

**TOWN OF WEDDINGTON  
REGULAR TOWN COUNCIL MEETING  
TUESDAY, NOVEMBER 13, 2012 - 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 November 13, 2012, with Mayor Walker F. Davidson presiding.

Present: Mayor Walker F. Davidson, Mayor Pro Tem Daniel Barry, Councilmembers Werner Thomisser, Pamela Hadley and Barbara Harrison, Town Attorney Anthony Fox, Town Planner Jordan Cook and Town Administrator Amy S. McCollum

Absent: None

Visitors: Janice Propst, Ms. Lynch, Providence VFD Chief Joshua Dye, Laura Carver, Dot Cooper, Richard Larko, Vinnie Larko, John Temple, Stephen Overcash, Leslie Barry, Jim Rushton, Monica Rushton, Mike Simon, Nancy Anderson, Elizabeth Propst, Judy Johnston, Richard Sahlie, Genny Reid, Richard Natale, Ruth Pagano, Laurie Williamson, Robert Lockerman, Robert Wadsworth, Elsie Bent, Larry Cravens, John Underwood, Jerry Fitzgerald, Jeff Gross, Richard C. Smith, Bill Forsyth, Jim Reichenbach, Anthony Burman, Chris Rea, Jan Rea, Annette Baker, Rhonda Byrum, Sandra B. Hall, Mike Smith, Denise Castano, Tracy Kuehler, Lin Celoni, Steve Esposito, Mickey Key, Pat Harrison, Ken Evans, Robert Dow, Jennifer Romaine, Dexter Martini, Ann Guerin, Brad Guerin, Monica Snider, Bill Snider, Jane Duckwall, Carole McLeod, MC Sorrell, Karen Jones and Don Titherington

Mayor Walker F. Davidson offered the Invocation prior to the opening of the meeting.

**Item No. 1. Call to Order.** Mayor Walker F. Davidson called the November 13, 2012 Regular Town Council Meeting to order at 7:01 p.m.

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

**Item No. 3. Determination of Quorum.** There was a quorum.

**Item No. 4. Public Comments.**

Mr. Chris Rea – I understand that part of this meeting is to talk about changes to the Town Council Rules of Procedures. I did look through the agenda package for this meeting. A lot of the material is underlined which I am assuming is still there but it is underlined to be emphasized. There are some other things that are stricken out. For example, in Rule 12 “The Mayor shall preside at meetings of the Council unless he or she becomes actively engaged in debate on a particular proposal in which case he or she will designate...” the word designate is scratched out and request is there. I would be interested in hearing the reasoning behind that. Also the individual that wishes to address the Council (this is also underlined) may do so but you have to sign in. I am assuming that is already part of the regular rules but may not have been strictly enforced. I am just interested in what you have to say about that.

Ms. Nancy Anderson – I wanted to comment about the following item - Review and Consideration of Instructing the Town Clerk to only record votes in the minutes. I am not sure what the driving factor behind this is. Having served on this Council for eight years, it is extremely helpful and invaluable to be able to go back and have that historical record. Amy keeps minutes like a court stenographer. I know that

she spends a huge amount of time on the minutes but they have technology now where you can just talk into the microphone and it types it out for you. I think it would be terrible for us to lose that historical record. It is very important for us to know what the Councilmembers thought process was and how they arrived at that decision so that we can have a better understanding of what your position is and why you voted that way. I would hate to see any changes with that.

Mr. Rob Dow – Having been on the Planning Board for several years I know through experience how valuable the detailed minutes can be. Several times we have been able to go back through and find out information we had not thought about that were in the detailed minutes. These are particularly important with new members to the Planning Board and the Town Council. Reviewing previous discussions saves time and it introduces ideas and unintended consequences that may not be thought of in the spur of the moment during the meeting. Secondly, it adds to the transparency and accountability of government. Comments become public record and citizens and future councils know why people voted as they did.

**Item No. 5. Additions, Deletions and/or Adoption of the Agenda.** Councilmember Werner Thomisser - I have received a lot of communication from the citizens of Weddington concerning the Land Use Survey and the Land Use Plan. I would like to make a motion to postpone the following items until after the survey is completed and the Land Use Plan is written:

- Public Hearing - Polivka Mixed Use Conditional Zoning Rezoning Application for a 15,000 Square Foot Office Building Located at 13700 Providence Road – Parcel Number 06-150-045 (5.06 Acres)
- Consideration of Public Hearing – Polivka Mixed Use Conditional Zoning Rezoning Application

Mayor Davidson - Anthony, how do we handle this?

Attorney Fox - At this point you are dealing with additions, deletions and adoption of your agenda. I would interpret that as a motion to delete that item from the agenda with the proviso that it be brought back up or postponed to – did you have a date certain?

Councilmember Thomisser - The date when the survey is completed and a new Land Use Plan is written. At the present time, we do not have a specific date.

Attorney Fox - If it is a motion to defer consideration then your rules provide that you may defer a substantive motion for later consideration at an unspecified time. Rule #10 provides that you may postpone to a certain time and day. I interpreted that you are asking to delete it from the agenda which you do have the ability to delete something from the agenda. When will it come back up and that being unspecified is a little bit of a deviation from your Rules of Procedures from that point. It would require a majority vote of the Town Council.

Mayor Pro Tem Barry - The deferral is a majority but by deleting something is it a simple majority under the agenda rules or is it a unanimous decision?

Attorney Fox - Council may by majority vote subtract items from the proposed agenda.

The vote on the motion by Councilmember Thomisser is as follows:

AYES:	Councilmember Thomisser
NAYS:	Councilmembers Harrison and Hadley and Mayor Pro Tem Barry

Councilwoman Harrison - I would like to delete the following item from the agenda - Review and Consideration of instructing the Town Clerk to only record votes in minutes. That was a discussion that I wanted to have but based on everything else that is going on that can be deferred to a later date. The vote on the motion is as follows:

AYES: Councilmembers Thomisser, Harrison, Hadley and Mayor Pro Tem Barry  
NAYS: None

Mayor Pro Tem Barry – I move to suspend the rules in order to reorder the agenda so that New Business would come before the public hearing.

Mayor Davidson - If we move New Business up will these new rules if approved apply to the remainder of our meeting or do they begin at our next meeting?

Attorney Fox - They would apply to the remainder of the meeting.

The vote on Mayor Pro Tem Barry’s motion is as follows:

AYES: Councilmembers Harrison, Hadley and Mayor Pro Tem Barry  
NAYS: Councilmember Thomisser

Councilmember Thomisser moved to delete all of New Business. “I question the motivation for doing all of this and also at this stage the country needs less government and fewer restrictions and therefore we have 20+ pages of Rules of Procedures and we do not need more restrictions and more government.”

The vote on his motion is as follows:

AYES: Councilmember Thomisser  
NAYS: Councilmembers Hadley and Harrison and Mayor Pro Tem Barry

Mayor Pro Tem Barry moved to adopt the agenda as presented. The vote on the motion is as follows:

AYES: Councilmembers Hadley and Harrison and Mayor Pro Tem Barry  
NAYS: Councilmember Thomisser

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

**A. September 10, 2012 Special Town Council Meeting.** Councilmember Thomisser moved to approve the September 10, 2012 Special Town Council Meeting Minutes. All were in favor, with votes recorded as follows:

AYES: Councilmembers Hadley, Harrison, Thomisser and Mayor Pro Tem Barry  
NAYS: None

**B. October 8, 2012 Regular Town Council Meeting.** Councilmember Thomisser moved to approve the October 8, 2012 Regular Town Council Meeting Minutes. All were in favor, with votes recorded as follows:

AYES: Councilmembers Hadley, Harrison, Thomisser and Mayor Pro Tem Barry  
NAYS: None

**C. October 11, 2012 Special Town Council Meeting.** Councilmember Thomisser moved to approve the October 11, 2012 Special Town Council Meeting Minutes. All were in favor, with votes recorded as follows:

AYES: Councilmembers Hadley, Harrison, Thomisser and Mayor Pro Tem Barry  
NAYS: None

**Item No. 7. New Business.**

**A. Review and Consideration of Amendments to the Town Council Rules of Procedures and Policies.** Mayor Pro Tem Barry - This was my agenda item. When reviewing the Rules of Procedures during the two subsequent administrations, we had two exercises where we went through the rules to try to provide greater clarity on the roles and responsibilities and specifically the way to conduct meetings and hearings not in an effort to curtail debate but to make sure that there is no bias in debate and there is order.

Mayor Pro Tem Barry reviewed the following proposed change:

**1. Town Council Rules of Procedures.** The Town Council received a copy of the proposed amendments to the Town Council Rules of Procedures.

**(d) Work Sessions and Committee Meetings**

The Town Council may schedule work sessions, committee meetings, or other informal meetings of the board or of a majority of its members at such times and concerning such subjects as may be established by resolution or order of the Council. A schedule of any such meetings held regularly shall be held in the same place and manner as the schedule of regular meetings. Work sessions and other informal official meetings not held regularly are subject to the same notice requirements as special Council meetings. **Town Council Work Sessions will follow the same Rules of Procedures as a regular Town Council Meeting with the exception that the Council may elect to include the public in the discussion. This will be established at the beginning of each work session.**

**COMMENT:** The open meetings law requires that any “official meeting” where a majority of the Town Council deliberates on public business must be open to the public and notice must be given. The last sentence of this rule embodies that principle. The rule goes beyond the open meetings law in requiring a published schedule of work sessions or committee meetings held regularly.

G.S. 143-318.13 (a) provides that if the Town Council holds any regular, special, emergency, or other official meeting by conference telephone or other electronic means, the clerk shall provide a location and method whereby the public may listen to the meeting and notice of the meeting shall specify that location.

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Mayor Pro Tem Barry - We held two Land Use Plan meetings and in one of the meetings the public was allowed to participate and in the other meeting they were not allowed to participate. We just need to provide clarity in the rule. When we start the meeting, work sessions in particular, this is important because that is when we want to get more data and gather more information that we declare when the meeting starts is this open or is just the elected body going to participate in the debate and discussion.

Councilmember Thomisser - A work session in my opinion is designed for the Council to work out items to expedite the next Town Council Meeting. The citizens of Weddington have every opportunity at a Town Council Meeting during public comments to give their input or during a public hearing to give input. I think it is not necessary. We have a work session to work and not to sit and listen to the members of the

Town because they have the opportunity to do that via email to each Town Councilmember prior to a work session and during a Town Council Meeting.

Councilwoman Harrison - I was adamant that this be put in. We had work sessions for the Land Use Plan and the Land Use Plan survey where we did not take input from the citizens and yet our Land Use Plan says that we should take input from our citizens and what better time to do it than when people are sitting here versus emails. We had one session where I watched everybody get up and leave when they realized that they could not contribute to the meeting. We give ourselves the ability to decide for that meeting if we are going to receive input from the public. If it is a special one where we were working on the Land Use Plan, I think we should be able to ask our citizens to give us input.

Councilmember Thomisser - What we were talking about was the design of the survey. The citizens will have the opportunity to input when they fill out the survey and mail it into the Town Hall. What we were doing at the time that you referred to was we were developing questions for the survey.

Councilwoman Harrison - I think it was important that we took information from our citizens.

Councilwoman Hadley – I think you both can have your way with the wording that it will be established at the beginning of each work session. That gives us the flexibility if we are doing business and if we are trying to get extra work done before the Council meeting then we will just make that decision at the beginning of that one but it gives us the opportunity to do otherwise as well.

Mayor Pro Tem Barry – My position on this is we need to have the flexibility and this provides that flexibility and you make it on a case by case basis for each meeting.

Councilmember Thomisser - Then you are referring to the words “may elect” which means at the beginning of each work session we may determine whether we entertain public comment or we will not. What is going to happen is what Councilwoman Harrison said is a bunch of people are going to show up and then they are going to find out that we do not want them to talk and they are going to get up and leave. People ought to know before they come in.

Mayor Pro Tem Barry - I think that is a practical or administrative issue where we say it is a public involvement meeting or a work session.

Mayor Pro Tem Barry reviewed the following proposed amendment:

## **RULE 7. AGENDA**

(a) **Proposed Agenda.** The Town Clerk shall prepare a proposed agenda for each meeting. A request to have an item of business placed on the agenda must be received at least ~~two~~ **five** working days before the meeting. Any council member may, by a timely request, have an item placed on the proposed agenda. A copy of all proposed ordinances shall be attached to the proposed agenda. **Material to be presented under Agenda Item for Special Recognition/Presentation must be included in the agenda packet. Failure to have this material included in the agenda packet for review by the Council in advance will have the item deleted from the agenda automatically.** An agenda package shall be prepared that includes, for each item of business placed on the proposed agenda, as much background information on the subject as is available and feasible to reproduce. Each council member shall receive a copy of the proposed agenda and the agenda package and they shall be available for public inspection and distribution or copying when they are distributed to the council members.

The Council may by majority vote add items to the proposed agenda for discussion purposes only. Council may add and consider staff-initiated items by unanimous consent. The Council may by majority

vote subtract items from the proposed agenda, except that (a) the council may not subtract items from the proposed agenda stated in the notice of a special meeting called by the mayor, mayor pro tempore, or two council members, unless those calling the meeting consent to the deletion, (b) the council may not add items to the proposed agenda stated in the notice of a special meeting called by the mayor, mayor pro tempore, or two council members, unless all members are present, or those who are absent sign a written waiver of notice, and (c) only business connected with the emergency may be considered at an emergency meeting. ~~The council may add items to the proposed agenda of a special meeting only if it determines in good faith at the meeting that it is essential to discuss or act on the item immediately.~~

The Council may designate certain agenda items "for discussion and possible action." Such designation means that the council intends to discuss the general subject area of that agenda item before making any motion concerning that item.

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Mayor Pro Tem Barry - In this we removed the word "two" and added the word "five" in the second sentence. We are pushing that date back to give the Clerk more time to prepare the agenda and for the Council to receive the agenda in advance giving us a couple of days where we have access to staff before the meeting on Monday. The language that is underlined is added. If it is going to be a formal presentation then the material that is going to be presented be included in the agenda packet and that if the organization has failed to provide that information to the Council in advance that item will be deleted from the agenda automatically. There have been circumstances in the past where we have stuff coming at us and we had no idea where it is coming from and we need to have an opportunity to look at it and spend some time reviewing it as we get prepared for the Council Meeting.

Councilmember Thomisser - We had two instances during the fire department issue where the Providence VFD did a presentation and I believe that Wesley Chapel VFD and another individual wanted to present the pros and cons of a municipal fire district so they put presentations together. Why does it have to be included in the packet? They are presenting to the Council for information purposes and not to vote on.

Mayor Pro Tem Barry - Do you not want to review that information in advance so that you can ask questions?

Councilmember Thomisser - In the case of presentations or recognitions we are not voting on them. We are just getting information. If they want to leave a hard copy behind then after the Town Council Meeting we can review it. I do not understand the need to put it in the packet because it puts an extra strain on our Town staff to get it into the packet. That is my opinion.

Mayor Pro Tem Barry discussed the section of the amendments that was stricken. My purpose for deleting that is if you call a special meeting and you get the Council together and they are meeting without you that gives the ability for the Town Council to put something on the agenda and vote on it. That removes that ability to do that. You have to meet specifically for the called purpose of the hearing.

