four to five years. When we were working on the budget with Union County, there was never an offer of additional funding therefore we never requested it.

Councilmember McKee - You did not specifically ask them? Did you go back to them and bring it up?

Councilmember Price - Historically – it seems like no matter what, we will go and ask Weddington and they will give it to us.

Mayor Pro Tem Gilmartin - Based on the Mayor's discussion that she and I had with YMCA and CMC-Union, I recommend we take the \$100,000 from the school and roll it to the fire department.

Acting Chief Banick - We have a great relationship with the Town of Weddington and have tried to hold the line with the budget as much as possible. We went out and applied for grants and different things and that is how we have gotten our bigger ticket items. We have not done anything unusual. We have tried to operate the fire department as close to budget as possible for the last five years.

Finance Officer Gaylord - This is just strictly a function of the payroll expenses associated with their salaries and not any related pay increases.

Mayor Anderson - Marvin approached you and asked if they could help with funding.

Finance Officer Gaylord - I was approached for information by both Marvin and Wesley Chapel and we asked the question whether they had given anything.

Acting Chief Banick - I am not aware of Marvin or Wesley Chapel approaching us with new funding.

Mayor Anderson – We did discuss the possibility of fundraising by the department. Councilmember McKee and I were both there and I have been outspoken about this. I want my fire fighters training and learning to save lives. I don't want you out cooking BBQ. You had a small golf tournament last year and you want to think about creating a fire department foundation.

Finance Officer Gaylord - Maybe there are some actively involved citizens that would be willing to assist the fire department in doing some kind of fundraiser so they don't have to do it themselves.

Councilmember McKee – They do spend a lot of time away from their family. I think the fundraising is good but I think it would be a good idea if some people in this community would head up and coordinate with the volunteer fire department. If this golf tournament is an ongoing thing then let's get someone to help promote it.

Mayor Anderson – I am going to have the Town Clerk read the notes from the meeting that was held. It was initiated by me but in response to Robert Gilmartin's request that we help with the capital improvement project for the High School for a weight/fitness center.

Town Administrator/Clerk McCollum - A meeting was held on Friday, May 29, 2009 regarding the Weddington High School Fitness Center with the following individuals: Mayor Anderson, Mayor Pro Tem Gilmartin, Mike Lutes (CMC-Union), Eric White and Robbie Armstrong (YMCA) and Brad Breedlove (Weddington High School Principal). Objective of the meeting was to explore opportunities to build community support for the schools serving Weddington residents. Specifically to discuss opportunities to partner with CMC-Union, YMCA, Town of Weddington and the Weddington High School to improve the school weight room/fitness center. Mr. Breedlove advised that his main priority was the safety of the students. Two years ago they identified a safety issue of there not being enough equipment or space in the current weight room. Over 50% of the students at the high school use the weight room. The Site Based Team with the school identified the construction of a weight room as a high

priority. Due to budget cuts, the UCPS does not have the funding for this type of capital improvement project. They need business and community support. The school is looking at the construction of a two story building (60 feet by 140 feet) at a cost of approximately \$600,000 with donation of some of the materials. No schematic of the building has been developed. YMCA and CMC-Union are very interested in partnering with the Weddington High School on this project. The school site is approximately 120 acres and there are at least 40 acres still available for development. CMC-Union is very interested in assisting with programs and the services element of the project. YMCA discussed two models (one in Mecklenburg County and one in Florida) where there are partnerships between the school and the YMCA. If the Town were to donate money as first discussed, the facility would have to open during certain times of the day to the public. Grant Opportunities and establishing Live Well Program at the High School were also discussed. Next Steps: Mr. Breedlove will discuss proposed partnership with Dr. Davis and Dr. Webb with Union County Public Schools to receive buy in. Decide whether this is a capital project of YMCA building a facility or expansion of the current weight room. Mayor Anderson - Even if we had extra money and we were willing to spend it – the school is in no position to accept it. We are constrained by state statute on how we would do that. There is an excellent chance of partnership between people who do this for a living. We will know more next week as we meet.

Finance Officer Gaylord - This was one of several issues in the budget that we did not have our hand on real numbers so we put a number in so it was there should the numbers play out to our satisfaction but they weren't guaranteed to be spent.

Ms. Janice Propst - How much is the light at Hemby and Matthews-Weddington Road?

Mayor Anderson - That has been estimated at \$305,000 because they would have to add turn lanes. They have a safety fund. We are on the list. They do this cost benefits analysis and we are competing against all projects statewide. Those are shrinking dollars because there are more projects than we can afford to do so the strategy becomes how do you get yourself ahead of the line? If the Town were to decide to spend for 25% of the costs, then that would probably help our equation and put us closer to the top of the list. If that doesn't work then there is the option that we could participate in a program that DOT is doing. If the money is programmed, then we could loan them the money now and they would pay us back in the year it was programmed in. We would be the first one in Union County to do this and you want to make sure you have an airtight scenario.

Ms. Propst - Could we not consider in the budget for the next two years at least that we allot some money for that light just in case so we could buy the light ourselves in two years? That light is critical to our entire community.

Ms. Melissa Emerine - Could you take the \$100,000 for the fire department and put it towards the light and that shoots us closer to the top?

Mayor Anderson – Yes.

Mr. Craig Horn – My question is about revenues. I could not help but notice that the cable franchise tax produced almost \$7,500 to the Town of Weddington this year and you are not expecting any money for next year. I am curious about that. Also the miscellaneous revenue was \$150,000 last year and \$1,500 for next year. Are we underestimating revenues?

Finance Officer Gaylord - I prefer to say I am budgeting revenues conservatively. I don't want to budget for more than I can expect to come into the door. We had a franchise agreement with Time Warner in Monroe and they paid us a franchise fee. This was the last year of that agreement. We will not get that money from them next year. The State will collect that franchise fee and will remit a portion of the State

collected revenues to us of which I do not know how much that will be from Time Warner of Monroe. I have tried to budget the State money fairly conservatively given the State's problems because in the past they have withheld money they promised to municipalities. The miscellaneous revenue was so high this year because that was the library refund of \$146,000.

Mayor Anderson – We found out from the County that they did not have the money to operate a library. They said not to even talk to them for five to six years. The Council decided to ask for that money back. This is tax revenue. This is not the revenue from generous donations made from individuals. We put that back in our general fund balance so we could draw interest on it. I have had a lot of questions about the library money. It was put back into the general fund. None of that is earmarked for any specific thing which gives us maximum flexibility to use it for traffic lights or that type of thing.

Finance Officer Gaylord - The only thing earmarked right now is the \$147,000 right-of-way money that we got last year. We designated it for capital projects to use towards transportation expenditures. The Council will discuss whether they want to designate some of that money towards a library in the future.

Ms. Joyce Helms - The money that individuals gave for the library is not included in here anywhere?

Finance Officer Gaylord - It is still with the library foundation. This is strictly the money that the Town gave out of the Town's checking account.

Mayor Anderson - For those people who gave donations for the Weddington Library you may request those funds back only if it exceeded \$150.