Mayor Pro Tem Barry discussed the following amendment:

## **RULE 8. PUBLIC ADDRESS TO THE COUNCIL**

Any individual or group who wishes to address the council may do so at the time designated for public comment at each regularly scheduled meeting. **Each member of the public wishing to address the Council must sign in prior to the meeting. The public will be recognized to speak in the order they signed in.**

The council reserves the right to limit each person wishing to make a comment to three minutes should it appear that there are a large number of persons desiring to make public comments.

When publicly addressing the governing body, the public shall obey reasonable standards of courtesy in their remarks. The Mayor ~~has the authority to~~ **must** maintain order and decorum in the conduct of the hearing. The Mayor may determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks ~~may~~ **must** entertain and rule on objections from other members of the Council on this ground.

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Councilmember Thomisser - I am very familiar with this. I go down to the Union County Board of Commissioners Meeting and they put out a sign up sheet out at the back door. That sign up sheet is out there at 6:30 and taken back up at 6:50. There have been instances where the Union County Clerk is late bringing the sheet out and people are getting off of work at 5:00 and trying to get to Monroe to sign up. If they do not show up before the meeting starts and they are not on the sheet then they cannot address the Council. I believe that every citizen of Weddington should have the opportunity during a Town Council Meeting to address the Town Council and if they happen to show up 10 minutes late and we have not gotten into public comment then they are okay. I do not understand why we have to sign everyone up and put subject matter. What purpose does that serve?

Mayor Pro Tem Barry - It does not require subject matter.

Councilmember Thomisser - In the past when Mayor Anderson was Mayor I believe that she started at the front row and went row by row. We are adding more restrictions and I would like to know for what reason.

Mayor Pro Tem Barry - The Chair can go around the room and manipulate who presents when so that the individual supportive of their specific agenda item goes last. This creates a system of order that removes that from the process. If you want to speak to the Town Council come and speak to the Town Council and sign in. The subject matter is immaterial to me. Sign in and you are called in the order you signed in. It creates some level of order for the process.

Councilmember Thomisser - Why can we not go by row like we have done in the past?

Mayor Pro Tem Barry - If you want to make an amendment to this to go by row order then make an amendment. Most deliberative bodies that I am familiar with use some form of sign in and follow some procedure.

Councilmember Thomisser – I would like to amend to include that the public will be recognized to speak in the order that they are seated by row.

Attorney Fox - There is not a motion on the floor yet.

Mayor Pro Tem Barry - I move that we accept the amended proposed Rules of Procedures and I will accept Councilmember Thomisser's friendly amendment to Rule No. 8.

Attorney Fox - Are you recommending the whole of the rules as amended?

Mayor Pro Tem Barry - That is the motion that I just made and accept amendments to items as we go through it.

Attorney Fox - Do you want to accept the amendments or vote on the amendments to see if the body accepts the amendment?

Mayor Pro Tem Barry - I made the motion and I accepted his amendment. There will not be a sign up sheet for public comments and the Mayor will go by row in the order of seating. The next change in that section deals with the Mayor must maintain order and decorum in the conduct of the hearing and must entertain and rule on objections from other members of the public on this ground.

Councilmember Thomisser - If someone in the audience is not courteous, can a Councilmember say, "point of order" and everything stops and it is ruled on?

Attorney Fox - Point of order is for debate and discussion. Are you asking if there is disorderly conduct in the room who has the authority to require that person to become orderly?

Councilmember Thomisser - If disorderly conduct is directed to one councilmember.

Attorney Fox – Your Mayor generally has that authority.

Councilmember Thomisser - If the Mayor fails to do it can the individual on the Town Council who is being criticized say "point of order" and everything stops and you rule?

Attorney Fox – Yes, what effect that would have though is going to be the issue and the Mayor is your Chief Administrative Officer that is authorized to evoke the law enforcement authority.

Mayor Pro Tem Barry - The way that our rules are written later in here it talks specifically about if the Mayor makes a ruling that ruling can be overridden by the majority of the Council. We have been in a hearing where you and I have been shellacked. If it is out of order and if the Mayor does not call the speaker down, you can rise to a point of order and say, "I object." Then there has to be a vote if the Mayor has not ruled on that, then the Council can overrule him and say this is out of order.

Councilmember Thomisser – Does the Council rule or Attorney Fox?

Attorney Fox – The Council rules. Your Mayor has the parliamentary obligations under your rules and the Council is a backdrop to the call of the Mayor. If the Mayor makes a call that the Council does not agree with the majority of the Council has the ability under your rules to decide a different course.

Mayor Pro Tem Barry - In Rule 10 (b) the Mayor has the authority to determine whether the speaker has gone beyond reasonable standards of courtesy. Council may by majority vote of the Council overturn a rule by the Mayor. If the Mayor determines that it is within the bounds of courtesy and we do not agree with it then if the majority of the Council does not agree with it then we can vote on it.

Councilmember Thomisser - If we have that in Rule 10 why are we changing Rule 8? Isn't it the same thing?

Mayor Pro Tem Barry - In Rule 8 it says that the Mayor may or may not. It does not require him to do it. We are changing it to be a requirement.

Mayor Pro Tem Barry reviewed the following amendment:

**RULE 12. PRESIDING OFFICER WHEN THE MAYOR IS IN ACTIVE DEBATE**



The mayor shall preside at meetings of the council unless he or she becomes actively engaged in debate on a particular proposal, in which case he or she will designate **request for** another council member to preside over the debate. **The Councilmember agreeing to preside must not have entered into the debate prior to accepting the gavel and thus biasing the process. There is no requirement that a Councilmember be compelled to take the gavel.** The mayor shall resume presiding as soon as action on the matter is concluded.

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Mayor Pro Tem Barry - In two or three pieces of data that I have researched on this, the key is whoever is leading the discussion is supposed to be exempted from biasing the process by having participated in it. He or she instead of designate will request for another Councilmember to preside over the debate. The reason here is that the way it read originally was it could require. Those of us on the Council may not be willing to serve in that role if you want to participate in the debate because if you take the gavel then you are no longer participating in the debate. It is about creating transparency. There is no requirement that a Councilmember be compelled to take the gavel and conduct the debate either on the hearing or the motion in front of the Council.

Councilmember Thomisser - The assumption is we are limiting a Councilmember's ability to debate an issue. If every member of this Council debated an issue and then the Mayor wanted to get involved then the Mayor would pass the gavel to a Councilmember. We are all professional; why would a Councilmember be biased one way or another? It is just a matter of procedure. That Councilmember would show respect to the rest of the Council and the Mayor. Give me an example of bias.

Mayor Pro Tem Barry - I would not want to support your burning amendments. So say the Mayor was a fanatic about wanting to support it but I was anti. I could through recognition of members of the Council skew the entertainment of motions or the entertainment of people participating in the conversation. If I came out and said before the Mayor passed the gavel that if I wanted to burn leaves every Sunday I should be able to. Then the Mayor says, "I have an opinion; take the gavel". Then I have already declared to everybody where I am on this. Then you have biased the process. You have eliminated the ability to have an absolute pure conversation. We all come to every discussion usually with some level of bias.

Councilmember Thomisser - In this particular situation as Mayor Pro Tem Barry described after a Town Councilmember has participated in debate and gets the gavel would that Town Council member have the ability to vote on the motion?

Attorney Fox - Probably so because each of you is required to vote on all matters unless you have a financial interest in the outcome. The purpose of this rule is if you look at the comment there it speaks to trying to give a particular point of view an unfair advantage. That is what the rule and the comment section provides for.

Councilmember Thomisser - If Councilmember Harrison is opposed and if I have the gavel I call on her and then I am supposed to call on someone who has an opposite opinion and then you go back and forth. I do not understand the bias. You are just the presiding officer at that stage. You can't stop someone from talking. If one of the Councilmembers wants to be recognized then you have to call on them. Someone opposed to the issue gets a chance to talk and someone that is for the issue gets a chance. I have a problem understanding the bias in this event.

Councilwoman Hadley - I had a hard time understanding and trying to come to a conclusion for myself. Under the Suggested Rules of Procedures for a City Council by Fleming Bell there is a little bit more in the comments there than is what is in our comment section in our Rules of Procedures. It says this rule is designed to ensure even handed treatment to both sides during a heated debate. Planning Board Chairman

Dorine Sharp said that it is her job as chair to remain impartial and she is very proud of the fact that no one knows what side she is on and she plays devil's advocate for both sides. She explained to me that was her role as chair. I think the same thing applies to the Mayor. I think the Mayor needs to be unbiased – obviously he has a vote in a tie. We need to have someone unbiased that is running the meeting. That has been explained to us time and time again in Essentials of Government and supported by the Rules of Procedures.

Councilmember Thomisser - Mayor Pro Tem Barry's example here is that the gavel is no longer with the Mayor and it has been passed to a Town Councilmember and the Rules of Procedures state that other Town Councilmembers can discuss and debate an issue and that the Town Councilmember with the gavel has to call on the first person that is either for or against it and then has to pick another Councilmember that has an opposing view. There is no bias regardless of how the person that has the gavel feels; they are obligated to let a Councilmember that is for the issue speak and then the next person with an opposing view to speak. So where is the bias?

Mayor Pro Tem Barry - The bias exists within the interpretation of the rules and the process of implementing the rules. That is where the bias is.

Mayor Davidson - What is the urgency of our issue here? Has the last year that we have been doing work been unbiased? Is that what we are saying?

Mayor Pro Tem Barry - I do not know if the last Council meetings have been biased or unbiased. In my effort to review the Rules of Procedures for tonight's meeting I noticed that there were an awful lot of vague areas in here that would create challenges for this body to get through and they needed to be addressed.

Mayor Davidson - So they need to be addressed prior to this public hearing?

Mayor Pro Tem Barry - They needed to be addressed period.

Mayor Davidson - Tell me why there is urgency. Tell me why you put it where you did in the agenda tonight.

Mayor Pro Tem Barry - I put it in the agenda tonight so that we had clarity when we got to the public hearing.

Councilwoman Harrison - Point of order – are you arguing?

Mayor Davidson - I am asking a question.

Councilmember Thomisser - This document was formed in 1983 and it has served us well. At the beginning of my talk on these issues I questioned what is the motivation for all of this? Why are we doing it now and are we doing all of these changes at one time?

Mayor Pro Tem Barry - We potentially have a very heated item that requires clarity and purity in the interpretation of the rules and this is our opportunity to deal with that and set the table for the future. There were errors in the process that took place before in the first committee that rewrote these and there were two areas that were omitted and in the process these others popped up and I think that they need to be addressed.

Councilmember Thomisser - We have had some very contentious issues – the fire issue was one and this document served us well during that.

Mayor Pro Tem Barry reviewed this change with the Council:

### **RULE 30. PUBLIC HEARINGS**

Public Hearings required by law or deemed advisable by the council shall be organized by a special order, adopted by a majority vote, that sets forth the subject, date, place, and time of the hearing as well as any rules regarding the length of time for each speaker, and other pertinent matters. The rules may include, but are not limited, to rules

- (a) fixing the maximum time allotted to each speaker;
- (b) providing for the designation of spokespersons for groups of persons supporting or opposing the same positions;
- (c) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall; and
- (d) Providing for the maintenance of order and decorum in the conduct of the hearing.

All notice and other requirements of the open meetings law applicable to council meetings shall also apply to public hearings at which a majority of the council is present. A public hearing for which any notices required by the open meetings law or other provisions of law have been given may be continued to a time and place certain without further advertisement. The requirements of Rule 3 (c) shall be followed in continuing a hearing at which a majority of the council is present.

At the time appointed for the hearing, the mayor or his or her designee shall call the hearing to order and then preside over it. When the allotted time expires or when no one wishes to speak who has not done so, the presiding officer shall declare the hearing ended.

**Any individual or group who wishes to address the Council may do so. Each member of the public wishing to address the Council during the public hearing must sign in prior to the meeting. The public will be recognized to speak in the order they signed in.**

**The Council reserves the right to limit each person wishing to make a comment to three minutes should it appear that there are a large number of persons desiring to make public comments.**

**When publicly addressing the governing body, the public shall obey reasonable standards of courtesy in their remarks. The Mayor must maintain order and decorum in the conduct of the hearing. The Mayor must determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks must entertain and rule on objections from other members of the Council on this ground. The Mayor may be over ruled by a majority vote by the Town Council.**

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Mayor Pro Tem Barry - We added the language from Public Address to Council under this section as well. If you want to address us during a public hearing sign in and be recognized and recognize that there is a certain level of decency and decorum that is anticipated when you participate in a public hearing in addressing a public body.

Councilmember Thomisser - We are back to signing up again. Tell me what the benefit of signing in is.

Mayor Pro Tem Barry - It creates a consistent method of order in the process so you know when you get

here when you are going to speak. If some member in the audience I know supports me I can call on them last and that is the last impression that you have from the public. This is to prevent that from happening. That is why other elected bodies use it. Is it flawless? No, but it is a better tool than what we have.

Councilmember Thomisser – The question is this: which has more impact the first speaker or the last speaker or the speaker in the middle? I do not believe it is a question of order; it is a question of what they say. The quality of what they say impresses the Town Council not how they are lined up to speak.

Mayor Pro Tem Barry - The broader question for me is that we are limiting the time to three minutes. I think we need to have a conversation about that and how to address that. Some individuals will come with substantive material to add to the process and others who say ditto.

Councilwoman Harrison - Prior to being on this Town Council I had spoken to previous Councils regarding this. At the public hearing for the water tower, prior to the hearing I emailed the Town Clerk and I asked for the ability to have more than three minutes if I was representing a group of people. Apparently I was the first person that asked that question. I actually had one Councilmember say in order to speak more than three minutes you have to have other people in your development give their three minutes to you. I ended up having to go and get 60 signatures which I handed to the Clerk then I was told you have 20 minutes but  $60 \times 3$  is three hours. Another Councilmember said “no way, I do not care if you are representing an entire development all you get is 10 minutes”. It is very confusing. I had someone ask me for more than three minutes and I told him we would vote on that because if it is in a public hearing and they are representing a group of people we have to come up with some kind of consistent way of handling that. If everybody wants to speak on their own behalf, then it should be three minutes but if they really want to represent a development or a group of people such as the Friends of Weddington then it should be a different process that we go through.

Councilmember Thomisser - The way that Mayor Pro Tem Barry is suggesting is that each person is limited to three minutes. How do we develop a formula in your case when you give more than three minutes?

Mayor Pro Tem Barry - I will accept an amendment to this section that says with a majority vote of the Council to extend on an individual basis based on their facts and circumstances.

Mayor Davidson - Does that not have bias in that?

Mayor Pro Tem Barry - It is hard to have bias when you have three people. Do you want to make it a majority?

Mayor Davidson - But you get to choose who gets more and who does not.

Mayor Pro Tem Barry - That is why I said based on their facts and circumstances.

Attorney Fox - The current language says the Council reserves the right to limit to three minutes but it does not say that each speaker is limited to three minutes.

Councilmember Thomisser - What I am trying to eliminate is what Councilwoman Harrison had to do to run around and get 60 people's signature and then present a petition. We should have an ability to say I am representing my HOA and I need 45 minutes and I am the only one that is going to speak from my neighborhood.

Mayor Pro Tem Barry - I have no problem with that. It is having an elected spokesperson and having

some formal way of doing that. I will accept that if somebody steps up and says that I represent this group and they ask for a specific time and we grant that request. That also means that group has to support that because the next person that comes up needs to be honorable and say they have already covered my time.

Councilmember Thomisser - If people in that neighborhood want one person to speak for 45 minutes it does not trump the ability of 10 other people wanting to speak about the issue. They should be able to express themselves on how they feel.

Mayor Pro Tem Barry - So you want to just remove the three minutes.

Councilmember Thomisser - Let them talk.

Attorney Fox - What some boards do is the Council has a rule of generally the assumption of three minutes unless there is a group and the Council reserves the right for members of a group to pool their time and then sometimes it can even limit the amount regardless not to exceed "X" amount.

Mayor Pro Tem Barry - Not to exceed how much time? 30 minutes?

Councilmember Thomisser - That seems reasonable.

Attorney Fox - Do you want some indication that they actually represent a group?

Mayor Pro Tem Barry - They would have to do that. Not all subdivisions have an HOA.

Councilwoman Harrison - I do not want people to do what I had to do.

Mayor Pro Tem Barry - They have to be present to give you their time.

Attorney Fox – Council will allow people present to cede time up to 30 minutes to a spokesman for the group.

Councilmember Thomisser - Would you accept a friendly amendment also instead of individuals signing up to speak that you call on individuals on a row by row basis.

Mayor Pro Tem Barry accepted the amendments to call on individuals row by row and that Council will allow people present to cede time up to 30 minutes to a spokesman for the group.

The vote on Mayor Pro Tem Barry's motion to approve the Rules of Procedures with the changes noted during the discussion is as follows:

AYES:	Councilmembers Hadley, Harrison, Thomisser and Mayor Pro Tem Barry
NAYS:	None

**2. Policy Regarding Invitations to Address the Public.** Mayor Pro Tem Barry - There are from time to time members of the Council, Mayor and Staff are requested to show up and address other governing bodies or the general public. We are trying to have some consistency in the message here that elected officials are free to go meet with groups but they need to make sure they are expressing when speaking on behalf of the Town the Town's consensus and any personal opinion is disclosed or expressed as their own and not that of the elected body. I did find one error in here in the 3<sup>rd</sup> paragraph - change to District Councilmember.

Councilmember Thomisser - When we get into districts it gets confusing. Citizens of Weddington who do not work with this every day think that they can only vote for a member in their district when in fact every citizen in Weddington can vote at large. This may be confusing.

Mayor Pro Tem Barry - The intent here was to create some level of engagement by the whole Council. If you want to say pick another person just to make sure you have more than one person that went I am fine with that. The reason that I came up with district frankly is that the Mayor and I were invited to go to a Homeowners Association Meeting and after I accepted it Pam and I were on the phone and the neighborhood was next door to Pam and she said to me that she should go because she is in that same geography and nominated out of that district. I had already accepted and had done it for three or four earlier years so I went ahead and went and that is why we made that addition.

Councilmember Thomisser - Do you have to live next to the neighborhood? Each Town Councilmember is familiar with the issues. Why would you need someone that who lives right next to the neighborhood?

Mayor Pro Tem Barry - It was a way of dividing up responsibilities. This just formalizes the process so that there is an actual protocol on how that is being done.

Councilmember Thomisser - I have gone to the Union County Board of Commissioners and talked as a citizen. Every single time I went I made it a point to say that I am a member of the Weddington Town Council but I am here as a citizen and these are my own views. Would you accept a friendly amendment requiring every Town Councilmember to say that?

Mayor Pro Tem Barry - It kind of does say that in the last sentence.

Councilmember Thomisser - If you are going to an HOA meeting and you are answering questions what this says is that you need the approval of the Town Council in order to answer these questions. You do not know what the questions are going to be.

Mayor Pro Tem Barry - I will use an example in where the Mayor and I were at an HOA Meeting recently and we got asked a lot of questions about stuff that was going on. Some of the items we agreed on and some we did not. There was no consensus or agreement. It was here is the stuff that is happening. What we are trying to make sure is that when any one of us is communicating to the public representing the government of the Town of Weddington that we are very clear that this is Dan Barry's opinion and not the opinion of the Town Council unless the Town Council has delivered an opinion or some form of consensus.

Mayor Pro Tem Barry moved to approve this Policy Regarding Invitations to Address the Public with the one change to add District which is shown in bold and underlined below. The vote on the motion is as follows:

AYES: Councilmembers Hadley, Harrison, Thomisser and Mayor Pro Tem Barry  
NAYS: None

**Policy Regarding Invitations to Address the Public**

This purpose of this policy is to define who represents the Town of Weddington at the request of other governing bodies or the general public.

The Mayor, Town Council, and staff receive requests for elected officials to meet with groups and other elected bodies regarding current issues and developments in the Town of Weddington. If the Mayor or

Councilmember receives the request directly, it must be forwarded to the Town Clerk within three (3) business days.

For Homeowner Associations and smaller groups, the Mayor and the **District** Councilmember representing the district will present. If the Councilmember is unavailable, another Councilmember may appear in their place with general consent of the full Council.

For broader groups and other elected bodies, the Mayor and a member of the Council will present. The Councilmember will be determined through general consent of the Town Council.

The opinions expressed must be the general consensus of the Council or the opinion expressed must be disclosed as their own and not that of the elected body.

**3. Policy Regarding Request for Support.** Mayor Pro Tem Barry - In previous administrations when letters requesting the support of the Town of Weddington or the Mayor’s office, the mayor would email out and get consensus on what the response should be and if it was contentious then we would make it an agenda item on an upcoming agenda and vote on it and the Council would respond. What we are suggesting is that when those requests come in that the Mayor or the Mayor’s office or Town Council deliver those to the Clerk to make sure they are passed out to the body to try to figure out if there is some consensus on how to respond and then respond. If there is not a consensus then make it an agenda item and get the Council engaged and have some type of agenda item on it.

Mayor Pro Tem Barry moved to approve the Policy – Request for Support. All were in favor, with votes recorded as follows:

AYES: Councilmembers Hadley, Harrison, Thomisser and Mayor Pro Tem Barry  
NAYS: None

**Request for Support**

The purpose of this policy is to assure the entire Council is included in consideration of letters of support.

The Mayor, Town Council, and staff receive requests for support of funding and special projects from other organizations and elected bodies. If the request is made directly to the Mayor’s office, the Mayor must consult the Council and seek approval prior to responding.

In the event of a difference of opinion between the Council and the Mayor, the consensus of the Council will stand. In this case the response will come from the Town Council.

**4. Policy Regarding Staff Utilization.** Mayor Pro Tem Barry – I move that we approve the Policy Regarding Staff Utilization as presented in your packet. We have had consistent challenges on how do we allocate time and direction to the Town Attorney. Similarly we have had challenges with staff. It recently uncovered all these projects are going on that do not have anything to do with pushing the agenda of the Council forward. Any councilmember can engage directly with our staff as long as staff is not going to allocate more than three hours to the project. If it is going to take more than three hours of their time then the Council needs to direct them to do that instead of just an individual Council person. That is consistent with the allocation process with our Town Attorney.

Councilmember Thomisser - How do we know it is going to be three hours?

Mayor Pro Tem Barry - We really are talking about Jordan and Amy and they should be able to estimate how much time that they are going to need to deal with whatever the issue is.

Councilmember Thomisser - Would you accept a friendly amendment of five hours?

Mayor Pro Tem Barry - I will take five hours. I think we need to make sure we are not sending people on wild goose chases and that is what I am afraid of.

Councilmember Thomisser – Five hours would put enough time in there to cover any situation.

Mayor Pro Tem Barry - I will accept five hours. To continue on, under no circumstances should the assumption of confidentiality of work product be considered as its public employees and is subject to public record.

Councilmember Thomisser - At the conclusion of that project are you suggesting that we put it in the packet and make everyone aware of it?

Mayor Pro Tem Barry - There is not a requirement that it be made available but it can be made available. The staff needs to stay out of politics and they need to be involved in getting their job done. If I ask them to do something that is fine as long as it does not take five hours but there should not be the burden on Jordan that he has to feel compelled that this is a special project for Dan and not everyone else.

The vote on this policy is as follows with the amendment from Councilmember Thomisser. All were in favor, with votes recorded as follows:

AYES:	Councilmembers Hadley, Harrison, Thomisser and Mayor Pro Tem Barry
NAYS:	None

### **Staff Utilization Policy**

This purpose of this policy is to define the access to Town resources by the Mayor and Town Council.

The Mayor and Town Council may use staff resources from time to time on projects in the citizens' interest. If the scope of the work will require more than ~~3~~ **5** hours of combined staff time and resources then the Town Council must provide direction to staff by approving the project with a duly made and passed motion by the Weddington Town Council.

Under no circumstances should there be an assumption of confidentiality. All work product will be distributed to the entire Council and made available to the general public.

### **B. Review and Consideration of Instructing Town Clerk to Only Record Votes in Minutes.**

This item was removed from the agenda.

### **Item No. 8. Consent Agenda (Public Hearings to be Held December 10, 2012 at 7:00 p.m. at the Weddington Town Hall).**

**A. Call for Public Hearing to Review and Consider Proposed Text Amendment – Section 46-46 (Fire Hydrants).** The Town Council received a copy of the proposed text amendment. Councilmember Thomisser moved to call for a public hearing to review and consider a proposed text amendment to Section 46-46. The public hearing is to be held December 10, 2012 at 7:00 p.m. at the Weddington Town Hall. All were in favor, with votes recorded as follows:



AYES: Councilmembers Hadley, Harrison, Thomisser and Mayor Pro Tem Barry  
NAYS: None

**B. Call for Public Hearing to Review and Consider Proposed Text Amendment – Section 58-60 (Mixed Use Conditional District).** The Town Council received a copy of the proposed text amendment. Councilmember Thomisser moved to call for a public hearing to review and consider a proposed text amendment to Section 58-60. The public hearing is to be held December 10, 2012 at 7:00 p.m. at the Weddington Town Hall. All were in favor, with votes recorded as follows:

AYES: Councilmembers Hadley, Harrison, Thomisser and Mayor Pro Tem Barry  
NAYS: None

**C. Call for Public Hearing to Review and Consider Land Use Plan Text Amendments – Changes to Pages 24 and 25.** The Town Council received a copy of the proposed text amendment. Councilmember Thomisser moved to call for a public hearing to review and consider a proposed text amendment to pages 24 and 25 of the Land Use Plan. The public hearing is to be held December 10, 2012 at 7:00 p.m. at the Weddington Town Hall. All were in favor, with votes recorded as follows:

AYES: Councilmembers Hadley, Harrison, Thomisser and Mayor Pro Tem Barry  
NAYS: None

**D. Consideration of Resolution Adopting the Union County, North Carolina Multi-Jurisdictional Hazard Mitigation Plan.** The Town Council received the following overview of the Union County Multi-jurisdictional Hazard Mitigation Plan Update and a copy of a letter dated February 1, 2012 to Mr. Chris Crew (State Hazard Mitigation Officer) with the NC Division of Emergency Management from Mr. Robert E. Lowe (Chief) with the U.S. Department of Homeland Security - FEMA:

**Union County Multi-jurisdictional Hazard Mitigation Plan Update Overview**

Union County is vulnerable to a wide range of natural hazards, including flooding, tornadoes, tropical storms and hurricanes, winter storms and earthquakes. These hazards threaten the life and safety of county residents, and have the potential to damage or destroy both public and private property and disrupt the local economy and overall quality of life. While the threat from hazardous events may never be fully eliminated, there is much we can do to lessen their potential impact upon our community and our citizens. By minimizing the impact of hazards upon our built environment, we can prevent such events from resulting in disasters. The concept and practice of reducing risks to people and property from known hazards is generally referred to as hazard mitigation.

The original Union County Multi-jurisdictional Hazard Mitigation Plan was adopted in 2004. The plan is multi-jurisdictional and includes the participation of Union County and all of its incorporated municipalities. Each of these jurisdictions are continuing participants of Union County's original Hazard Mitigation Plan.

The update of the plan began with the Mitigation Advisory Committee's meeting on December 4, 2009. The Committee reviewed the process specified in the Maintenance Section of the previously approved plan for monitoring, evaluating and updating the plan, and discussed the goals and methods to be used in the plan update. The Committee decided that Union County Emergency Management would spearhead the effort and coordinate with local leaders to review risks, capabilities, and mitigation strategies in each jurisdiction.

A final meeting of the Mitigation Advisory Committee was held on September 22, 2011. The meeting was open to public comment, and legal notices were placed in local newspapers, directing the public to the

online draft for review. No members of the public attended the meeting. During the meeting, the committee reviewed the changes to the plan and suggested minor revisions to a handful of mitigation actions. It was agreed that after these changes were made, the plan was recommended for submittal to state and federal officials.

The plan was submitted to the North Carolina Division of Emergency Management, Hazard Mitigation Planning Section for review, and returned with recommendations for minor revisions. These changes were made and the plan was then sent to FEMA for review. FEMA returned the plan with recommendations for minor revisions. These changes were made as well and FEMA approved the plan on February 01, 2012.

Section 9 of the plan contains the mitigation actions that have been developed for the next plan period. Plan requirements are that there must be a mitigation action to address each hazard that is identified in Section 4 of the plan; Hazard Analysis section. These are the Mitigation Actions for the Town of Weddington.

- 1. Continue actively participating in the National Flood Insurance program.**
- 2. Regularly calculate / document the amount of flood prone property preserved as open space.**
- 3. Seek and encourage continued training for first responders by coordinating with local fire department.**
- 4. Educate the public about potential natural hazards and safety measures that can be taken.**
- 5. Continue to coordinate with NCEM and FEMA to update the local Flood Insurance Rate Maps through the North Carolina Floodplain Mapping Program.**

Together we will work toward accomplishing these mitigation actions over the next five years. It is our intent for the Mitigation Advisory Committee to meet annually to review each mitigation action listed in the plan and to evaluate each action on its progress and its continued applicability.

Councilmember Thomisser moved to adopt Resolution R-2012-09:

**TOWN OF WEDDINGTON  
RESOLUTION TO ADOPT THE UNION COUNTY NORTH CAROLINA MULTI-  
JURISDICTIONAL HAZARD MITIGATION PLAN  
R-2012-09**

**WHEREAS**, the citizens and property within the Town of Weddington are subject to the effects of an array of natural hazards that can cause loss of life and damages to public and private property; and

**WHEREAS**, the Town of Weddington desires to seek ways to mitigate the impact of such hazard risks; and

**WHEREAS**, it is the intent of the Weddington Town Council to protect its citizens and property from the effects of natural hazards by preparing and maintaining a local hazard mitigation plan; and

**WHEREAS**, N.C. Gen. Stat. § 166A-6.01(b)(2)(a)(3) states: “For a state of disaster proclaimed pursuant to G.S. 166A-6(a) after the deadline established by the Federal Emergency Management Agency pursuant to the Disaster Mitigation Act of 2002, P.L. 106-390, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act;” and

**WHEREAS**, Section 322 of the Federal Disaster Mitigation Act of 2000 states that local governments must develop an All-Hazards Mitigation Plan in order to be eligible to receive future Hazard Mitigation

Grant Program Funds and other disaster-related assistance funding and that said Plan must be updated and adopted within a five year cycle; and

**WHEREAS**, it is the intent of the Weddington Town Council to fulfill its obligation under the aforementioned laws in order that the Town of Weddington will remain eligible to receive state and federal assistance in the event of a declared disaster affecting the Town of Weddington; and

**WHEREAS**, Union County and the other jurisdictions included in the Plan have performed a comprehensive review and evaluation of each section of the Multi-Jurisdictional Hazard Mitigation Plan approved by the County in 2004, and have updated the plan as required under regulations at 44 CFR Part 201 and according to guidance issued by the Federal Emergency Management Agency and the North Carolina Division of Emergency Management.