Mr. Werner Thomisser - Is there any money in this budget for acoustics in this room?

Finance Officer Gaylord – A new sound system will be installed in two weeks.

Mr. Thomisser - What improvements to this Town Hall is in this budget?

Finance Officer Gaylord - The main thing is painting outside. There are always ongoing things that come up. We just put the stoop on the porch so we could be in conformance with the code. We are also getting new audience chairs and lighting for the Council Chambers.

Mayor Anderson - We have more in the landscaping budget this year because we will have to repair what is being ripped out.

Ms. Jackie Groome– What percentage of residents in Weddington is served by other fire districts and have we received a request from them for funds?

Finance Officer Gaylord – We are serviced by a small percentage by the Stallings VFD. Wesley Chapel and Providence by far serve the majority of the residents. Wesley Chapel is the biggest at this point. Wesley Chapel gets a fire tax based on your property value. They send requests for additional donations. The Providence Fire Department gets a fire fee which is a flat amount per home. We have had multiple discussions regarding this matter. For Providence to have a tax sufficient enough to fund their fire department it would be two to three cents higher than what the Wesley Chapel tax is. The County is undertaking a fire study to look at the possibility of redrawing the lines and making the fire departments more equitable. The lines were drawn many years ago.

Mayor Anderson - Some Weddington residents are being double taxed but we have no other solution to that right now and we keep hanging on hope that the County will resolve their policy and figure out what they are going to do about it.

Finance Officer Gaylord – The Providence Fire Department’s original lines included part of Mecklenburg County. They have been consistently annexing that property. Providence’s area has shrunk considerably but they still have the same expenses.

Ms. Barbara Harrison – At the last Town Meeting, Barry Moose was here and he made a lot of different statements. I had hoped that there would be a few more questions that were asked because I came up with 20. How long will he delay the already widening of Highway 84 and what happens to the money that was budgeted for Highway 84 for a left hand lane? Has a traffic plan been done and what happens if that traffic plan doesn’t support a roundabout? How long on average does it take for MUMPO to approve and put on a list and actually execute having a roundabout? When is the money needed - 2009 or 2010? The thing that really interests me is that you are not going to borrow \$1 million or \$300,000 on 2% and he said the State only gives 2-3% back. Even if it is 4% you are in a negative sign. Where are you going to make up that money? A loan will be due every month. Will you increase our taxes? Don’t take the downtown budgeted money to fund this endeavor. Mr. Moose also stated that the money would be returned in 2013. That is four to five years we will pay on a loan. If we are going to use the money, let’s use it for a light or for the fire department not for a roundabout that no one has proven at this point that this is for our benefit.

Mr. William Price – I have found me a sugar daddy. Who, you ask? It is the Town of Weddington. They have more money than they know what to do with. It is burning a hole in their pocket. At first we were talking about giving \$145,000 to a weight fitness center. It is up to you parents to get your kids out of the house. They don’t need to be sitting with the computer games and texting. Back in my days we had a physical fitness program called manual and physical labor. That is the trouble with kids these days. I am totally against the funding of the Providence Fire Department. It has always been a Mecklenburg County unit and is still considered a Mecklenburg County unit. It has had the opportunity through its management and Board of Directors to ask for a fire tax district like other departments in this area. At one time they had fundraisers and had some of the best BBQ around here. Chief Wheeler said they are too busy to have fundraisers. How are they any different from the other fire departments in the County? I don’t deny helping fire departments. They need the help. Let’s help each fire department equitably for the district they cover. My taxes are going up in my fire district next year. Here you are taking part of my Town tax and paying for services that I do not get.

Mr. Walter Staton – I am here tonight to ask you to vote no on the proposed cut-through connector road from Highway 16 to Weddington-Matthews Road and for retail establishments. We started Weddington because we believed Mecklenburg County might take over Weddington and put retail stores here and destroy our prestige little village. Some of you want to destroy Weddington as we enjoy it now. This could be a grave mistake on your part. Could it be because of special interests? The North Carolina Department of Transportation engineer tells me that they do not like to put connector roads close to each other or stop lights. This will slow down the traffic on Highway 16 and it tends to cause accidents on four lane roads. Seventy-two percent of the good citizens of Weddington by the survey voted no more retail stores. Why can’t you understand the wishes of the good people of Weddington? Even a child can understand no. Year after year some try again and again for more stores and again we say no. We voted you into office to serve all voters not a special interest group. Maybe you have lost the public trust because of many self-serving projects. Please understand we want no more retail stores or connector roads. I ask that the Mayor please recuse herself from any further discussion and vote because of a possible conflict of interest.

Ms. Karen Jones – I am opposed to any money going to a weight room at the Weddington High School. I have two children that would benefit from that; however, I think Town money should be given for the good of the community and not just a very limited group of people.

Mr. Werner Thomisser – Let the record show that Mayor Pro Tem Gilmartin three years ago introduced a motion to start the three firemen from 6 am-6 pm. I thank you today for your comment about the fire department funding. Weddington tax dollars should not be spent for things like weight rooms. It should not even be given to Union County Public Schools. Ninety-six percent of our property taxes go to Union County. When Union County receives it, they give the Union County Public Schools 67% of that 96%. Tax dollars should not go to YMCA services or health and fitness for students. This is a responsibility for Union County Public Schools and it is called physical education or PE. Weddington tax dollars should go to the fire department. With all due respect Mr. Price – how many dollars can you raise with a BBQ when you have to pay \$400,000 for a fire truck? Weddington tax dollars should go to the fire department. No discussion tonight was about the \$400,000 truck that they bought in 2006 which hasn't been paid for. I thought they had a need for a new crash truck or at least a \$40,000 upgrade. Councilmember McKee was concerned about the library. We have an opportunity here now to get a superregional library located in Weddington. Why don't we consider buying the land with all of this money we have so we can get a superregional library in Weddington? I would like to see tax dollars to make this Town Council room better.

Mr. Walker Davidson – As a Republican, I believe the proper role of government is to provide for the people only those critical functions that cannot be performed by individuals or private organizations. Youth sports, a critical function or not, can be performed by private organizations. Before you take another \$10,000 away from taxpayers and give to WCWAA, I hope you will ask the following questions: Why should an organization that does not serve all taxpayers receive public money? WCWAA does not allow taxpayers to use facilities at the Optimist Park. Optimist Park is private property. Has WCWAA recently reviewed its pricing policies to ensure that it is charging enough for its services? This year for the classic soccer program for boys 11-14, WCWAA charged \$680. The Charlotte Soccer Academy will charge \$1,175. Charlotte United will charge \$995. Mecklenburg United will charge \$875. If WCWAA charged an additional \$100 per player it would still be the lowest. Why are they not holding more fundraising events? Indian Trail, Steele Creek, Charlotte United and Charlotte Soccer Academy are all hosting soccer academies and tournaments this summer. Why don't they charge admission to attend their events? The Queen City Athletic Association charges \$3 for adults and \$1 for students to enter the gym to watch women's basketball games. How much more could they raise through corporate sponsors? The Charlotte Soccer Academy recently signed a multi-year agreement with Adidas. Why would a company like Adidas not be interested in the 2000 families served by WCWAA? I realize that you give them taxpayer money because you believe the children can learn important life long lessons by playing sports. I am sure perseverance, hard work and overcoming adversity are some of those life skills being taught. WCWAA is a strong well-run organization. I am confident that it can use these same life skills to raise \$10,000 on its own. On their website, they deny receiving municipal funds.