**NOW, THEREFORE, BE IT RESOLVED** that the Weddington Town Council hereby:

1. Adopts the updated Union County North Carolina Multi-Jurisdictional Hazard Mitigation Plan (the "Plan"), which plan shall supersede the Multi-Jurisdictional Hazard Plan adopted by Weddington in 2004; and
2. Agrees to take such other official action as may be reasonably necessary to carry out the proposed actions of the Plan.

Adopted on the 13<sup>th</sup> day of November, 2012.

All were in favor, with votes recorded as follows:

AYES: Councilmembers Hadley, Harrison, Thomisser and Mayor Pro Tem Barry  
NAYS: None

**E. Consideration of Municipal Speed Limit Ordinances.** The Town Council received a copy of a letter dated October 25, 2012 from Mr. Louis L. Mitchell, P.E., Division Engineer, with NCDOT requesting the appropriate Municipal Speed Limit Ordinances for enacting speed limit zones for the below mentioned areas:

Councilmember Thomisser moved to adopt Ordinance O-2012-14:

**TOWN OF WEDDINGTON  
MUNICIPAL DECLARATION TO ENACT SPEED LIMITS  
AND REQUEST FOR CONCURRENCE  
O-2012-14**

**BE IT ORDAINED** by the Town of Weddington Town Council that the speed limit modification on the following described portion of the State Highway System Street be adopted:

<b>SPEED LIMIT</b>	<b>ROUTE AND DESCRIPTION</b>
45	SR 1358 (Forest Lawn Drive) from SR 1357 (Potter Road) NW to SR 1338 (Antioch Church Road)
45	SR 1358 (Forest Lawn Drive) from SR 1357 (Potters Road) NW to SR 1344 (Weddington-Matthews Road)

Adopted this 13<sup>th</sup> day of November, 2012.

All were in favor, with votes recorded as follows:

AYES: Councilmembers Hadley, Harrison, Thomisser and Mayor Pro Tem Barry  
NAYS: None

**Item No. 9. Public Hearing and Consideration of Public Hearing.**

**A. Public Hearing - Polivka Mixed Use Conditional Zoning Rezoning Application for a 15,000 Square Foot Office Building Located at 13700 Providence Road – Parcel Number 06-150-045 (5.06 Acres).** Mayor Davidson opened the public hearing to review the Polivka Mixed Use Conditional Zoning Rezoning Application. The Town Council received the following memo from Town Planner Jordan Cook:

Polivka International Company, Inc. requests a MX (Mixed Use) Conditional Zoning Rezoning for a 15,000 square foot office building located at 13700 Providence Road, Weddington, NC.

**Application Information**

Date of Application: April 24, 2012  
Applicant Name: Polivka International Company, Inc.  
Owner Name: Polivka Parking Solutions LLC  
Parcel ID#: 06-150-045  
Property Location: 13700 Providence Road (Highway 16)  
Existing Land Use: Business  
Existing Zoning: R-40  
Proposed Zoning: MX  
Existing Use: Vacant House  
Proposed Use: 15,000 square foot office building  
Parcel Size: 5.06 Acres

**General Information-MX Rezoning**

- The applicant proposes a 15,000 square foot, two-story brick office building on Providence Road.
- The office building will be accessed by two driveways along Providence Road. The required Public Involvement Meetings for this project were held on July 25<sup>th</sup> and August 16<sup>th</sup>, 2012. The meeting on July 25<sup>th</sup> was held on site at 13700 Providence Road. The meeting on August 16<sup>th</sup> was held at Weddington Town Hall.

**Minimum Standards for Office Uses in the MX Zoning District:**

- Minimum Front Yard Setback-25 feet from any public road right-of-way
- Minimum Side Yard Setbacks-28 foot buffer is required, not a setback
- Minimum Rear Yard Setback-28 foot buffer is required, not a setback
  - Applicant has met these buffer and setback requirements.

**Access and Parking:**

- The site will be accessed by two driveways from Providence Road. Both driveways will have 18 foot travel lanes with a ten foot landscaped median.
- The southern entrance will serve as the main entrance to the site. A left turn lane, from Providence Road is being proposed at the northern entrance. NCDOT has provided feedback on the proposed plan and Traffic Impact Analysis. NCDOT has stated that the proposal will have no significant impact on surrounding roads and/or intersections. However, Town Transportation Engineer Justin Carroll does not see a need for a left turn lane at the northern driveway.
- The applicant is required 50 parking spaces for the 15,000 square feet of office space (1 space per employee during the shift with greater employment plus 1 space for each 300 square feet of gross

floor area.). The applicant has provided 70 parking spaces, therefore complying with *Section 58-175* of the *Weddington Zoning Ordinance*.

- Parking spaces and loading zones meet the minimum size standards set in *Section 58-175* and *58-176* of the *Weddington Zoning Ordinance*.
- A Traffic Impact Analysis was submitted on August 9, 2012 and has been reviewed by the Town Traffic Engineer and NCDOT. The applicant and the Town's Transportation Engineer have exchanged comments and continue to work through the Traffic Impact Analysis. All transportation documents are included in your packet.

**Screening and Landscaping:**

- Screening and landscaping will be provided by using several types of trees and shrubs. The applicant is required a 28-foot buffer around the perimeter of the property per *Section 58-8* of the *Weddington Zoning Ordinance*. The applicant has provided a 28-foot buffer around the perimeter of the property. The applicant will also provide internal landscaping within parking areas and islands.
- The proposed landscaping plan does comply with *Section 58-8* of the *Weddington Zoning Ordinance*. All proposed plants are permitted in *Section 58-384* of the *Weddington Zoning Ordinance*.
- The MX zoning district requires 10% of the gross acreage of the project to be open space. The applicant is required 21,041 square feet of open space and has provided 66,443 square feet of open space in the form of Village Greens, therefore complying with *Section 58-60 (2) n* of the *Weddington Zoning Ordinance*.

**Elevations:**

- Elevations of all buildings have been provided. Materials on the building include: hardi-plank siding, brick veneer, fiberglass columns and fiberglass shingles. At the Planning Board Meeting, they did state that 95% of the building would be brick.
- The proposed building is within scale and has similar physical relationships as abutting properties as required in *Section 58-271* of the *Weddington Zoning Ordinance*. Proposed building height also complies with *Section 58-60 (2) f* of the *Weddington Zoning Ordinance*.
- The Planning Board will serve as the Design Review Board for this project.

**Additional Information:**

- Adjacent Property Uses are as follows:
  - North: Parcels containing single family house and farmland (The Hunter Farm)
  - South: Weddington United Methodist Church
  - East: Providence Road (four lane highway with concrete median)
  - West: Parcels containing single family house and farmland (The Hunter Farm)
- A lighting plan has been submitted and will be reviewed by the Town's Lighting Engineer (plans included).
- Water to be provided by Union County Public Works once rezoning is approved by the Town Council.
- Sewer to be provided by septic tank approved by Union County Health Department (Approvals Included).
- Stormwater management to be handled by sand filter/detention pond in accordance with *Weddington Zoning Ordinance* and NCDENR (Plans and Approvals Included).

**Conditions of Approval:**

1. Water Plans and Allocation must be approved by Union County Public Works;
2. Lighting Plan must be approved by Town Lighting Engineer;

3. All engineering must be approved by Town Engineer - ***Stormwater Management Plan and Calculations have been approved by Town Engineer;***
4. NCDOT driveway permit must be approved by NCDOT;
5. Traffic Impact Analysis must be approved by Town Traffic Engineer - ***Town Traffic Engineer recommendations included in packet;***
6. All signage must comply with *Chapter 58, Article 5* of the *Weddington Zoning Ordinance*;
7. Prior to the commencement of any construction, the Town Council must approve Construction Documents in accordance with *Section 58-271 (h)* of the *Weddington Zoning Ordinance*;
8. Applicant must provide detention volume controls for a 25 year storm. Our ordinance requires detention volumes for a 5 or 10 year storm. The applicant has gone above and beyond. This was requested by our Town Engineer and they have done that. - ***Applicant has provided detention volume controls for a 25 year storm;***
9. Any future revisions to the approved site plan and other approved documents must comply with *Section 58-271 (i)* of the *Weddington Zoning Ordinance*.
10. Save the large tree near the house if at all possible, if not possible provide Zoning Administrator written documentation of why tree cannot be saved;
11. Any future sewer connection must be made at Providence Road (Highway 16);
12. Pedestrian crosswalks to be added to two driveway entrances along Providence Road - ***Crosswalks have been added to site plan (sheet RZ 1);***
13. Security lights in the parking lot can be on one hour after the last business closes until one hour before the first business opens.

In addition to the aforementioned conditions, the Planning Board expressed concerns about the following items:

1. Two driveway cuts along recently widened Providence Road;
2. Negative impact of left turn lane into site.

The Planning Board gave the proposed MX Rezoning a favorable recommendation with a 5-1 vote. The Planning Board added conditions 10-13 in the above written conditions. The ordinance states that the Planning Board must provide a written report to the Town Council. This memo plus their minutes shall serve as that.

Staff has reviewed the application and submitted documents and finds that the MX Rezoning Application is in compliance with the *Town of Weddington Zoning Ordinance* with the aforementioned Conditions of Approval.

The Town Council also received the following:

- Conditional Zoning Application dated April 24, 2012
- Aerial Image
- Zoning Map
- Land Use Map
- Illustrative Plan and Notes
- Illustrative Elevations
- Open Space Plan
- Landscaping Plan
- Stormwater BMP Details and Drainage Map
- Grading, Storm Drainage and Stormwater BMP Plan
- Electrical Site Plan
- 8/9/12 Traffic Impact Analysis – Stantec Consulting Services Inc.

- 8/22/12 – Independent Review of the Traffic Impact Analysis – Justin T. Carroll, P.E.
- Letter dated August 22, 2012 from J.W. Underwood, District Engineer with NCDOT
- Letter dated September 13, 2012 from Christa A. Greene, P.E. with Stantec Consulting Services, Inc. – Response to the Independent Review of the Traffic Impact Analysis
- Email from Trisha L. Hartzell, P.E. with NCDOT dated 9/24/12
- Letter dated September 20, 2012 from Mike Garbark, CIP Program Manager, with Union County Public Works advising that County water is accessible along Providence Road; however County sewer is not accessible.
- Union County Health Department On-Site Wastewater Treatment and Disposal System Improvement Permit
- Letter dated 10/30/2012 from Bonnie Fisher, P.E. with US Infrastructure regarding the Stormwater Management Plan Review for the Application
- 9/24/12 Planning Board Minutes

Mayor Davidson - I want to point out three things. Conditional zoning district decisions are a legislative process subject to judicial review using the same procedures and standards of review as apply to general use district zoning decisions. Conditional zoning district decisions shall be made in consideration of identified relevant adopted Land Use Plans for the area and other adopted land use policy documents and our ordinances. From the public hearing that we are having, the Town Council has the authority to a) approve the application as submitted, b) deny approval of the application and c) approve the application with modifications agreed to by the applicant and d) submit the application back to the Planning Board for further study. The last thing is you reviewed the statement analyzing the reasonableness of the proposed rezoning shall be prepared for each application for rezoning to a conditional district. There will be a motion and a statement of reasonableness along with that motion.

Town Planner Cook - Correct.

Mayor Davidson – Will you talk about the protest petition that we received?

Attorney Fox - There was a protest petition received for the property. The petition was received within the time period as provided by the statute. The protest petition was evaluated by our office and it was determined that it was a valid protest petition. Under the protest petition, once you have a valid protest it changes the vote from a simple majority to a super majority which is three-fourths of the Council members have to vote in order to approve the item. The Mayor is not included in that calculation.

Mr. John Temple – I represent Polivka International. Beyond that I represent the gentleman who owns the property and his name is Basil Polivka. The intent of our zoning application is to build a two-story 15,000 square foot office facility that will primarily house our corporate office. Polivka International has offices in Charlotte, Ohio, Texas and soon to be Montreal, Canada. What Polivka International does is we are a corporation/company that builds railroads. We do site development. We design and build railroad systems. We do not really own any equipment. We lease all of the equipment that we use on projects. We have approximately 100 people that work for us. This office would be our corporate office which would house between 9 to 12 employees. The process has been a long but good process. We have been listening as we have been working through this process and I believe we have met every requirement along the different steps and we appreciate the opportunity for this Council to consider our application.

Councilmember Thomisser - If you are going north on Highway 16 will you have a left turn going into your property?

Mr. Temple – According to the plans that we have submitted, we have shown a left-hand turn into the property if you are coming from the south.

Councilmember Thomisser - There are two lanes of traffic coming south on Providence Road and in order to make a left turn into your property they will have to cross two lanes.

Mr. Temple – That is correct.

Councilmember Thomisser – Do you feel that is a safe maneuver?

Mr. Temple – In our opinion we are just simply asking for it for the convenience of our operation. NCDOT can probably answer that better than I could.

Councilmember Thomisser – If my memory serves me correctly, former Mayor Anderson requested a left turn into the Hunter Farms when they were widening Providence Road and NCDOT stated that it was an unsafe maneuver.

Mr. Temple – I cannot answer that. I did not have anything to do with that particular conversation.

Councilmember Thomisser – Trying to make that left turn into your property, do you feel with a light being at the church that this is going to create a lot more congestion?

Mr. Temple – I would defer that question to NCDOT. What I understand is that they have studied that and they do not see any issues there whatsoever.

Councilmember Thomisser – I think common sense would say that would create a safety hazard and increase congestion.

Mr. Temple – I would request when you come back to that that you would ask the representative from NCDOT.

Mr. John Underwood – I am the District Engineer for Union County. I am in attendance this evening to answer questions for NCDOT. This site has been looked at and was originally brought to my attention when NC 16 was under construction. We sent it to Raleigh to be looked at because we were also looking at would there be any impacts to the NC 16 and 84 interchange. Currently you have two 600 foot left-turn lanes that serve NC 84 if you are headed southbound on NC 16. That is really based on the movement that is there today and exceeds much more than what is needed for that function. Based on the analysis that Stantec did (the Traffic Impact Analysis) and our review, we see no impacts in allowing the left over into this site. It will not impact NC 84 and it will not impact the main line of traffic on NC 16. You brought up will that left over be an unsafe movement. Currently the Harris Teeter has a left over serving their property. That left over is already built into the typical section of the roadway. It lends itself well to build a left over into this property. From a traffic engineering standpoint, we can approve as submitted. They have two points of access right in and right out and a left over. This is a protected movement. To say that we are not allowing a full movement access would concern me more along the NC 16 corridor. You cannot leave the property and make a left out which is where you have the most severe crashes.

Councilmember Thomisser – Leaving the property at 5:00 p.m. if you want to make a left hand turn onto Highway 84 and you have the light and traffic backed up you are going to have to go over two lanes of traffic in order to get into the turn lane.

Mr. Underwood– That is correct.

Councilmember Thomisser – Do you think that is safe?



Mr. Underwood – There is an acceptable distance there as far as our standards go to be able to merge into traffic and make those two lane transitions and get into the turn lane that serves NC 84. I do not see that being an issue.

Councilmember Thomisser – During the construction of the widening of Providence Road, there was an attempt to put a traffic light at the Activity Center, NCDOT told us that you have to have 1,000 feet between traffic lights.

Mr. Underwood – That is a general standard but that is two separate issues in my opinion. A controlled signal would be much more guarded. We do not want to introduce signals onto a strategic corridor.

Councilmember Thomisser – From a congestion standpoint, you do not see a problem.

Mr. Underwood – I do not. We would approve this. Everyone needs to understand that we still need to go through the access permitting process. The applicant has to submit to NCDOT, we submit to the Town for approval and we will go through those steps. This is just saying that NCDOT can approve this site and points of access that are being requested based on the TIA and everything that we have looked up. We have always been in support of this type of access for this parcel.

Mayor Pro Tem Barry - In the process of widening Highway 84 and 16, we discussed two or three times different left overs and consequences of that into and out of the Athletic Center, the shopping center, left over northbound into the Hunter Farm and we were getting “No’s” with the exception of the one leftover into the shopping center at the northbound entrance. Has there been a change in the NCDOT policy that validates this decision?

Mr. Underwood – Let’s start with NC 84. The proximity to the NC 16 intersection and the traffic generation that you have from this side (again I would really want to sit down and look at the numbers and the traffic generated from the site) to me that would cause functional issues for that intersection. The Hunter Farm location, the way I understand that was requested was - Can you build a left over into my parcel as you are building this construction project? Generally the way our process would work is you have to come to us with a development and show a need for traffic generation. I am not saying that was not followed but I would have to look at the layout and how it were to impact the left over that currently serves the Harris Teeter. If those were conflicting movements, then I would have to give the left over that serves the Harris Teeter. I am not sure what the spacing is there.

Mayor Pro Tem Barry - This approval just surprised me given the very consistent conversations we had during the design phase of Providence Road and the adamancy against these left turns to keep traffic moving.

Mr. Underwood – These left overs provided the right amount of storage should not impact thru traffic at all. It is better than a median break. This channelizes traffic and forces that traffic into the parcel. There was no policy change that would have prevented that to go in and allowed them to go in. Just a different case and situation.

Councilmember Thomisser - The distance between the Polivka left over and Hunter Farm is like 100 yards. If it was not good for Hunter Farm why is it good for Polivka?

Mr. Underwood – I would love to look at an aerial because I do not think you can serve the Harris Teeter development and serve the Hunter Farm property because your movements would be conflicting. You

cannot have competing movements. There is a left turn dedicated into this property and there is no way to provide for that left turn into the other property without having a dual left turn lane.

Councilmember Thomisser - Mr. Temple, I reviewed the packet and the plan says that you are going to have 70 parking spaces in addition to the roof of a 15,000 SF building. Can you help me understand the impact of the storm water runoff?

Mr. Stephen Overcash – The civil engineering has been reviewed and approved by the Town’s engineer. Everything goes into the retention pond which is designed to a much stricter condition as requested and is required by law. It will have to be reviewed by NCDENR in Raleigh. Everything that goes into the pond should be the same amount or less run-off on the property after we get through than there is today.

Councilmember Thomisser - Will your retention pond have a fence around it?

Mr. Overcash – Ours is a dry pond. We are going to landscape it along Providence Road. It will not have a fence.

Councilmember Thomisser - Is there a safety consideration for a child possibly drowning in the pond?

Mr. Overcash – It is a dry pond. There will not be water in it. In a gully washer, there will be a little water that will be immediately dissolved from the pond. No different than if you had a ditch in your yard that might fill up with water. A child could fall into your ditch. It is not a safety concern and we will have landscaping around it.

Councilmember Thomisser - Your property has heritage trees. I know that the one directly behind that ranch house was there when Thomas Jefferson and George Washington walked the earth. What plans do you have to save that tree? Not far from that one is another heritage tree which is not as big or old but those trees are extremely large and very old and I know Waxhaw has had some problems with heritage trees being cut down.

Mr. Temple – We just received a report on that today.

Mr. Overcash – We did not receive the report. We did have an arborist (Cadieu Tree Experts) go out and take a look at it. It was not there when George Washington walked the earth. It is approximately 100 years old. That species of tree typically only has about 10 more years under the best circumstances if you went up there and trimmed it and fertilized it and you did no construction. The report is going to say that we have about 10 years of lifespan on that tree. I have walked all the buffers myself and our intent there is to put up silt fencing and to keep grading only about five feet in and we are going to save as many in the buffer as we can. I have been back on Nancy’s property. You can hardly see through those trees because they are so thick. Our intent is to save as many of those buffers as we can because that will save us from having to replant. We will follow up but unfortunately the gentleman that went out today did not get me the report but as it says in our write up we will submit that to the Town.

Councilmember Thomisser - So you are committing to saving those trees?

Mr. Overcash – The ones in the buffer and not within a 10-year lifespan of dying. We want to save as many as we can in the buffer.

Councilmember Thomisser - Help me understand the septic system.

Mr. Overcash – It is a private system. We are going to pay to have it engineered. It has schematically been approved by Union County Environmental Health. We still have to go in there and do all the engineering and all of the design but it is designed to accommodate us. We have letters from the owners that they are going to maintain the BMP and the septic system.

Councilmember Thomisser - Suppose part of that septic system fails, is there a backup?

Mr. Overcash – You would call someone to come out and fix it. We will have a maintenance program. Anything can happen. A public system could back up and you would call an expert and have it fixed.

Councilmember Thomisser - You said there are going to be about 10 to 12 people from your company for the 15,000 SF office building so obviously there are going to be other people in that building that are not affiliated with Polivka. Do you have any commitments from any tenants or what kind of tenants are you looking for?

Mr. Temple – On the top portion of the property of the building would be the Polivka International Corporate Office. On the bottom level it will be a little over 7,000 square feet that will house professional space for others. We are in contact with some physicians and some physicians have contacted us that are interested in moving to Weddington. We have had some other professionals that have shown some interest in leasing some space on the bottom half of that building.

Councilmember Thomisser - We recently had a gynecologist that moved from the Weddington Corners Shopping Center down to the Arboretum office complex. I am wondering why your location with the difficulty getting in and out would be more desirable for a physician than Weddington Corners. I believe that there are some vacancies in the building here as well.

Mr. Temple – I cannot speak to any vacancies. I can tell you that the product that we are going to produce is a very high professional level and you have to ask other doctors why they moved from here to there.

Councilmember Thomisser - Do you have any interest in other retail development on your property?

Mr. Temple – No sir.

Councilmember Thomisser – Did you say at the present time?

Mr. Temple – No sir there is not going to be any at any time.

Mr. Overcash – We would have to come back before the Town Council for any other use other than office.

Mayor Pro Tem Barry - The dry pond - the 25 year perimeter you used when you schematically built this in a normal 5-year, 10-year kind of event I am assuming it would be half-full and have one-third of the leached out issues in the creek.

Mr. Overcash – Theoretically. You cannot say that a 25 flood happens twice as much as a 50. It really does not work that way.

Mayor Pro Tem Barry - But the event is the same. A flood is a flood.

Mr. Overcash – Yes.

Mayor Pro Tem Barry - When the event occurs, the volume downstream is going to be the same volume. Earlier in your presentation you said the runoff from the development will be equivalent to or less than is currently coming off.

Mr. Overcash – It is at a slower rate because we are holding it and releasing it at a much slower rate.

Mayor Pro Tem Barry - Releasing it to where?

Mr. Overcash – The same pattern that it has been. Wherever it is going right now, it will still be going in that direction but at a slower rate.

Councilmember Thomisser - In addition to it going down Providence Road and into Six Mile Creek and across the Hunter Farm into their irrigation ponds, in a very hard rain there is a possibility that water would end up in the Highgate subdivision. Is that correct?

Mr. Overcash – At a much less rate than currently exists today.

Councilmember Thomisser – But it will drain into the Highgate Subdivision.

Mr. Overcash – There is nothing holding it now. It is running off. We will be holding for a much bigger event than is required.

Councilmember Thomisser - You are aware that the residents of Highgate are suffering from storm water runoff at the present time. With a two to three day rain the rain is coming over the banks of Six Mile Creek and half way up to the fence line of some property owners. Were you aware of that?

Mr. Overcash – (Not audible)

Councilwoman Hadley – I would like to ask Chief Dye to come up to answer some questions. I know there was some discussion regarding the left over and about the two driveways. I looked at it from a public safety point of view. When I heard the discussion about only having one driveway and/or without the left over all I could think of was having an in and out access for public safety vehicles. I went and interviewed Chief Dye and I met with Chief McClendon from the Wesley Chapel VFD. I think both chiefs said that if we did not do anything else keep both driveways and the left over and getting us a fire hydrant out back would be nice.

Councilmember Thomisser - EMS would be coming north on Highway 16. Responding for a fire obviously would be rather easy for Providence VFD to get to the property because all they would have to do is make a left hand turn at the Hemby Road light. Did you have an opportunity to interview the Fire Chief of the Wesley Chapel VFD because they would be coming up Highway 84?

Councilwoman Hadley – Actually he is the one that said if you do not get anything else for this you get both those driveways and you get that left over. Those were his words which was supported by Chief Dye. Chief Dye will tell you that the only one coming south will be Providence VFD. All the other ones coming from Wesley Chapel, Carolina and Waxhaw will all be coming north.

Chief Joshua Dye – If they turned at the intersection of Hemby and Providence they could do it with a two or three point turn. It is crucial for us for a structure that big that our ladder is going to be coming from Station 26 and additional manpower is coming from Wesley Chapel Stations 26 and 31. Waxhaw and Carolina are coming from the south and that also includes your ambulances. Having the left-hand turn would speed things up and get our trucks in there a lot quicker.

Councilmember Thomisser - You could make a left-hand turn at the Highgate emergency entrance?

Chief Dye – There is a sign that says no u-turns for trucks.

Councilmember Thomisser - Emergency vehicles as well? A fire truck is a pretty big vehicle and I see them in the Weddington Corners Shopping Center. With your fire trucks coming from Hemby Road do you have any difficulty getting into the Weddington Corners Shopping Center?

Chief Dye – We do not come that way. We come down Weddington-Matthews Road and come through the back entrance because it is a shorter route.

Ms. Nancy Anderson – I am a little confused because the rules got changed in the beginning. I called today and asked what the time limit was and I was told there was not a time limit. If I am only allowed three minutes I would ask that I be allowed more time. I will be speaking on behalf of all of the visitors that come to the farm.

Mayor Davidson asked how much time she would like.

Nancy Anderson – I will be as brief as I can.

Mayor Pro Tem Barry moved to give Ms. Anderson 10 minutes and more if she needs it at the end specifically because she is the adjoining property owner. All were in favor, with votes recorded as follows:

AYES:	Councilmembers Thomisser, Harrison, Hadley and Mayor Pro Tem Barry
NAYS:	None

Ms. Anderson – I did serve as the Mayor from 2003 to 2011. I am owner of the Hunter Farm and the current custodian. I am the adjoining property owner and the one most affected. I filed the protest petition but it appears now that even though it is a valid petition it really will not apply very much to a five member council. My only purpose for filing that petition was to hit the reset button. It was not in any way, shape or form to try to stop the development at all. Somehow I did not manage to work within the rules that were happening. I have had many conversations with Jordan over the last couple of months on how to apply for a conditional use permit for the farm because we are operating without one. We were grandfathered in. We do not have a permit to be an agritourism business. I think it is important to get one. We want to add to our program. So he advised me that the Land Use Plan is being reviewed and the survey is being done and do it that way. My real goal was to incorporate the project with the whole west Providence Road corridor. I believe that we have an awesome opportunity here today to be the shining star and an example of how we can incorporate commercial, institutional, conservation land, agricultural land and residential. Not just to coexist but to thrive. We can knit this together in such a way that it will enhance our community and be what everyone should aspire to. The timing is off. They put their application in. It was considered prior to the Land Use Plan being finished. I am not asking you to hold up their process only by 30 days. I am not here to talk about runoff, traffic congestion or median cuts. What I am here to talk with you about is something more important. I am not here to talk about whether we should develop this property. I am here to talk to you about how we should develop this property. Since 2001 the Hunter Farm was put into the conservation easement which made it undevelopable. There will be no houses or anything there. It has presented a great challenge to this Town. What to do with the Polivka property? What is appropriate there? Daniel, in our many conversations about this you have already said I just want to get the dialogue going. I think you have succeeded. Since you and I have known each other the very first time I met you, you told me that any time someone presents a reasonable,

thoughtful suggestion or proposal that you will listen to it with an open mind. I trust that you are going to do that today. I do have some ideas that I would like to share with the Town Council. I want to tell you the basic concepts. I see this as a great opportunity to really do something beautiful here. We can knit it together very well or it could turn out like one of the sweaters my grandmother used to make. She was getting old and she would run out of yarn and she would start with another color. One of the sleeves would be too long and one too short. The buttons would not match. We had to wear it or it would hurt her feelings if we did not. I do not want us to have a ragged looking sweater. I want it to be a beautiful quilt all knitted together. We can do that. Before I show you the basic concept I want to address a few issues that have come up during all the public meetings and that is that all landowners are created equal. I have sat at this podium and said that it does not matter if they have owned it for two hours, two years or 200 years that landowners have property rights but that is not always exactly the case. The Hunter Farm is special. I tell the children that come out to the farm that the Hunter Farm will be a farm forever. It is a forever farm and our family is the current custodian of what many describe as the crown jewel of Weddington. It is what most of the residents love about our community. Besides preserving it we share it with you. Thousands of people come to our farm every year and most would agree that it adds value to the community and we exemplify that Weddington brand. I know that there are members on the Council that have studied this for months and they are sick of it. I know that there is very little that can be said tonight that is going to change your mind. I commend you for all the hard work you have done. But I do want to ask you if you have talked with anyone from the Catawba Lands Conservancy or the Ag Extension because what we are talking about here is a century old farm. Many of the regulations and ordinances that we have in this Town do not apply well to agricultural uses and the buffer one being the most glaring one. Twenty-five feet is not enough. You need a 50 foot buffer if you are going to be organic. You cannot even spray roundup. We are not doing that now but we are certainly looking into it. It is a three year process. A person should have the right to develop their property. Agreed. As a family that has owned over 500 acres here at one time I would never deny that to anyone but you are not allowed to develop your property at the expense of someone else's and I think that is what we are looking at. There is another statement that I have heard and that is that it has been eight months since they applied and they deserve an answer and we cannot put this off any longer. Ladies – you carried your children for longer than eight months and I know during that last trimester you wanted that delivery date to come. Asphalt is the last crop you will ever plant. Once you do this it is forever. Eight months in those kind of terms is really not that long and another 30 days should not be considered that long either. I have heard that Mr. Polivka is a very patient man. Another comment that I have heard many times is I am getting tired of getting beat up over this with all these awful emails. I will say to you stop beating them up over this. Stop being part of the problem and be a part of the solution. Stop posting videos on YouTube saying derogatory things. This is a very hard job. I did it for eight years and it is not easy. Many times when I was on this side of the table, Barbara Harrison hardly ever missed a meeting and got up to speak many times and never once do I ever remember her being disrespectful or unprofessional. Please follow her example. Some of you have made careers out of complaining. Be grownups about this. I do have some visual aids. The whole point of this conversation is that you need to preserve the viewshed, the beautiful vista from the farm's side. All of you have been there and seeing it in the summertime and fall are beautiful. You need to look at it when the leaves are off the trees. This is a view that you have seen. This was done by Jean Lee Pirkey and it struck her as one of the most beautiful scenes on the farm of looking up on that hill. I am just giving you my ideas. The simple and quick solution for the Polivkas. This is what you have seen. This is a blow up of what the plat looks like. In my mind a very simple solution here would be simply to extend these buffers and take this whole thing just as it is and pull it down the hill. It would take 10 minutes on a CAD system. Bring it down and extend the buffers. That alleviates a lot of concerns over what is going to happen next. It would help save the tree but apparently they do not want to save the tree or it can't be saved. I have had many conversations with the CLC. We can have a mini trail there. We could incorporate it into the Hunter Farm and even extend to the Polivka property if they would like by footpath only. Along the sidewalk we could connect with the Carolina Thread Trail. If someone would like to ask me a question about the NCDOT thing I will answer it. The topography at this level makes it conducive

and the scale would work to have three stories showing on the front and two in the back. If this messes up the drainage on your maps you can see that we have more than ample drainage receptacles.