Mr. Ken Evans – A few years ago Fox Run came to the Town Council requesting funding to put in water lines to their development because they had wells. This Town Council denied that request because we had stated that we are not in the loaning or funding department. As we speak of funding the traffic light, funding Highway 16 to Weddington-Matthews Road and the traffic circle, our past Governor took money out of the transportation fund and our present Governor is talking about taking money out of the educational lottery fund. I understand that there are legal contracts that they will pay us back. Even the Mayor of Charlotte questions the Transportation Department's ability to refund those funds back to the particular municipality. I know the Mayor said that the State was \$20-40 billion dollars short of funding all the projects over the next several years. If they are short now, who makes sure we will get our money back? I don't believe the State will pay us back. They will pay us back at some point in time but not in

the time frame we will have in the contract. I totally discourage the Town Council to even consider loaning the State money. If you want to put a traffic light at Weddington-Matthews Road and Hemby Road, let's do it. I don't have a problem taking money out of our reserve fund and spending \$300,000 and putting the light in ourselves. I am against loaning large amounts of money to put in a roundabout and the connector road.

Mr. Craig Horn – I commend the Council and Mr. Gilmartin for the suggestion to move the money from the weight room to the volunteer fire department. It does seem to me that the basic reasons that the people get together for the community is public safety. We have discussed fire and their need for support. They are a great company and they serve a great purpose. We did not discuss another potential public safety issue that I think should bear on your budget considerations. Based on the reports from Union County, there is a substantial chance that there will be a reduction in the police coverage in Union County that could affect us. We are getting a new four to six lane road coming from Charlotte down to Rea Road which will increase our potential for public safety difficulties in traffic management and crime. The Town must be prepared to address those issues. You must plan ahead for that. I encourage you to include those considerations in your deliberation. It is also right and fitting that we look at such intersections as Hemby Road and Weddington-Matthews Road. It is a proven problem. As construction continues and traffic increases on Providence Road, that connector will receive additional pressures. I am pleased to see the Weddington Town Council has done their homework with regard to working with the Weddington High School in Union County but first and foremost we are here to protect the citizens of Weddington.

Acting Chief David Banick - Our funding level in Mecklenburg County has stayed the same for the last seven years. Even as our district has shrunk, our funding has stayed the same due to the fact of our mutual aid agreements with the surrounding Town of Matthews and Carolina Volunteer Fire Department.

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

C. Public Hearing to Consider Rezoning of Weddington Elementary, Middle and High Schools from R-40 and R-CD to E-D (Educational District). Mayor Anderson opened the public hearing to consider the rezoning of Weddington Elementary, Middle and High Schools from R-40 and R-CD to E-D Educational District. The Town Council received the following memo from Town Planner Jordan Cook:

Project Information:

Nature of the Request:

This request is for a staff initiated rezoning that will rezone the Weddington Elementary, Middle and High School properties (120.31 acres) to E-D (Educational District). Currently, the properties are zoned R-CD and R-40.

The Planning Board gave this rezoning a favorable recommendation at its April 27, 2009 Planning Board meeting.

District Descriptions:

R-CD, *Single-Family and Agricultural*, this district allows for agricultural uses and single-family residential development while protecting conservation lands. The minimum lot size is 40,000 square feet.

R-40, *Single Family and Agricultural*, this district is established to provide for residential development at low densities. The minimum lot size is 40,000 square feet.

E-D, *Union County Public School District*, is intended to include only schools. This zoning district was established to create a standard zoning classification and standardized requirements for school

construction regardless of the school's locale in Union County.

Property Specifics:

Applicant: Town of Weddington

Property Owner: Union County

Property location: Located on the north side of Weddington Road (Hwy. 84) between Twelve Mile Creek Road and Deal Road.

Legal description: Union County Parcel 06-099-011 is approximately 114.77 acres
Union County Parcel 06-099-013 is approximately 5.54 acres

Character of the Area: The two parcels are currently home to Weddington Elementary, Middle and High Schools. Surrounding properties are zoned R-40 and R-CD with single family homes.

Existing Land Use(s) on the Property: Weddington Elementary, Middle and High Schools

Surrounding Uses:

- North: vacant land and single family homes
- South: Weddington Road (Hwy. 84) and single family homes
- East: Deal Road and single family homes (Camden Forest Subdivision)
- West: Twelve Mile Creek Road and single family homes (Weddington Hills Subdivision)

Surrounding Zoning: Please see map attached.

Infrastructure and Community Facilities:

Public School Facilities: Weddington Elementary, Weddington Middle, and Weddington High School.

Emergency Response:

- Fire Protection District: Wesley Chapel
- Police: Union County Sheriff's Office
- EMS: Union EMS
- 911: Union County Communications

Transportation:

Existing Conditions: Weddington Road (Hwy. 84), Deal Road and Twelve Mile Creek Road are paved, two-lane streets that are designated as a minor thoroughfare on the Mecklenburg Union Metropolitan Planning Organization Thoroughfare Plan.

Environmental Assessment:

Topography: Gently rolling.

Regulated Floodplain/Wetlands: According to FIRM Community Panel # 3710448600J dated October 16, 2008 the two properties are within a Special Flood Hazard Area.

The Town Council received a copy of the following:

- Zoning Map Change Application
- Maps of the Area

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

Item No. 4. Public Comment - Speakers are limited to two (2) minutes or less and Large Groups are Encouraged to Designate a Spokesperson. Mr. Werner Thomisser – The Weddington survey which was conducted in 2007 showed 72% of the residents did not want any more retail establishments. The proposed connector road at Providence Road and Weddington-Matthews Road we believe will encourage more retail areas which residents have said they do not want. We currently have Hemby Road serving as a connector road between Providence Road and Weddington-Matthews Road. In addition to that, Mr. Nathaniel Austin, the consulting firm for Western Union County said roundabouts work best at a four way intersection and this one over here is a three-way intersection. Take a look at all of the trees that have been cut down and now we are considering putting a gigantic roundabout right to the left of us which we do not need. I ask that Mayor Anderson recuse herself because there may be a possible conflict of interest with the proposed connector road.

Item No. 5. Consent Agenda (Public Hearings to be held July 13, 2009 at 7:00 p.m. at the Weddington Town Hall).

A. Call for Public Hearing to Review and Consider Proposed Text Changes to Chapter 58 – Zoning of the Code of Ordinances. Councilmember Price moved to call for a public hearing to consider proposed text changes to the following Sections of Chapter 58 – Zoning Ordinance of the Code of Ordinances. The public hearing is to be held July 13, 2009 at 7:00 p.m. at the Weddington Town Hall.