The Town Council took a brief recess.

Mayor Pro Tem Barry - On December 10 we have a Town Council Meeting. I would like to make a motion to recess this public hearing to be reconvened at the Town Council Meeting on December 10 to provide for further consideration of Ms. Anderson's option and for another discussion with Polivka regarding the ingress and egress for their property. In our Rules of Procedures we can recess a hearing and reconvene additional public hearings in the process to gather more information. I would rather us have all the information and have a complete design on this project rather than riding this all the way down and end up in a four-hour conversation about a left over on Providence Road.

Councilwoman Harrison - Why is it going to take to December 10? If we are going to do this, do it in a couple of weeks. Why do we not do it on the day before Thanksgiving? There is a process in place. I am going to look at that process and say the former Mayor had the ability in two different meetings to be able to come up to Polivka and say I want to talk to you about this. Over the course of how many months and she did not do so and now all of a sudden we are supposed to bend the rules for that. If we are going to do it let's have another meeting and have it in a couple of days just like they did with the Woods hearings where it was every couple of days.

Mayor Pro Tem Barry - I would be happy to accept an amendment. I just picked it because it was the next stated meeting knowing that we were going to have at least a meeting between the affected parties and probably have to call a special meeting in the interim before we get there. I am not going anywhere for Thanksgiving so Friday works. If the Mayor is going to be out of Town, part of it was in consideration of his schedule. I respect your concern. Everybody knows I have been in favor of this project from the very beginning. It is a matter of seeing if we can create some cohesive nature in this and lower the tenor of rhetoric so that we can create a win-win situation.

Councilwoman Harrison - I do not think that will ever happen. I have spent almost my entire Veteran's Day reading minutes from 2003 to 2012. There are some statements but nowhere do I see what we are going to do with that property. Nowhere do I see what you would do if Mr. Polivka were to build four houses because he would not have to come in here and he would not have to follow any of those buffer guidelines except what he already has in place. I am feeling right now like we are railroading an applicant and have to understand why we are doing that when we have a process in place. Everybody had the ability and I understand that there were people that were very verbal in some of those meetings about what they thought. We have a process in place and we are going to delay it. If we are going to do this let's get it done quicker and not 30 days.

Mayor Pro Tem Barry - I respect you and I understand exactly the position that you are staking out. I agree that we have rules and policies. One of the policies that we have gives us the ability to defer and stop and take our breath. It is courage to stop and self evaluate exactly where you are. I am convinced and no one has given me any information yet as to where we are as to why not make this change. If we can broaden the scope and we can correct or tweak a couple of things and make a lot more people happy than are happy right now then I think it is in all of our best interests as leaders to stop and take a deep breath and to figure out what the exit strategy is recognizing someone is going to have to fight hard to change my mind on the project but I believe if we can include more, then we have a more defensible position.

Councilwoman Harrison - There were a whole lot of emails but if all you are going to say is what a terrible person I am that does not give me any reason I should not go forward with this. The other thing is that I keep hearing about how the Land Use Survey must be completed and a new plan put in place when in fact

we have a plan that goes to 2012 that has statements on 15 different pages about something like that. I am not understanding about the survey. I do not understand why people were told that you have to wait because this survey will change the Land Use Plan. We as a board have not said we are going to get rid of anything that we do not like because of the survey. I will tell you if you go back and look at the surveys that we have done in the past, 69% of the people said we do not want street lights and we do not want banners or monuments and yet prior Councils spent \$197,000 of tax payer money and did it anyway. In the Land Use Plan it clearly states that this is a guide. We have ordinances that allow us to vote. Are we going to give the impression to the people that are sitting there to please do the survey which we already know is tainted. Please do that survey because once we get the survey then we are going to vote no for Mr. Polivka. That is the impression that I get from the emails. What is going to change by delaying that? Is the rhetoric going to go away from whoever is telling people that. I do not think so.

Mayor Pro Tem Barry - Shame on me if it does not. If there is one person at the table that has a right to be upset about the nature of the communication and emails it is me because I have gotten the brunt of it for four months. I stopped today two or three times and this weekend and said am I making this decision and reacting because I am angry or am I making this decision because it is right. I am convinced that we are moving in the correct direction. I am not sure we are moving in the right direction in the correct way. If it means that it costs us 30 days then I think it is worth taking 30 days to close all of the lingering details and put the shrink wrap around this. If I get one more email I can call a special meeting for Thanksgiving Day and we can have a public hearing.

Councilwoman Harrison - I think we should do it before 30 days.

Mayor Pro Tem Barry - You and Pam can call a meeting. All you need is 48 hours.

Councilmember Thomisser - I have read all of the emails you are referring to. I think the people of Weddington are really saying that they want to see this survey to see if anything has changed since it was done the last time. I think that is a positive thing. You talk about the Land Use Plan as a guide. The survey and the Land Use Plan is what the people of Weddington want their town to be. It is not what I want it to be or what any Town Councilmember wants it to be. It is not my vision and it is not anyone on this Town Council's vision. It is the people's vision. I think the emails that you are getting are people that are saying that we are willing to accept it if something has changed. This whole process is a rush to judgment. We have a current Land Use Plan and 70% of people said that they did not want any more commercial.

Councilwoman Harrison - Would you want me to read from the Land Use Plan?

Mayor Davidson - I think the 30 days and a meeting in between will help us tighten up the Land Use Plan along with the project so that we are not vulnerable. There are things that this project is inconsistent with in the LUP and we can address those between now and the December meeting. The Town is going to be better off because I am telling you that I know that people want different things but there is something that everybody in this Town does not want. If we weaken the Land Use Plan, we can be challenged. I would like to see us to do at least that during these next 30 days. Some of the language is pretty black and white and let's take it out so this project will fit.

Councilwoman Harrison - I am going to read a section from Page 47 of the Land Use Plan. The survey showed a preference for innovative commercial uses that blend in rather than are differentiated from adjacent residential areas. Such land uses such as limited retail and office if properly designed can be both appealing and harmonious with the adjacent land uses. A two-story brick building that looks like a colonial building next to a brick church is very harmonious. Are you suggesting that piece of statement gets taken out of the Land Use Plan? Everyone knows that a property owner was willing to give 50 acres



for a park and a library and in return 250 acres was going to be voted to be commercial. Will that still be the case?

Mayor Davidson - There is the northeast quadrant language that is in there and if we want to move forward let's address that whether we take it out or we move the lines. There are plenty of churches in Town where you probably do not want retail next to it and so this is the kind of discussion that we need to have before we move forward with this because it is a significant change.

Councilwoman Harrison - It is not going to be in 30 days. You and I both know that and on top of that we have a survey that you can take multiple times.

Mayor Davidson - Let me address that because we have the minutes for that. We sat here and we stopped and we paused and we said are we concerned about this survey being manipulated and I suggested about doing the paper copies that could not be copied. We talked about ID numbers. We talked about all of these things and this council said no we are not worried about it. Let it go and so I am confused to hear now that it is tainted when we literally stopped and asked if everybody was good with it.

Councilwoman Harrison - When I get approached and I am told that someone took it multiple times because they wanted to make sure you cannot bring in commercial then it is tainted.

Mayor Davidson - I know. We knew that and we had a discussion about that.

Councilwoman Harrison - I asked for a control number.

Mayor Davidson - But we voted on it.

Mayor Pro Tem Barry - I am all for taking it again saying we did not do this right and we need to start over. It is already built; all we have to do is put the field in and re-mail the card. I want to be clear to you and the audience unless someone gives me a real reason not to support it that is the direction I am going and my commitment to you is if the emails do not stop I will call the special meeting and we will reconvene the public hearing.

Councilwoman Harrison - I understand what you are saying and I heard what the Mayor says. The Mayor has a different agenda. He is saying I want to take this and I want to rewrite this before we make any discussion. It will not happen in 30 days.

Mayor Davidson - I am not saying that we rewrite it. I am saying that we take this project and we go through the Land Use Plan and we fix the language so the Land Use Plan is consistent with the project so when the next guy comes in he cannot say you overrode language here. It has got to be consistent. That is all I am asking for at this point.

Councilwoman Hadley - And we have not done that the last 30 days why?

Mayor Davidson - I have tried to get us to talk about it multiple times.

Councilwoman Hadley - Point of order. My phone has not rung.

Mayor Davidson - What was the presentation?

The Council discussed different dates to recess to.

Mr. Temple – I cannot do the 28<sup>th</sup> because I am in Texas. I would ask to speak sometime before the decision is made. This has implications to us financially.

Mayor Pro Tem Barry amended his motion to recess the public hearing until November 27 at 7:00 p.m. I will commit to you, John, if we know in advance that the meeting is not going to occur we will let you know so that you are not wasting a trip to Town. I also understand what this means to you.

Mr. Temple - It violates your own rules. I understand exactly what you are talking about and here is my concern. A week ago I received a call from Nancy Anderson. I agreed to come to Charlotte to meet with you and I made myself available but that opportunity was not taken. Now I am sitting here tonight \$100,000 into this process and we have followed every single rule. When we made the application in April no one came to me and said we are going to do a Land Use Plan review. What you did was took our money. We did the engineering studies and we did all these things you asked us to do. Now Nancy comes tonight and she says why don't you pull this down here? That means we will have to start all over again through the Planning Board because we were told that once you submit where the building is going to be that is where it has to be. I am going to have to go through the whole process again and redo the calculations and we have to do all the engineering studies over again. She comes tonight and says why can't we all get along together? How is this fair to the landowner at this point? I do not know if I can be here in two weeks. I am going to have to look at my schedule too. I want to know what will be accomplished in 30 days. Is she is going to ask us to pull this building down, Jordan, will I have to go through the whole process again?

Town Planner Cook – No, you will not. The project has not been approved. Once a conditional zoning permit is approved is what you see is what you get. The Planning Board made a recommendation based on this site plan. Now the Town Council does have the discretion to take many different options.

Mr. Temple - It changes the engineering. I do not know how that is fair to us.

Mayor Pro Tem Barry - I understand.

Councilmember Thomisser - I understand what Mr. Temple is saying but I also understand what is fair to the people of Weddington. I tried earlier in the motion to postpone this until after we rewrote the Land Use Plan and survey but Councilwoman Harrison says that we cannot do it in 30 days. If we cannot do in 30 days then why do we not postpone this thing until the second Monday in January?

Mayor Pro Tem Barry - There is no way I am doing that to them. I completely understand what you are saying John. I am not convinced that is the right answer but there is another answer out there.

The vote on Mayor Pro Tem Barry's motion is as follows:

AYES:	Mayor Pro Tem Barry
NAYS:	Councilmembers Hadley, Harrison and Thomisser

Before Chris Rea began a woman in the audience advised that he could have her three minutes.

Chris Rea - I live in the Steeplechase neighborhood. My wife Jan and I have lived in Weddington for 18 years. I am a native of Charlotte and we moved here back in 1994. In 2007 Mr. Basil Polivka with Polivka International bought a five-acre piece of property with a single-family home on it across the street from our little business center. This 5-acre property that he knew he overpaid for was zoned R-40 but he was and is still arrogant enough to figure that he could roll over whatever local politicians he had to to get the property rezoned and easily get his way. But he was wrong. The Town Council at the time turned him

down. And when the Town Council did not give him the answer he was looking for he waited patiently until 2011 when a Council more favorable to his position was elected by trusting citizens but he was wrong again. The Council that was elected at that time campaigned on promises that they would never agree to do the bidding of some developer or so we were led to believe. Somehow this developer was able to change enough Councilmembers' minds that some of them completely reversed the positions that they campaigned on and now there are enough votes on the Town Council to push this rezoning through. Assuming that the Council votes to approve the zoning, they will have succeeded in opening the door to something that virtually no citizen of Weddington is in favor of – a 15,000 SF office building. During the Planning Board meeting on September 24 one of my neighbors in Steeplechase spoke. I will read the brief exchange between him and some members of the Planning Board. He is not identified by name here only by gentleman. This is on page 130 of the agenda packet for tonight's meeting. He says, "I live in the Steeplechase subdivision. Originally there was a sewer line that was going to go through Hunter Farms down through my back yard. Can you make a condition so that in the future that would never happen? A condition that says that they must tap in at Providence Road." Chairman Sharp responds, "A condition that any sewer connection in the future must be in front of the property." Ms. Propst said, "How would that ever happen any way?" The gentleman says, "If they come to you guys and want expansion of the property and no longer can use the existing septic system and now we have to revisit going through Steeplechase to tie in at Highgate." Chairman Sharp says, "Any future sewer connections to a sewer system must be through the front of the property. You can't cut across Hunter Farms and go to Steeplechase over to Kings Manor." Again reading from the minutes of the September Planning Board Meeting on Page 135 of your agenda packet it says, "Any future sewer connections must occur along Providence Road." Here is what is interesting that also in the packet is a letter addressed to Jordan Cook from Mike Garbark from the Union County Department of Public Works and he writes the following: "The above mentioned site plan for 13700 Providence Road has been reviewed by Union County Public Works. County water is accessible along Providence Road but County sewer is not accessible." It appears that an issue that my neighbors thought had been settled has not been. If the building of the Polivka property is expanded at some point in the future beyond what they are telling us now something that is likely to happen in my opinion this developer will be in my back yard and my neighbor's back yard and we will be fighting the sewer thing all over again. Even aside from the sewer issue regarding the larger issue of commercial development in Weddington generally I fail to understand why we need any more commercial development than we already have. It would be different if Weddington were stuck out in the middle of nowhere when you have to plan a day trip and pack up the car and stock up on supplies. The fact is that you can drive 5 or 10 minutes in any direction and find whatever you are looking for at any number of humdrum cookie cutter businesses. From a few minutes drive from here is the Arboretum, Rea Village, Providence Commons, the Promenade, and Village Commons in Wesley Chapel - there are no shortages of places to shop nearby. It is not a rare thing. You know what is rare – a tranquil quiet place with a small town feel – Weddington, our Town, that is what is rare. Someone speaking in favor of bringing commercial development to Weddington mentioned how nice it would be to have a coffee shop where you could sit down with a friend, relax and have a cup of coffee. Some of you may remember that we had such a shop right there in Weddington Corners and it went out of business and now it is a karate school. Why is Mr. Polivka the only one that is exempt from the Land Use plan as it exists now? Why is it so urgent to vote on this tonight? The deadline for the residents of Weddington that have completed the new survey is November 19 – six days from now. Can this not be delayed until after the land use is collected and published? What made some of you change your minds after you promised to preserve the things that made our Town so special? The simple fact is that the overwhelming majority of Weddington residents state that they do not want any further commercial development. One of you stated for the public record the following: "Basil is a very good friend of mine and he supported my campaign and so for transparency and disclosure purposes I wanted to make sure everybody in the audience and for the record and were aware of that. It is public record and you can go to the fec.gov website and punch in my name and see all 375 people that gave me money a lot of whom are real estate developers here in Weddington."