1. **Section 58-16 - Accessory Family Dwellings.** The Town Council received a copy of the proposed text change.
2. **Section 58-151 - Temporary Signs.** The Town Council received a copy of the proposed text change.
3. **Section 58-293 - Co-Location.** The Town Council received a copy of the proposed text change.
4. **Section 58-23 - Planned Residential Developments.** The Town Council received a copy of the proposed text change.
5. **Article III (Conditional Uses) - Section 58-81 – Procedures.** The Town Council received a copy of the proposed text change.
6. **Article II – Zoning District Regulations.** The Town Council received a copy of the proposed text change.

All were in favor, with votes recorded as follows:

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

B. Call for Public Hearing to Review and Consider Proposed Text Changes to Section 14-84 (Control of Glare, Light Trespass and Light Levels) of the Code of Ordinances. The Town Council received a copy of the proposed text change. Councilmember Price moved to call for a public hearing to consider proposed text changes to Section 14-84 of the Code of Ordinances. The public hearing is to be held July 13, 2009 at 7:00 p.m. at the Weddington Town Hall. All were in favor, with votes recorded as follows:

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

C. Call for Public Hearing to Review and Consider Proposed Text Changes to Chapter 14 (Buildings and Building Regulations), Article V. (Architectural Design Standards) of the Code of

Ordinances. The Town Council received a copy of the proposed text change. Councilmember Price moved to call for a public hearing to consider proposed text changes to Chapter 14 of the Code of Ordinances. The public hearing is to be held July 13, 2009 at 7:00 p.m. at the Weddington Town Hall. All were in favor, with votes recorded as follows:

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

NAYS: None

D. Consideration of Resolution to Open Closed Session Minutes or Portions Thereof.

Councilmember Price moved to approve Resolution R-2009-08 to open closed session minutes or portions thereof.

**TOWN OF WEDDINGTON
RESOLUTION
TO OPEN CLOSED SESSION MINUTES
OR PORTIONS THEREOF
R-2009-08**

BE IT RESOLVED that the Town Council opens the following Closed Session Minutes or portions thereof:

<u>Date of Closed Session Minutes</u>	<u>Item Number</u>	<u>Item Entitled</u>
January 8, 2007	Item 4	Administrative Search Warrant
May 12, 2008	Item 1	Open the Meeting
	Item 2	Approval of April 14, 2008 Closed Session Minutes
July 14, 2008	Item 4	Adjournment
	Item 1	Open the Meeting
	Item 2	Approval of May 12, 2008 Closed Session Minutes
November 10, 2008	Item 4	Adjournment
	Item 1	Open the Meeting
	Item 2	Approval of July 14, 2008 Closed Session Minutes
	Item 5	Adjournment

Adopted this 8th day of June, 2009.

All were in favor, with votes recorded as follows:

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

NAYS: None

E. Consideration of Appointment of Scott Buzzard as a Regular Member of the Board of

Adjustment. The Town Council received the following memo from Town Administrator Amy McCollum:

Due to the resignation of Sarah Lowe to the Board of Adjustment, please consider appointing Scott Buzzard as a regular member to the Board of Adjustment. Mr. Buzzard currently serves as an Alternate at this time. Once a replacement is appointed to Ms. Lowe's seat, then they will become an Alternate along with Jeff Perryman on the Board of Adjustment.

Councilmember Price moved to appoint Mr. Scott Buzzard as a regular member of the Board of Adjustment. All were in favor, with votes recorded as follows:

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

F. Consideration of Authorization for Tax Collector to Collect 2009 Real Property Taxes. The Town Council received the following memo from Tax Collector Kim Woods:

In accordance with General Statutes 105.321, I am hereby requesting authorization to collect the 2009 Real Property Taxes for the Town of Weddington.

The following is a suggested authorization form for your consideration.

State of North Carolina
Town of Weddington
To the Tax Collector of the Town of Weddington

You are hereby authorized, empowered, and commanded to collect the taxes set forth in the tax records filed in the Town of Weddington Collections Department and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in the Town of Weddington, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with the law.

Witness my hand and official seal this 8th day of June, 2009.

Councilmember Price moved to authorize the Tax Collector to collect the 2009 Real Property Taxes for 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

G. Consideration of Approval of Resolution to Establish Minimal Tax. The Town Council received the following memo from Tax Collector Woods:

The following is a request to change the minimum dollar amount that we bill for taxes. Our current amount is \$2.00 and under and was adopted in 1997. I have surveyed surrounding municipalities and the findings are listed below. I am including the costs at each dollar level of revenue lost. In my opinion it would be cost effective to increase the minimum amount billed based on the cost of billing these minimal bills as well as the cost of collecting them. These numbers are from the 2008-2009 tax levy.

Village of Marvin	\$2.00
Town of Stallings	\$5.00
Town of Indian Trail	\$5.00
City of Monroe	\$5.00
Union County	\$5.00
2008-2009 Tax Levy	\$576,375.61

\$2.00 and under	\$514.04
\$2-3	\$313.57
\$3-4	\$353.49
\$4-5	\$280.13

Therefore if we adopted a minimum bill amount of \$5.00 based on this tax levy, we would have forfeited a total of \$1,461.23 representing 0.0025 percent of revenue. Compared to our current amount we would forfeit an additional \$947.19.

Councilmember Price moved to approve Resolution R-2009-11 to establish the minimal tax for the Town of Weddington.

**TOWN OF WEDDINGTON
RESOLUTION TO ESTABLISH MINIMAL TAX
R-2009-11**

WHEREAS, in consideration of the expense involved in collecting minimal taxes charged on the tax records and that tax being an amount to or larger than the tax charged; and

WHEREAS, NC General Statute 105-321(f) authorizes the governing body of a taxing unit that collects its own taxes to direct its collector not to collect minimal taxes; and

WHEREAS, Minimal taxes being defined as the combined taxes and fees of the taxing unit due on a tax receipt prepared pursuant to G.S. 105-320 in a total original principal amount that does not exceed an amount, up to five dollars (\$5.00).

NOW, THEREFORE, BE IT RESOLVED that the Town Council of Weddington, NC hereby directs that the Tax Collector shall not bill the taxpayer for, or otherwise collect, minimal taxes in an amount not to exceed five dollars (\$5.00).

BE IT FURTHER RESOLVED, the Tax Collector shall keep a record of all minimal taxes by receipt number and amount and shall make a report of the amount of these taxes to the governing body at the time of the settlement.

BE IT FURTHER RESOLVED, this Resolution shall remain in full force and effect with respect to the collection of future minimum taxes as above defined until amended or repealed by Resolution of this Council.

Adopted this the 8th day of June, 2009.

All were in favor, with votes recorded as follows:

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

H. Consideration of Approval of Budget Amendment for Fiscal Year 2009. Councilmember Price moved to approve the following budget amendment for Fiscal Year 2009:

**TOWN OF WEDDINGTON
PROPOSED AMENDED BUDGET**

FOR FY2009

	ORIGINAL BUDGET	PROPOSED AMENDED BUDGET
Revenues		
Ad Valorem Tax	\$ 513,750.00	\$ 552,000.00 {A}
State-Collected Revenues	478,000.00	483,000.00
Zoning and Subdivision Revenues	35,000.00	16,500.00
Other Revenues	41,500.00	175,000.00 {B}
Total Revenues	\$ 1,068,250.00	\$ 1,226,500.00
Appropriation from Fund Balance	\$ 30,000.00	\$ -
Total Revenues and Appropriation from Fund Balance	\$ 1,098,250.00	\$ 1,226,500.00
Expenditures		
Administrative Expenditures	\$ 307,355.00	\$ 332,255.00 {C}
Planning & Zoning Expenditures	291,219.99	319,570.00 {D}
General Government Expenditures	499,675.00	574,675.00 {E}
Total Expenditures	\$ 1,098,250.00	\$ 1,226,500.00

{A} Actual tax base larger than preliminary tax base used in initial budget calculations.

{B} Refund of prior year donations to Library Foundation received. Revenue was not included in initial budget.

{C} Contract labor for web design not included in original budget. Capital purchase for microphone system not included in original budget.

{D} LARTP completely funded in FY2009. Budget anticipated 1/2 in FY2009 and 1/2 in FY2010.

{E} Increase in legal fees primarily associated with Woods subdivision public hearings, IB Development lawsuit and WCWAA/Optimist Park.

All were in favor, with votes recorded as follows:

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

I. Consideration of Resolution Requesting that Pearlstone Lane and Blossom Hill Drive in the Highgate Subdivision, Phase III be Added to the State Maintained Secondary Road System. The Town Council received the following letter from Calvin Treadaway, Transportation Technician II with NCDOT and a map showing the roads:

We have been petitioned to add the subject road to the State Maintained Road System. This road can be recommended for addition upon receipt of a resolution from the Town of Weddington approving the addition. Therefore, our office requests your assistance in obtaining an SR-2 Resolution.

Councilmember Price moved to approve Resolution R-2009-09 requesting that Pearlstone Lane and Blossom Hill Drive in the Highgate Subdivision, Phase III to be added to the State Maintained Secondary Road System.

**NORTH CAROLINA STATE DEPARTMENT OF TRANSPORTATION
REQUEST FOR ADDITION TO STATE MAINTAINED SECONDARY ROAD SYSTEM
TOWN OF WEDDINGTON, NORTH CAROLINA
R-2009-09**

**North Carolina
County of Union**

Road Description: Pearlstone Lane and Blossom Hill Drive in the Highgate Subdivision, Phase III in the Town of Weddington in Union County, North Carolina.

WHEREAS, the attached petition has been filed with the Town Council of the Town of Weddington, Union County, requesting that the above described roads, the location of which has been indicated in red on the attached map, be added to the Secondary Road System; and,

WHEREAS, the Town of Weddington is of the opinion that the above described roads should be added to the Secondary Road System, if the roads meet minimum standards and criteria established by the Division of Highways of the Department of Transportation for the addition of roads to the System.

NOW, THEREFORE, be it resolved by the Town of Weddington of the County of Union that the Division of Highways is hereby requested to review the above-described roads, and to take over the roads for maintenance if it meets established standards and criteria.

Adopted this 8th day of June, 2009.

All were in favor, with votes recorded as follows:

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

Item No. 6. Approval of Minutes.

A. April 13, 2009 Regular Town Council Meeting. Councilmember Price moved to approve the April 13, 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

Item No. 7. Consideration of Public Hearings.

A. Consideration of Petition to Permanently Close Part of Lochaven Road in the Lochaven Subdivision. This item was continued to the July 13, 2009 Town Council Meeting.

B. Consideration of Budget Ordinance for Fiscal Year 2009-2010 and to Set the Tax Rate.

Councilmember Price – If the budget is approved as shown, the \$85,000 that is in here for the downtown core study, does the money have to be used for that?

Finance Officer Gaylord – No, the Town Planner will review the proposals, take a few to the Downtown Committee and they will make a recommendation on which one they like and then it will come before you for approval to spend the money.

Councilmember Price – We have done the survey twice and it has been made very evident that people in this Town do not want any more commercial development. If you want to do something – help the current shopping center. I don't think doing another study is a good use of tax money.

Finance Officer Gaylord - The total shortfall that the Providence VFD budgeted for the year is \$65,000; included in that \$65,000 is the \$30,000 for the salary of the officers. It is a \$65,000 shortfall in their budget plus they are asking for another \$40,000 for the nighttime fire fighters.

Mayor Anderson - In our meeting today I learned why there was a shortfall. Particular individuals had not been privy to past discussions. They were led to believe that members of the Council had been advising the former chief to ask for a lower number and then come back later. I would like to address the issue of transportation needs. There is a line item but there is no money in it. The reason is because we don't know what that number is yet. If we decide to do something like lights that would be coming out of capital improvement money?

Finance Officer Gaylord - One of the other things we discussed was that we could pull the downtown streetscaping money and spend it later and use that towards the design phase of the connector road and roundabout.

Mayor Anderson - The budget process and LARTP are not lining up very well together. It is a moving target and we did not know what to ask for. There is an inexpensive project that we could do and that would be off of Deal Road and Highway 84, to put turn lanes along Deal Road onto Highway 84 to move traffic through there. Even though that is not in here now as soon as that is figured out, I will be coming back and asking for money for that. Our processes did not line up very well. I am going to ask for partial funding for that light for Hemby Road. I would like not to pay for the whole thing. I am going to come back and ask for a budget amendment.

Councilmember Smith - The stop light at Hemby Road would cost \$305,000?

Mayor Anderson - That was their estimate. The estimates are coming in low.

Councilmember Smith – If we put some money up, it moves up the priority list with the State? Do we get that money back?

Mayor Anderson - No – it is coming out of our pocket. They do a cost benefit analysis and they take the cost to the State. Right now that number is \$305,000. Anything we add lowers their cost. Our numbers will look better if it is \$250,000 rather than \$305,000.

Finance Officer Gaylord - If you are going to do the whole \$305,000 you might go ahead and explore the option of doing the loan and at least potentially recouping that cost.

Councilmember McKee - Ken Evans brought up a good point to go ahead and spend the money and build the stoplight. Why not tell them we will fund it and go ahead, if they will do it now?

Mayor Anderson - I was talking to the Deputy Secretary of Transportation and he said money that is in the Transportation Improvement Plan (TIP) is projected. Money that we do by contract is committed and it will be a legal document.

Finance Officer Gaylord – The traffic light is not in the TIP. Do they have a pool that they can guarantee from?

Mayor Anderson – I am not certain because the traffic light would not come out from equity formula money. It is coming out of safety money. I am not sure if the safety money is eligible for contract. That loan may not be something we can do. If we contributed some money to bump us up the ladder, it might help.

Councilmember Smith - If we were to explore fronting the money, how would that be reflected in the budget?

Finance Officer Gaylord - I would not reflect it in the budget at this point. I would wait and see the time frame.

Mayor Anderson - We do have that \$147,000 that we got from DOT for right-of-way.