Ms. Lib Propst – I live at 601 Weddington Road. My family has been in this community for over 150 years so none of you have anything on me. I want to apologize to the Polivkas for the way that they have been treated by the community. Nancy did the same. I do not understand why you do not want anything in this community. I loved it when we had the country stores. I do not understand it at all. This would be a beautiful asset to our community. My dear friends Bobby and Lucy Helms owned that five acres and they fought to have something nice there. Their children were mistreated. They will not even come to this community any more. Bobby and Lucy are dead but their memory could live on in a beautiful complex like they wanted to build on that hill. I see so much selfishness in this room it is pitiful and I grew up here. These people have rights too. I do not want anyone telling me what to do with my land and you do not either. I do not come to any of your homes and tell you how to mow your yard and how to plant shrubs or what to do. I do not want you telling me and you should not be harping at them. This is horrible. All of this fussing for nothing when our country is going down the tubes. Look at what is happening in Washington. The same thing is happening here. You are becoming like socialist, communist people who want control over everybody's things and that is terrible. There is a church up on the hill and there are churches all around; maybe some of you need to visit them and get down on your knees. Please stand up and approve this project.

Ms. Genny Reid – I want to point out that it says that there are only a few towns like Weddington left in the greater Charlotte area. Why did we move to Weddington? We moved here to get away from Charlotte and all that goes with it and for some to move to a nice quiet residential area with lots of residential land and very limited business activity. We like it that way. Why do we want Weddington to grow? The comprehensive land use survey will give you a very good idea of what the vision of residents want. I believe they want to maintain our residential and serene setting. Mr. Polivka bought the land knowing that it was zoned residential. If we moved here to get away from Charlotte or to get away from business development how would an office complex be an improvement to Weddington? Furthermore it appears that Mr. Polivka does not really appreciate how special we are here and he does not seem to care about the future of Weddington or he would not want to change our landscape just for him. He wants us to make an exception for his needs and not ours. Progress for Weddington is not for more businesses or office buildings but progress is maintaining and improving the current quality of life. An office building does not fit this description. This is a residential community and that is why we like living here. Drive up Providence Road from Charlotte and after you pass Audrey Kell the landscape is residential and open land. This is what we like about Weddington. We do not want to see a 15,000 SF office building with 70 parking spaces as we drive up on Providence Road as we drive towards Waxhaw. This rezoning to business will surely open the zoning request from additional landowners on that side of Providence Road. Let's not ignore or forget the fact the Pittenger land on the corner of Rea Road and Providence Road – 80 acres they are just waiting to change that probably. We do not want to look like Wesley Chapel or Waxhaw. This rezoning will unfairly reward a single landowner who chose to buy this land zoned residential at the expense of the quality of life for the rest of us. Weddington wants and needs our leaders to represent us and not special interests so I ask you to represent the majority of our residents and postpone your vote until you hear from the comprehensive Land Use Plan survey and if the majority does not want more business please vote against this rezoning.

Ms. Janice Propst – My family has owned a farm in Weddington for 120 years. We still own a farm in Weddington. It is one of the most beautiful things you see on Highway 84. It is over 200 acres and we maintain it beautifully for you to enjoy but one day our family will have to sell that farm and we have property rights. We have paid taxes on that property for probably 120 years. I believe that Basil Polivka is an honorable man. I have met him and he lives in our community. Basil Polivka only wishes the best for this community. He could build four houses and this board would have no control over what he does. That includes the water run off but instead he is going to put one 15,000 SF building that looks like a house. There are houses in the community of Weddington that are bigger than 15,000 SF. He has 11 employees. It is not commercial. This is his business. It is not retail. It is his corporate headquarters and

he is going to lease out space for medical people to come to your community that can serve you. It is also tax dollars to help us with our EMT, fire safety and police. We have expenses that this community does not even realize is going to go up in the next few years. We have police – our police security is very expensive. Do you want your taxes to be 30 cents per hundred? We do not have anyone else to help support our tax base. We are going to have taxes that you really do not want. I am here to support the Polivkas. I think that they have an honorable thing that they have done with the property. The previous Mayor has no problem putting Rea Road through the middle of my family's farm and it will destroy a home place that has been there for five generations. It is on Highway 84. It is a beautiful farm right beside Aero Plantation and you think I feel resentment towards someone wanting to put a freeway through that. My family will lose their home place. Five generations have owned that farm and she did not have a problem when everyone was screaming Rea Road - Rea Road. That is going to destroy my family farm. I am here to support the Polivkas and I believe that it is an asset to the community.

Mr. Richard Sahlie – I moved to Weddington from Charlotte about 10 years ago. I was attracted to Weddington because of the attractive rural atmosphere of this Town. Weddington is everything I hoped it would be. Weddington is an island of tranquility in a very hectic world. Please let's keep it that way. From the Council minutes of July 9, Mr. John Temple representing Mr. Polivka testified, "Our ultimate objective is simple. Mr. Polivka wants to build his corporate office here." In July it was an office with just 7 to 10 people. Now the plan is 15,000 SF with 70 parking places - very different from Mr. Temple's testimony that we simply want to operate our corporate office. He went on to say, "We presently only have seven people that work out of Mr. Polivka's office. This building would house those seven people perhaps even up to 10 people." That was in July. Very different than what is being proposed here. Now I want to talk about traffic. In order to accommodate traffic in and out of the proposed building this drawing shows a new island in the center of Providence Road across from the existing shopping center. To go northbound from the proposed building would require first crossing one southbound lane of Providence Road to the new island. (*Ms. Byrum gave Mr. Sahlie her minutes so he could proceed.*) Second making a u-turn around the proposed new island into a northbound lane of Providence Road - can you imagine this happening at any time but especially at the evening rush hour? I went out there at 5:30 in the evening and sat in the shopping center parking lot and watched the traffic. Traffic waiting to turn left onto Weddington Road sometimes extends back all the way to the shopping center. This is before the economy makes a big turn and people from Waxhaw and between here and Waxhaw build a lot more homes. This is not smart. Despite what the traffic people told you this does not make sense. Please let's stop and think this thing over. It is a bad move.

Ms. Laura Carver (*Bill Snider gave her an additional three minutes*) – I live in Steeplechase. I have been living there since 1998. I am here to talk about the Conditional Use Permit to change this land to M-X. I did not realize that the only use he could make of the lower floors was strictly medical or offices but not necessarily doctors. I want to disagree with the land use change for this property from residential to business. It has been residential for a long time and I think it should stay that way because this office space is not really creating traffic for the use of the community at large. It is an office building just for Polivka with some commercial office space that we do not know what it is going to be for or if it will lease out within the next three years. It will not create much foot traffic it does not seem to me. The shopping center across the street does service the community with a lot of foot traffic. It is extremely close to the intersection of Highway 84 and I do think this is going to cause a traffic problem but just like anything else people cannot drive and there are going to be wrecks. Another problem area I see in this is spot zoning. North Carolina does not like spot zoning. If we continue to do commercial zoning on this side of the road it is going to cause a lot of flooding. We are already having problems back in my neighborhood. It comes 10 feet into the back of my property when it does rain very hard. I have a berm that keeps it out of my yard. I would like to ask you to not to decide on this matter until the citizens are surveyed. I have really enjoyed completing these surveys in the past and I really felt that they were of high quality. I was really impressed the way that they were done and the questions that were asked and the formality of it. Another

thing that was addressed by Nancy was some of the negative emails and texts that you have had. I do not want to be lumped in with those people. I have not texted any of you and I have not emailed any of you. I have not called any of you except the Mayor on the phone and talked about any of this except with one neighbor. I do not like being lumped in with other people. It gives the appearance that you take everybody in this room as the same way. I do not like that. I like Nancy Anderson's comments about relocating the building down. I realize that it would cost a lot of money but it would help protect the historic vistas from the farm. It has appeared from your little interlude before the public hearing when you were all making your comments about this and it sounded like to me that this public hearing is just a waste of time because you have already decided how you are going to vote. I am really sad because I feel like you do not really want public comment about this and how it is going to affect me and my backyard. There is always a consequence to everything that is built. You may not see it now but you are going to see it later. Remember all the houses and apartment complexes that were bought out in Charlotte because of flooding.

Mr. Rob Dow – I was the only one that voted against this on the Planning Board. I would like to make sure that everyone understands that this is not personal. I understand that you think you are doing what you think is best for the citizens. I disagree and we can agree to disagree. Secondly, I think the Council has every right and you are not bound by the Land Use Plan. There is no question about that but I think the way you do it can be good or bad practice and can open the door for problems in the future. Barbara and I evidently disagree on this but I see the sections that she spoke about in the Land Use Plan but I find at least eight black and white conflicts with the current Land Use Plan and with the rezoning of this property and I am concerned that down the road when the 80 acres on the corner of Rea and Providence comes along that this is the first of many commercial MX rezonings that will be on the west side of Providence Road. To have a strip commercial you have to have the first one and this is it. Until now we have none. We have stood on that and it has been in the plan and we have said no. This one will be the first. I don't care what you call the other properties whether they are non-residential or whatever name you want to put on them they are not zoned commercial. I think you need to realize that whether I like the Polivkas or whether I don't is irrelevant. They bought the property R-40 knowing it had been turned down once already. They took a risk. It is not their right to have commercial. The rezoning goes with the property. If the Polivkas are wonderful people and stay there for 50 years or not is irrelevant. The next owner which could be very easily a year from now might be someone totally different so all of that is irrelevant.

Ms. Carol McLeod –I have been here for about 10 years. We are property owners for a lot of land and I appreciate what they are trying to do to. I believe it will improve Weddington. I see it as a tax base for trash service that we do not have. I see it for a new fire station. I see this as an opportunity to bring some services to our community that we do not have. I love the schools but I came here because our family was here. We are not leaving. I think these people have done it the right way and they have followed the rules. They have done everything and it even seems like they have followed the old land use. I have come to some of these meetings and I have been hearing some people saying that they have taken this survey two or three times. I am thinking where is the ethics in that? You are supposed to take it one time. Now with the survey totally not right because we thought it was done honestly. I was here and I applaud thinking that this new survey that everyone was going to do it the right way. You are going to get skewed results and that concerns me. Whatever you decide - God bless you for doing your roles. You are wonderful for going through this. I cannot imagine getting the emails and texts that you are getting. It is horrible to be treated like that. We are a community. We have great schools and great people. We need to do this together because we need some services here. We are a beautiful community but we are lacking in my opinion. Look at Wesley Chapel and look at Waxhaw and they have some awesome services for their people. I think we are missing a little bit here. We have to have both a little bit of a balance. It is not just that we have to have a rural community. We are not rural anymore.

Ms. Judy Johnston (Ms. Lynch gave her three minutes to Ms. Johnston) – I have been listening from the beginning to Polivka present their ideas and the process that they have undergone to make this as blended to Weddington as much as they can. I think they have made every effort to do that. The project makes sense to me. First, the definition of business (also known as a company, enterprise, and firm) is a legally recognized organization designed to provide goods or services, or both, to consumers, businesses and governmental entities. The parcel under review is located between a school of 600 students on one side and a farm offering “pick your own” fruit in the spring, and pumpkins and holiday trees in the fall. Across the street is a shopping center and gas station. Being sandwiched as it is, this parcel only lends itself to be used for light business. Traffic is a non-issue. We’ve been assured that there will be only approximately 7 – 15 people working in this location. Even if this number increased to 25 or 30 it would still be significantly less than the traffic from the moms of 600 children coming and going every day from the church, school, and the thousands of individuals that come and go from the farm in the spring and fall. The Town will have much more oversight over business construction than if it were developed to be residential. I know from personal experience that water and sewer lines coming through other properties are not under the control of the Town for residential use. Ken Dowd took a wide slice all the way across my property in order to build the Bromley neighborhood. He needed to connect to Mecklenburg County sewer because of the lack of accessibility to Union County utilities at the time. Union County follows the creeks using gravity for flow of sewer lines. I had a nice creek running through the woods, across the back of my property. Now I have 95 feet of property behind a 30’ open slice taken out for sewer lines. I was told by Weddington that they could do nothing to help me. I was told by Union County that developers had 100% approval of requests to take land for large developments. (Keep in mind that the Bromley neighborhood was to be over 100 homes starting at \$1.5M.). If the Polivka parcel is rezoned to business the Town will have some control. As I understand it they are going to put in a septic system anyway so it is really a non-issue. Rezoning this parcel does not mean all rezoning requests are automatically going to be approved. That is why we have a Planning Committee and a Council. Our Council has spent many hours to educate themselves on the pros and cons of this request and are much more informed and capable of making an informed decision than I am or most of those in the audience. Sooner or later business will find its way to Weddington. We have an opportunity through these discussions to stop being in denial and begin to plan how business can marry with residential as an asset instead of a liability. I think a town is a balance between business, residential and recreational use - a place to work, play and live. Weddington is way out of balance. Other towns such as Hilton Head successfully integrate business and residential parcels because they have developed strict guidelines for architectural standards and land use. If Weddington wishes to be different than other towns in this area we must start now to define a specific image both in concept and business architectural requirements. Then when business does creep into Town it will do so in an integrated way that fits our standards. Weddington has big issues. We offer no housing options for young adults and no housing options for older adults ready to retire and looking to downsize. The fact is that we have a run down shopping center in need of a facelift. Our downtown consists of a shopping center, a gas station, a Town Hall and a church. I hear talk of a downtown corridor and to have a corridor or a downtown we must have business on two sides of the street. There is no glue to draw residents into Town or to bring us together. We have seen this through the water tower issue, the fire department issue and this issue. People are concerned about their own little area and there is no cohesiveness around the Town. We need some business to bring in some and to bring people into Town instead of everybody leaving Town to go do everything but sleep.

Ms. Dot Cooper – I am a Steeplechase resident. I guess we have heard both sides of the issues. I hate the idea that people were taking the survey multiple times if that was the case but the problem with the survey is that we got one notification (a yellow card) in the mail that could have easily been overlooked and mistaken as junk mail and been thrown away. I have a concern that people may not have responded to the survey because they did not receive the notification. I think the point of the survey and what is so prevalent here and why people are emailing and bringing up so many concerns about the survey is because they want you to hear the people of Weddington. This is not about whether Polivka is a nice guy or not. It

has to do with what do the people want for Weddington for the Town Center and this core. Do they want development or not? That is the whole idea of postponing the rezoning issue and the whole idea of waiting and getting this information so that you can hear from everybody and what they want. I have been a resident of Weddington for over 16 years and I have answered all the surveys and I finished this survey. One of the questions was do you want non-commercial development to off-set our taxes. I have no idea whether this one piece of property is going to pay for all my tax services. I seriously doubt it. If we need to redo the survey and get a better response I think we need to do that. If we need to put control IDs – let’s think about doing that. Let’s get the impact. If everyone in this Town wants to put a parking lot across from Harris Teeter then so be it. Let’s hear what the people have to say. I think that is what this Council is supposed to represent and what the people who live here want and it seems that we have some going both ways. I am hearing a lot of people that do not want development who came from Charlotte to get away from that and we do not want Providence Road to become an extension of Charlotte. If the Town thinks our quality of life has improved by having a railroad company in the middle of it – okay. Personally I am not in favor of more commercial development and I do not see how that benefits anybody in the Town of Weddington by having their office there and this parking lot.

With their being no further comments or questions, Mayor Davidson closed the public hearing.

The Council took a brief recess.