Councilmember McKee - The money that came back into the general fund for the library, I would like to see us earmark that in the capital fund and move another \$100,000 so we could have funds for a library when the time comes.

Councilmember Price - I don't think that is a good idea. If someone could tell me that a library would be an option in four years, I would say do it.

Councilmember McKee - If we show we are serious about doing it, I think if you took a survey you would get a 100% response to do the library.

Councilmember Price – This year we are going to operate with a \$100,000 deficit.

Councilmember McKee- - This takes the money and puts it in a fund.

Councilmember Price – I have also heard we are going to talk about \$305,000 for a stoplight, an intersection at Deal Road and loaning NCDOT 1.5 million dollars. I am not against the library. I do not know that in 15 years anybody is going to use the library.

Mayor Anderson - What happens to money that is in the CIP fund and we decide it will never happen?

Finance Officer Gaylord - The way we currently have our capital projects designated is strictly a classification of fund balance. We can move it in and out at will but we have a policy that says we have to have 25% of our total fund balance. There is a minimum amount that needs to be in there. The other option is to have a capital improvement project fund/plan that is its own separate fund separate from the general fund. If you move money out of the one fund into the other that money has to stay in that capital project plan. It cannot come back into your operating budget. It doesn't have to be spent on the project that you designate it for but it has to be spent on a capital project. Since we don't have many plans and we are not that long term in nature we are going to leave them where we have the most flexibility.

Councilmember Smith - I would like to take part of the \$100,000 reserved for the weight room and give an additional \$30,000 for the fire department. We have had discussions for years about helping themselves and being more efficient, more assertive and aggressive in trying to get the community to help you and support you. I am willing to give the \$30,000 so you can start the fiscal year whole. I would then like to see some effort to help themselves.

Finance Officer Gaylord - They would need \$65,000 to cover that. The \$30,000 is just salary. Their overall budget would still have a \$35,000 deficit.

Mayor Anderson - Their sole purpose is to help us and they don't even live in our County. I would rather they use their time training and practicing than making BBQ.

Councilmember Smith - They don't have to do it themselves. There are a lot of people who will help. I don't think we are being stingy. We are still being very generous with the total overall line item.

Councilmember Price - Most of all our property tax we take in goes to deputies and the fire department. We are giving them 90% of property taxes. We can see if Marvin or Wesley Chapel will own up. They can always come back.

Mayor Anderson – The paper keeps reporting that the Sheriff's department is going to be cut and I put in a call to ask if they will be forced into cutting zone officer coverage. He did not think so at this time. We might want to consider additional coverage. He did tell me that we did not need a whole other deputy. We did talk about the possibility of sharing a deputy with Marvin and Wesley Chapel.

Acting Chief Banick - We get \$150,000 from the Town. It comes in at \$180,000 for the three people for 6 am – 6 pm. That is \$30,000 and anything additional will go towards the training initiatives and coverage.

Councilmember Price - Do you answer calls in Wesley Chapel? I am not anti-fire department or library. Over the last few years we have asked that you go try this and talk and do this and none of it has ever happened.

Councilmember Smith moved to adopt Budget Ordinance O-2009-03 for Fiscal Year 2009-2010 with the following amendments: Remove the \$100,000 donation to the schools for the fitness center/weight room, give an additional \$30,000 contribution to the Providence VFD and the deletion of the donation to the Wesley Chapel Weddington Athletic Association with the balance of that going back to the general fund and to set the tax rate at three cents.

**TOWN OF WEDDINGTON, NORTH CAROLINA
2009-2010 GENERAL FUND BUDGET ORDINANCE
O-2009-03**

BE IT ORDAINED By The Town Council of Weddington, North Carolina, In Session Assembled:

Section 1. The following amounts are hereby appropriated in the General Fund for the operation of Weddington Government and its activities for the fiscal year beginning July 1, 2009 and ending June 30, 2010, according to the following summary and schedules:

SUMMARY

ESTIMATED	FUND BALANCE	TOTAL
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<u>FUND</u>	<u>REVENUES</u>	<u>APPROPRIATION</u>	<u>APPROPRIATION</u>
General	\$1,108,000	\$20,000	\$1,128,000

Section 2. That for said fiscal year there is hereby appropriated out of the General Fund the following:

<u>GENERAL FUND</u>	<u>AMOUNT</u>
Administrative	\$ 322,250
Planning & Zoning	281,575
General Government	<u>524,175</u>
TOTAL APPROPRIATIONS – GENERAL FUND	<u>\$1,128,000</u>

Section 3. It is estimated that the following General Fund Revenues and Fund Balance Appropriations will be available during the fiscal year beginning July 1, 2009 and ending June 30, 2010 to meet the foregoing General Fund appropriations:

<u>REVENUE SOURCE</u>	<u>AMOUNT</u>
Ad Valorem Taxes	\$ 561,500
State-Collected Revenues	492,500
Zoning and Subdivision Revenues	22,500
Other Revenues	<u>31,500</u>
TOTAL REVENUE GENERAL FUND	<u>\$1,108,000</u>
APPROPRIATION FROM FUND BALANCE	<u>\$ 20,000</u>

Section 4. There is hereby levied for the fiscal year ending June 30, 2010 the following rate of taxes on each (\$100) assessed valuation of taxable property as listed as of January 1, 2009 for the purpose of raising the revenues from current year's property tax as set forth in the foregoing estimates of Revenues, and in order to finance foregoing appropriations:

GENERAL FUND	<u>\$0.03</u>
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Section 5. The Finance Officer is hereby authorized to transfer appropriations within a fund contained herein under the following conditions:

- a. She may transfer amounts between object of expenditure within a department without limitation.
- b. She may transfer amounts between departments of the same fund with an official report on such transfers to the Town Council.
- c. She may make expenditures and/or transfers from appropriations as necessary.

Section 6. All capital items, (items exceeding \$5,000), are to be approved in accord with the adopted budget. The Finance Officer will maintain a list of approved capital outlay items.

Adopted this 8th day of June, 2009.

All were in favor, with votes recorded as follows:

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

Councilmember McKee moved to designate CIP funds in the fund balance in the amount of \$250,000 for the Library.

The vote on this motion is as follows:

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

Mayor Anderson breaks the tie by voting in the affirmative. The motion passes.

C. Consideration of the Rezoning of Weddington Elementary, Middle and High Schools from R-40 and R-CD to E-D (Educational District). Councilmember Price moved to rezone Weddington Elementary, Middle and High School from R-40 and R-CD to E-D. All were in favor, with votes recorded as follows:

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

Item No. 8. Old Business. There was no Old Business.

Item No. 9. New Business.

A. Review and Consideration of the Revised Final Plat for The Woods Subdivision, Phase IA. The Town Council received the following memo from Town Planner Cook:

Project Information:

The Woods Subdivision is a proposed 275.39 acre 204 lot subdivision. The subdivision is located on Weddington Road (NC 84) and is being developed by IB Development LLC as an R-CD conventional subdivision. Phase 1 is comprised of 125 lots (tax parcels 06-150-071, 06-126-002, 06-126-011, 06-126-010A, 06-126-010B and 06-126-010) and was given Final Plat approval on May 19, 2008. The applicant is proposing a Final Plat for Phase 1A, comprised of only 29 lots all within Phase 1. The Phase 1A Final Plat also shows septic fields on each individual lot. The Planning Board gave this Final Plat a favorable recommendation at its May 11, 2009 Planning Board meeting.

- Phase 1A is 29 lots and 45.89 acres.
- Phase 1A has 20% open space or 9.54 acres.
- Development standards are as follows:
 - Minimum lot size- 40,000 sq. feet
 - Minimum lot width- 120 feet
 - Minimum front yard setback- 50 feet
 - Minimum rear yard setback – 40 feet
 - Minimum side yard setback – 15 feet
 - Minimum corner side yard setback – 35 feet
- The smallest lot size is 40,016 square feet, lot #25.
- Phase 1 is a total of 125 lots and 162.45 acres.
- In accordance with Section 46-76(1) of the Subdivision Ordinance, water connection to public line must be provided.

- Public Involvement Meetings were held on January 18 and 19, 2007.
- Soil report has been completed and has been provided to planning staff.
- Subdivision modification of the cul-de-sac length has already been approved by Town Council at their May 14, 2007 meeting.
- Preliminary Plat was reviewed by the Planning Board on June 18, 2007 and given a conditional approval.
- The Final Plat for Phase 1 was reviewed by the Planning Board on May 19, 2008 and given a conditional approval.
- A copy of the *revised* draft of the Declared Covenants, Conditions and Restrictions for The Woods has been received by Planning Staff and is currently being reviewed by the Town Attorney.
- The Conditional Use Permit for a Planned Residential Development (PRD) was reviewed and given favorable approval by the Planning Board at the July 23, 2007 meeting and at the Town Council's September 10, 2007 meeting.
- US Infrastructure has reviewed the plans and approved the Phase 1A Final Plat as submitted.

The Phase I Final Plat was presented to the Planning Board with individual septic system services and conditionally approved by the Planning Board at their August 27, 2007 meeting with the following conditions (*italicized text represents current status*):

- NCDOT Approval for the Subdivision Entrance-*Approval granted May 5, 2008 by NCDOT.*
- Bridge Approval-*USI currently reviewing.*
- Water and Sewer/Septic Approval by Union County Public Works-*Water approved by Union County February 12, 2008. Septic permits issued April 9, 2009 for all 29 Phase 1A lots.*
- Necessary Paperwork regarding Wetlands-*Paperwork received May 14, 2009 from US Army Corps of Engineers.*
- Bond Approval by US Infrastructure and Town Attorney-*Bond approval to come at a later date (water systems already submitted).*
- Town Attorney review of Homeowner Association Documents-*Town Attorney is currently reviewing these documents.*

The following permits and approvals have been issued:

- NCDENR Public Water Supply has approved extension for Phase I of Union County water lines to the subdivision under permit DEH 07-01892, PWS ID #01-90-413 Union County Water.
- NCDENR Erosion and Sedimentation control plan has been approved with modifications. Project ID Union-2007-067 approved May 14, 2007.
- NCDOT has approved the subdivision entrance located along Weddington Road (NC 84). A copy of the letter dated June 18, 2007 is on file.
- North Carolina Division of Environmental Health has approved public water hookup/water main extensions. A copy of the letter dated February 12, 2008 is on file.
- NCDOT has approved the culvert and guardrail replacement to allow for grading and pavement sufficient to widen Weddington Road (NC 84). A copy of letter dated May 5, 2008 is on file.
- Union County Health Department approved the Wastewater Septic Permits for all 29 lots within Phase 1A on April 9, 2009.
- Subdivision roads will be built to NCDOT standards.
- Union County Public Works recommends retaining \$217,032.60 letter of credit for water systems per a letter submitted June 3, 2009.

The Woods Subdivision Phase IA Final Plat has been found to be in general conformance with the Town of Weddington Zoning and Subdivision Ordinances with the following exceptions:

- Revised Declaration of Covenants, Conditions and Restrictions should be reviewed by Town Attorney.
- Performance Bonds for roads and the two bridges are currently under review by US Infrastructure and UCPW as of this writing. US Infrastructure and UCPW will need to verify the bond calculations, along with review by the Town Attorney before any map recordation.
- Approval for Bridges #1 and #2.

Below is a list of various bond amounts for The Woods Phase 1A as of June 8, 2009. These bonds were listed on the Memo as outstanding items but have since been reviewed and approved by Union County Public Works and/or US Infrastructure.

- Performance Bond for Bridges #1 and #2 in the amount of \$1,405,800.00.
- Bond for Water and Sewer Distribution Systems in the amount of \$217,032.60.
- Performance Bond for Roadway, Draining, and Bridge Earthwork in the amount of \$1,570,274.18.
- Bond for Highway 84 Widening and Culvert Crossing Extension in the amount of \$213,904.50.

The Town Council received the following:

- Map showing June 18, 2007 Preliminary Plat
- Final Record Plat for The Woods – Phase 1A

Town Attorney Fox questioned whether they had final plat approval for all of Phase I.

Planning Board Chairman Dorine Sharp stated, “The ordinance specifies that they can do the final plat in phases even if they have done the entire subdivision for preliminary.”

Town Attorney Fox – I would like to verify that what is here is appropriate and consistent with your ordinances.

Councilmember Price moved to table this item until the July 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

B. Consideration of Ordinance Adopting 2009 Proposed Realignment of the Town of Weddington Voting Districts. The Town Council received the following memo from Town Administrator McCollum and a copy of the 2009 Proposed Voting Districts:

The Town Council approved the proposed realignment of the Voting Districts at the January Town Council Meeting. The information was sent to the Justice Department for approval. The Justice Department has requested that the Town approve those proposed districts by Ordinance. Once the Ordinance is adopted, Susan Matthews with Parker, Poe will forward this information to the Justice Department for approval before the upcoming filing period and election.

Councilmember Price moved to adopt Ordinance O-2009-02 adopting the 2009 Proposed Realignment of the Town of Weddington Voting Districts.

**ORDINANCE ADOPTING 2009 PROPOSED REALIGNMENT OF
THE TOWN OF WEDDINGTON VOTING DISTRICTS
O-2009-02**

WHEREAS, North Carolina General Statutes 160A-23 provides that the Council shall have the authority to revise electoral (residence) districts from time to time for the purpose of correcting population imbalances; and

WHEREAS, upon request of Town Council, Shannon Martel has conducted a study and has provided Council material and information which discloses that the currently configured electoral (residence) districts would result in population disparities which Council finds unacceptable and which if not corrected would result in electoral (residence) districts which would create inequitable representation utilizing the currently configured electoral (residence) districts; and

WHEREAS, upon request of Town Council, Shannon Martel has developed a plan and map of electoral (residence) districts which is equitable and creates electoral (residence) districts with balanced populations.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Weddington that the plan and map developed by Shannon Martel which is attached hereto, marked Exhibit "A" and incorporated herein by reference as if more fully set out, which was adopted on January 12, 2009 by vote of the Town Council, is hereby readopted by this Ordinance and is effective this date as the current plan and map of the electoral (residence) districts of the Town and is effective for all purposes relating to the residence requirements for filing for the office of Weddington Town Council and for the location of the Town's electoral (residence) districts, subject to future consideration and action by Council.