**B. Consideration of Public Hearing – Polivka Mixed Use Conditional Zoning Rezoning Application.**

Mayor Davidson gave Councilmember Thomisser the gavel.

Councilwoman Harrison moved to approve the Polivka Mixed Use Conditional Zoning Rezoning Application for a 15,000 SF office building located at 13700 Providence Road.

Attorney Fox – Your motion includes the determination that the approval is consistent with the Land Use Plan and that the approval does include the 13 conditions that have been outlined by the Planning Board and presented to you by your staff.

Councilwoman Harrison - As the staff said the MX rezoning application is in compliance with the Town of Weddington’s Zoning Ordinance with the aforementioned conditions of approval.

Mayor Davidson - I have the initial letter from the map change from the Polivkas and I have the Land Use Plan. The first paragraph in the letter states that one of the reasons for this change is that they want to complement the adjacent properties which are listed as commercial and business. That is not true. The farm and the church are listed as residential. If the Town Council wants to go through the conversation to see how we are going to handle farms and churches that needs to be done. That would be done through the Land Use Plan process. Right now that is not a fact and they are residential. The next paragraph states, “We understand that you have amended the LUP three other times near my property from residential to business. I am trusting that the Planning Board will provide me with the same consideration by amending the present land use for my property from traditional residential to business to enable my business to build and locate its corporate office in Weddington.” There were three other parcels that were changed. It is different because there is language in the LUP that makes this property different. The first one is the language that we have about the northeast corner. It says on Page 46 that commercial development in Weddington is confined to that area located at the northeast quadrant of the intersection of 16 and 84 in other words the Town center. There is a visible boundary that we have for commercial and it is intentional to keep it from spreading. Now we have a map here that has something outside of the northeast quadrant and we still have text in here that says that does not allow that. Does Council want to do something to adjust that? It talks about business primarily serving Town residents. That is not as hard as the first two. Pedestrian friendly Town Center is what we are trying to design and this is across from Highway 16 and I



would not encourage anyone to walk from property to property. Another big one that NCDOT has told us is limiting the number of street curb cuts. If there are things that we want in Weddington we have this wide open road that DOT has just fixed for us. People move in and out and traffic congestion is not a problem. How do we want to spend that capacity in the future? Is it with this project or is it with other projects like coffee shops and sit down restaurants and libraries? That is why we are doing the survey. I would have found reasons to write the applicant back and say first of all there is a mistake in here about the farm and the church and regarding the three properties you are right but they were different than yours but there is good news. We are redoing our Land Use Plan. Now we can go through the Land Use Plan process and then match your request with the new one. Then we ask Council if we want to use the existing one which has some problems in it or do you want to work and get the new one done and see if the project will fit in there and that is how this process needs to go. That is not how this process has been done by Council. There have been comments up here about being good people and what else are you going to put there. It is very dangerous language for the next guy that comes in. That is what I am hoping at a minimum to tighten up the Land Use Plan to fit this. The things that were said during campaigns - I just wish someone next time promises if you want commercial growth will you please run that way because I do not see any fliers with people saying this is what I want to do, we need more services and I am going to run this way. I did not run that way and none of us ran that way. You know where I stand.

Councilwoman Harrison - I am not sure where to start anymore. Back in 1995/1996 I drove through this area because my husband and I wanted to relocate to this area and we did. The first time that I saw the Hemby House I said I wonder if that is for sale. That would make a great coffee shop. I found out it was owned by the church. Walker has mentioned Page 46 and again I will mention 47 that says that the survey said for commercial uses that blend in rather than are differentiated from adjacent residential areas and that limited retail and office if properly designed can be both appealing and harmonious with adjacent land owners. As Rob Dow said we can agree to disagree. If my reading serves me right Mr. Dow was one of the people that wrote the original Land Use Plan along with Dorine Sharp. That language has been in there for the last 10 years. Along that line there is language that we are supposed to periodically be looking at everything and updating it. It could have been updated and it could have been changed and it could have been modified within the last 10 years and yet it was not. Everybody keeps saying the church is residential and the farm is residential. The other day I am driving down Weddington-Matthews Road and I looked at the Weddington Racquet Club and questioned why that is not considered business? I started looking at what can be put on residential property. John Temple, why did you not look that up? I think you could have found something and saved yourself a lot of time. I went on the State of North Carolina's website and I keyed in Weddington Christian Academy. It comes up as a non-profit and a business. I keyed in Hunter Farms and it comes up as a business. I keyed in Polivka and it comes up as a business. The only difference was what you did. They all said the same thing on that website. I am not going to argue that this is anything other than what I have said. I have looked at this and I feel that it is in the Land Use Plan. I am not sure if anything is going to change. I got a lot of emails saying that it is better there than the eyesore that is there right now. It is not going to have a parking lot in the front. It is going to be in the back. I have walked the entire property. There are a lot of mature trees. I also looked at Nancy's property and I tried to envision what she was or was not going to see. The only thing that I can add is some strawberry plants or a chicken or two. I am not sure how you are harmonious on that side. I know one thing for sure I can't tell you how many people have come up to me and said why can't you get a restaurant. I want a sit down restaurant. I talked to 10 people that are in that business and asked will you come to Weddington. One of the first things that everyone says to me is that you have no business that will support me for lunch. I am trying but I cannot get people to come if we have nothing else there. I have heard over and over again that OMG you are going to have to approve Pittenger. We have all met two or three developers that have been interested in Mr. Pittenger's land and they have sat here and they showed me a plan and I said our ordinances do not support this application. I also said as long as I am on Council I do not want to look like Wesley Chapel and have four corners that are nothing but commercial use. I think everyone in front of me said the same thing to them. They said to me there is an election in

2013; we will just bide our time. That is reality. I do not want to see any kind of fast food across the street but that could be a reality. I have heard that you could sell that. Yes, you could sell that tomorrow if you wanted to John Temple and the people would have to start all over again. We make this process as hard as we can possibly make it. It is not something that if he sells it tomorrow we will have a Bojangles. For every point I can find a counter point and lastly two things I am a conservative Republican woman. I do believe in everybody's property rights. I do not believe that we should look at what his business is and say it does not meet Weddington's needs. That to me is discriminating. Are we going to tell the designer she can only sell designs to Weddington residents? Are we going to tell Dr. Pinsak your patients should only be Weddington residents? No, we don't tell them that. We have patients that come from all over. I believe in small businesses. I hope you have 20 people there in two years because that is 20 more people that are going to walk across the street (please do not get hit by a car) and go here and eat or shop.

Councilwoman Hadley - We obviously have a difference of opinion as to whether this is supported by the Land Use Plan or not. There is a group that says that it is and there are some that say it is not. Look at the Bible to see how many religions came out of the Bible - it is open to interpretation. I understand the disagreement on whether it does or does not. I am grateful that we are moving forward with a revision. I also think that there is a difference in opinion in rural character. I am not sure why a columned brick colonial building is not rural and therefore I do not understand why I am breaking campaign promises because all of a sudden I am not rural. The majority of the Planning Board debated and voted 4-2 and sent it favorably to the Town Council for the Land Use Map change. It was voted on by Town Council 3 to 1 and it passed. The Planning Board debated on the rezoning and sent it to Council with a 5 to 1 vote. We keep hearing about how we are setting ourselves up for more development and lawsuits and I would like to go back to Section 58-5 - 3 (d) and I will read you the last sentence - Because of the nature of all the factors listed above the approval of a location for the MX Mixed Use District is at the sole discretion of the Town Council and in no way implies that any other site will be found acceptable for similar designation. That is in the ordinance. Is that telling me what I think it is telling me?

Town Planner Cook – Yes.

Councilwoman Hadley – If I say yes right there I do not have to say yes next to another church or farm or anything else. Mr. Rea, I think your position with the sewer has already been addressed as part of the conditions.

Mayor Pro Tem Barry – There was a comment that was made by one of the adjacent property owners that they had 30,000 visitors a year + 12,000 students. That is on one side. On the other side is a school that has 1,000 students over there now, not 600. Because of the way some of our zoning criteria and land use work, we only have a handful of choices that aren't really defining what the application is as what someone pointed out regarding swimming pools and country clubs. A duck is a duck. It is what it is. What is around it is what is around it. Then when you add onto that the review of our zoning that says that in no way does changing the use of this parcel predispose us to approving any other parcel in Town protects all of us. I can't tell you how many phone calls I have gotten that says OMG if you do this your friend Robert Pittenger is right behind this. The joke on this side of the table is if anyone knows Robert it is probably me having put up with him before he ran for Congress. A sitting member of Congress has to go through the House Ethics Committee and give financial disclosures of their business interests and I can assure you having gone through the colonoscopy of that process earlier this year that Mr. Pittenger is not going to interface with an elected body while he is a sitting member of Congress regarding his property. He may have someone else do it for him. He will not be engaged in that process. I don't see how he would dare do that especially with some of the other stuff that is floating out there. To help with some of your fears and concerns on that I thought I would share that.

Councilwoman Harrison – I want to thank everyone for coming. I want to thank you for the fact that you were passionate. I want to thank you for being courteous. Being told that I did not know how to read last month is kind of upsetting. Getting all the emails that I got that had nothing to do with this was even embarrassing. I have been on your side. I have been here for The Woods and was the first person that actually got up and spoke. I was here for the fire department and I fought the water tower. I want to thank you for your honesty and your passion and I hope that you continue coming. Fill out the survey - we want that. I appreciate that with the late hour that you hung in there for us.

The vote on Councilwoman Harrison’s motion is as follows:

AYES: Councilmembers Harrison, Hadley and Mayor Pro Tem Barry  
NAYS: Councilmember Thomisser

**Item No. 10. Old Business.** There was no Old Business.

**Item No. 11. Update from Town Planner.** The Town Council received the following update from Town Planner Cook:

- Land Use Plan Surveys have been available to the citizens for two weeks. The deadline for responses is Monday, November 19<sup>th</sup>. CCOG will compile the data from the survey and report back to the Town Council shortly thereafter.
- The Agritourism and Agricultural Use Definition text amendments were on the February 27<sup>th</sup> Planning Board agenda (both received a favorable recommendation). These text amendments have been amended since that February Planning Board meeting. Town Attorney Anthony Fox has provided feedback on the proposed text amendments and recommends some changes. These can be discussed at a later date. *(Mayor Pro Tem Barry advised that there was a big rush on this item.)*
- Stillwell NC, LLC’s Sketch Plan for a 90 lot conservation subdivision called Vintage Creek on parcels 060-90-004, 060-90-007 and 060-93-011 was approved by the Planning Board. The applicant is now working with Union County on finalizing sewer plans. Once finalized, the applicant can submit the Preliminary Plat.
- The Planning Board gave the Polivka MX Conditional Zoning Rezoning application a favorable recommendation at their September 24<sup>th</sup> meeting. This rezoning will be on the November 13<sup>th</sup> Town Council agenda for Public Hearing and Consideration.
- I have received several inquiries about age restricted developments and commercial development in Weddington over the last month. Many of these developers, property owners, etc. have requested meeting with the Town Council as allowed through our Conditional Zoning process. After talking with Council members it was determined that these meetings should occur after the survey results are back.
- The following items were on the October 22<sup>nd</sup> Planning Board agenda:
  - Section 58-60 MX Zoning Text Amendment
  - Land Use Plan/Map Text Amendment
  - Section 46-46 Subdivision Checklist Text Amendments: requirements for fire hydrants
- The following items will be on the November 26<sup>th</sup> Planning Board agenda:
  - Beulah Church Road Minor Subdivision
  - Howie Property Minor Subdivision
  - Bromley Monument Signs

**Item No. 12. Update from Town Administrator.** The Town Council received the following update from Town Administrator McCollum:

- Deputy Wayne Gagnon is the new deputy for the Town. Former Deputy Tyler Mills will be at the December Town Council Meeting for special recognition.
- The Tree Lighting will be held on November 30 from 5 to 7. We have a variety of school and church groups scheduled to perform.
- Appointments to the Planning Board and Public Safety Advisory Committee will be on the agenda for December.
- A historic brunch is scheduled in December for long time residents to share Christmas memories.
- This Friday, November 16 from 10:00 to 11:00 a.m., a representative with Girl Scouts will give a presentation to any interested residents on how to volunteer with their organization.
- VC3 will be getting with Town Staff within the next week to train on how to go through the pilot testing phase of our new technology.
- Town Hall will be closed next Thursday and Friday for Thanksgiving.
- The next Planning Board Meeting will be held November 26 at 7:00 p.m.

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

**Providence VFD**

Training- 329.50 hours

**Union County:**

Fire - 24  
 EMS - 12  
 Total - 36

**Mecklenburg County:**

Fire - 7  
 EMS - 0  
 Total - 7

**Department Total:**

Fire - 31  
 EMS - 12  
 Total - 43

The Town Council also received the Income and Expense Budget Performance and Balance Sheet for October 2012.

**Wesley Chapel VFD – 124 calls**

**Weddington Deputies – 589 calls**

**Item No. 14. Update from Finance Officer and Tax Collector.**

**A. Finance Officer’s Report.** The Town Council received the Revenue and Expenditure Statement and Balance Sheet for 10/01/2012 to 10/31/2012.

**B. Tax Collector’s Report.** October 2012

<b>Transactions:</b>	
Tax Charge Utilities 2012	\$8,466.30
Adjust Under \$5.00	\$1.73
Overpayments	\$(3,195.06)
Advertising Fees Paid	\$(5.80)
Refund	\$4,173.64

Penalty and Interest Payments	\$(5.07)
<b>Taxes Collected:</b>	
2012	\$(188,374.63)
<b>As of October 31 2012; the following taxes remain Outstanding:</b>	
2002	\$82.07
2003	\$129.05
2004	\$122.90
2005	\$252.74
2006	\$150.20
2007	\$144.42
2008	\$1,902.02
2009	\$2,616.79
2010	\$4,668.67
2011	\$7,101.68
2012	\$681,654.23
<b>Total Outstanding:</b>	<b>\$698,824.77</b>

**Item No. 15. Transportation Report.** There was no Transportation Report.

**Item No. 16. Council Comments.** Mayor Pro Tem Barry – I want to thank Amy, Jordan and Attorney Fox. You have been dragged through some stuff during the last six weeks and you all are to be congratulated. I know you have given a lot of time and if the Board would accept it at a future Council meeting to have a motion to give you an extra paid day off at Christmas I would support that. Barbara and Pam, I cannot thank you enough for your support over the last couple of weeks even when I was in the ditch you managed to get me out. With all of the noise and challenges that we face, it has been a true honor to know that you were standing next to me during this process. Werner, wherever we are I can always count on my crazy Great Uncle Marine Werner Thomisser.

Councilwoman Harrison – I want to remind you about the Tree Lighting. Santa is going to be here. We are asking for individuals to bring a new toy and they will be given a raffle ticket. I know that Pam has said she will be here. I would like for someone to pull the raffle ticket out and I do not want it to be me or Pam. The evening before Thanksgiving I am going to be here decorating for Christmas. If anyone wants to come in and help decorate, let me know.

**Item No. 17. Adjournment.** Mayor Pro Tem Barry moved to adjourn the November 13, 2012 Regular Town Council Meeting. All were in favor, with votes recorded as follows:

AYES: Councilmembers Thomisser, Harrison, Hadley and Mayor Pro Tem Barry  
NAYS: None

The meeting adjourned at 11:37 p.m.

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Walker F. Davidson, Mayor

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Amy S. McCollum, Town Clerk