ADOPTED this 8th day of June, 2009.

All were in favor, with votes recorded as follows:

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

C. Review and Consideration of Policy Regarding Financial Information Requirements from Outside Agencies. This item was removed from the agenda.

Councilmember Price moved to postpone discussion of Items 9D through 14 until the July 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

D. Consideration of Resolution in Support of the Concept of Construction of the Connector Road from Providence Road to Weddington-Matthews Road and the Traffic Circle at the Intersection of Weddington-Matthews Road and Highway 84 and to Request That Barry Moose With NCDOT Explore Funding Options on the Town's Behalf.

E. Update on Union County Governance Committee – Councilmember Jerry McKee.

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

- Martin/Alexiou/Bryson held a Public Meeting May 27, 2009 from 6:30-8:30pm at Rea View Elementary School. Approximately 25 citizens attended this meeting along with staff and steering committee members from the four municipalities. Staff is currently reviewing the final draft document. A final Steering Committee meeting will be held on Thursday, June 11, 2009 to make review and make final comments on the Final Draft. After the Final Draft is complete the consultants will present the LARTP to each municipalities Town Council in July. Don't forget to go to look at the project's website for all the latest information and let us know if you have any questions or would like to provide input on the study. The website is www.lartp.org.
- The Helms Property Conditional Zoning/Rezoning is currently scheduling their Public Involvement Meetings. They will be on the Planning Board agenda following the completion of their Public Involvement meetings. This project was submitted prior to the adoption of the moratorium and is exempt from its provisions.
- The Town of Weddington has received twelve proposals for the Downtown Development Master Plan. Five proposals were eliminated due to costs. Town Staff is currently reviewing the seven remaining proposals and will select 3-5 proposals to interview. Fees for the remaining proposals ranged from \$35,000 to \$69,500.

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

- Moratorium is scheduled to expire July 13, 2009.
- Mark your Calendar! Parks and Recreation Advisory Board is Planning a Labor Day Ice Cream Social to be held at the Town Hall on September 6, 2009. More details to come.
- Staff is working with Long Wiring on new lighting for the Council Chambers.
- A new sound system will be installed by the next Town Council Meeting.
- Max Hagler, a college student, will be assisting the Town on a volunteer basis every Tuesday during the summer helping with Document Imaging, the Historic Preservation Project, etc.
- The new lockbox for tax payments has been installed. Residents will have the option of dropping their payments off after hours. It is installed to the left of the house beside the walkway to the handicapped entrance.
- The Riley House on Weddington-Matthews Road has been demolished by the property owner.
- The next meeting for the Rick Hunt (Beulah Church Minimum Housing Issue) will be on July 27, 2009. Mr. Hunt shall submit a written report to the Town Hall by 5:00 p.m. on July 17, 2009, including documents, receipts, materials, pictures, etc. showing that substantial progress towards completion of the repairs necessary to correct each of the violations of the Minimum Housing Code. The Town's Building Inspector will receive and review the documentation. At the meeting, the Board of Adjustment will review the written report, hear from the Building Inspector, and determine whether Mr. Hunt has complied with the December 18, 2008 Order, and to possibly set future deadlines.
- A meeting regarding the Optimist Park Floodplain Development potential violation and proposed remediation plan was held on May 29, 2009 at the Union County Government Center. The purpose of this meeting was to discuss technical issues regarding the flood study/ no-rise certification that was previously submitted by Yarbrough Williams & Houle (YWH). Meeting topics included a discussion of outstanding review comments and the next steps to achieve approval of a proposed remediation plan for the site. Ken Ashe opened the meeting by stating the purpose of the NCEM's involvement with the review of the floodplain development permit/potential

violation of the Optimist Park property. The Town of Weddington and Union County have been directed by the State legal staff to work together to resolve the potential floodplain violation at the Optimist Park property. Ken will help resolve several issues that have delayed the review and approval of the Optimist Park’s remediation plan. The following items were discussed at the meeting:

- Several design parameters that are a part of the flood study computer model have been questioned in previous reviews. The design parameters were discussed in detail. These design parameters were also discussed onsite at the Optimist Park property in order for all parties to assess site conditions and come to an agreement for values to be used in the computer model.
- In October 2008, USI performed a review of the latest flood study which was dated June 5, 2008. Comments from this review were submitted at that time to the Town of Weddington only. A copy of the review comments were given to County staff and YWH at the May 29, 2009 meeting. A few of the review comments were discussed during the meeting.
- YWH will update the flood study incorporating the review comments from the October 2008 USI comments and the comments resulting from the meeting. Mark stated that a completed study could be provided to all review parties within 3 to 4 weeks. Review is anticipated to be completed by all parties within 2 weeks of receipt of the study.
- USI asked what permitting by the Town would be required once the remediation plan is approved. It was discussed that the construction could possibly be permitted by the Town as a “correction of a previous violation” and that no additional permitting would be required. USI will investigate what will be required by the Town and will coordinate permitting with the State. The results of the flood study (no-rise, increase in flood elevations, etc.) will affect the permitting approach.
- The revised flood study to be submitted by the Optimist Park engineer (YWH) should describe in detail all obstructions that are accounted for in the study. The Optimist Park will use the study to obtain any future development permits with the Town of Weddington, and all proposed future construction should be documented (Tracy indicated that there is still some work to be done at the site, such as installation of lights, that was previously approved by the County when the Conditional Use Permit was issued).”

Item No. 12. Public Safety Report.

Providence VFD

Monthly Call Responses –

Mecklenburg County	Fire: 12	EMS: 9	Total: 21
Union County	Fire: 15	EMS: 5	Total: 20
Monthly Total	40		

There were no significant incidents in Union County for May 2009. The Town Council also received the Financial Statements for May 2009.

Wesley Chapel VFD – 101 Calls for May

Weddington Deputies – 351 Calls

Item No. 13. 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 May 1, 2009 to May 31, 2009.

B. Tax Collector’s Report. May 2009 Report:

Adjust Under \$2.00	\$(.85)
Balance Adjustment	\$(2.59)
Interest Charges	\$336.03
Pay Interest and Penalties	\$(219.68)
Refunds	\$97.41
Taxes Collected:	
2008	\$(5,509.61)
As of May 31, 2009; the following taxes remain Outstanding:	
2001	\$9.18
2002	\$89.53
2003	\$210.27
2004	\$290.19
2005	\$428.35
2006	\$376.64
2007	\$1,915.05
2008	\$18,261.96
Total Outstanding:	\$21,581.17

The Town Council also received the Unpaid Balance Report by Receipt Number.

Item No. 14. Council Comments. There were no Council Comments.

Item No. 15. Adjournment. Councilmember Smith moved to adjourn the June 8, 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 10:31 p.m.

Nancy D. Anderson, Mayor

Amy S. McCollum, Town Clerk