

**TOWN OF WEDDINGTON
REGULAR TOWN COUNCIL MEETING
MONDAY, NOVEMBER 8, 2010 - 7:00 P.M.
MINUTES**

The Town Council of the Town of Weddington, North Carolina, met in a Regular Session at the Weddington Town Hall, 1924 Weddington Road, Weddington, NC 28104 on November 8, 2010, at 7:00 p.m. with Mayor Nancy D. Anderson presiding.

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

Absent: None

Visitors: Bill Price, Barrie Davies, Buzz Bizzell, Jeff Perryman, Ken Evans, Brian Carlton, Richard Douthwaite, Jane Douthwaite, Judy Jones Jerry Woodrow, M.E. Davis, Mitch Nelson, Parks Long, Lorri Elliott, David Banick, Ronald Fee, Janet Fee, Bonnie Wojcik, Walker Davidson, Ken Dowd, Kent Hayes, Michael Davis, Rob Dow, Barbara Harrison, Steve Cloutier, Joshua Dye, Dwight Helms, Tom Elkins, Charles Ivey, Nancy Ivey, Jack Parks and Ruth Campbell

Mayor Nancy D. Anderson led in a prayer prior to the opening of the meeting.

Item No. 1. Call to Order. Mayor Anderson called the November 8, 2010 Town Council Meeting to order at 7:03 p.m.

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

Item No. 3. Determination of Quorum/Additions or Deletions to the Agenda. There was a quorum.

Councilmember Robert Gilmartin moved to approve the agenda with the following amendments:

- Separate Item No. 4. into three sections: A. Discussion of the Involuntary Annexation Study, B. Public Comment and C. Consideration of the Involuntary Annexation Study
- Delete Closed Session from the Agenda
- Move 10.C. - Update and Discussion Regarding Downtown Streetscape Plan – Downtown Chairman Scott Buzzard as 4. D.
- Remove Items 8.A. Call for Public Hearing to Review and Consider a Proposed Text Amendment regarding Miniature Horses and Yard Requirements for Miniature Horses and Item 8.B. Call for Public Hearing to Review and Consider a Proposed Text Amendment to Add "Private Banquet, Reception and Conference Center" Uses as a Conditional Use from the Consent Agenda and move to New Business.

All were in favor, with votes recorded as follows:

AYES: Councilmembers Thomisser, Gilmartin, McKee, Mayor Pro Tem Barry and Mayor Anderson

Item No. 4. Discussion and Possible Consideration of Involuntary Annexation Area Study – COG Representative Nadine Bennett.

A. Discussion of the Involuntary Annexation Study. The Town Council received the following:

- Map showing Town of Weddington Proposed Annexation Area outlining commercial areas, residential areas, undeveloped areas, Marvin Town Limits, Union County Town Limits and current Weddington Town Limits.
- Document discussing 160A-48 – Character of the Area to be Annexed

Ms. Nadine Bennett – In an annexation, you have to balance out a variety of things according to State Statutes. It is like a big puzzle that has multiple solutions. I went back and looked at the annexation with Bill Duston, the Planning Director at COG. We had your attorney look at it to make sure he was okay with how the numbers worked.

Councilmember Jerry McKee – What is the size of that large lot?

Ms. Bennett - 38 acres.

Councilmember McKee – What is the size of the parcel before this one? We are creating a donut hole which is what we were trying to avoid.

Ms. Bennett - The one before it was actually a larger parcel. The larger parcel just didn't work as well. I tried it both ways.

Councilmember McKee – I thought it was part of the thought process of this Council to clear up donut holes around the borders. We have now created a donut hole?

Mayor Anderson - We are making it smaller. It is already a donut hole. Councilmember McKee and I met with Nadine since the last Council Meeting. The reason why she did the adjustments to the map is because we told her that our main objective was to have some control over the undeveloped areas because it has never been about raising revenue or getting more tax money. The parts that were already developed were just already developed. The Council's objective is to have control over the undeveloped area along that border. That is why she went back and produced this scenario.

Mayor Pro Tem Daniel Barry – These three larger parcels all have the same owner. If they were to voluntarily come into Weddington, then that could allocate more undeveloped acreage further south.

Ms. Bennett - You have to have a certain percentage that is less than 3 acres. You have to look at developed lots versus undeveloped lots.

Councilmember Werner Thomisser – What municipality is that commercial currently in?

Ms. Bennett - Right now it is in Union County.

Councilmember Thomisser - Going south on Providence Road everything to the left is not up for consideration?

Ms. Bennett outlined the annexation area.

Mayor Anderson - Were you able to verify with the County whether the parcel we discussed in our meeting that is operating as a commercial business is zoned residential?

Ms. Bennett - We do not look at zoning when it comes to annexation because it does not matter what it is zoned. It actually matters what is happening on the parcel. It is very clear that what is happening on the property is commercial. It is listed on County records as being residential.

Mayor Anderson - They are operating without the correct zoning.

Councilmember McKee - That lot is for sale and all of the equipment too.

Mayor Anderson - It is being sold as commercial.

Ms. Bennett - If they are operating illegally in Union County and they just haven't pursued it, they are just as illegal when they come into Weddington.

Mayor Anderson - It would automatically revert back to R-40.

Ms. Bennett - It would depend on what you would zone it and it could become the Town's enforcement issue.

Councilmember Thomisser - If 72% of the people in Weddington said they did not want more commercial why are we considering annexing commercial property?

Mayor Anderson - We had this discussion at our retreat. We talked about the map. We talked about our rationale and why we thought it was important. At that time it was a unanimous decision by the Council to pursue this. That property is already commercial. If we annex it in, we have the ability to stop the commercial or control it the way we would like it. If it goes under the County zoning, we have no control over that and they can put whatever they want to in there.

Mayor Pro Tem Barry - We addressed at the retreat the desire to control any type of development that went on around our borders. That is why we decided to look at our annexation agreements and look at the annexation of these parcels. We also got a draft of the County's 2025 Comprehensive Plan and it outlined all of these parcels on the west side of Providence Road from the border of Weddington all the way to where Weddington comes back into Providence Road at the Pressley Farm. All of that is designated as a commercial mixed use development twice the size of Cureton. When that map came out is when the Council began to look at the current annexation agreements and see how we can annex these parcels so that we control whatever happens the way we would want to have it rather than leaving it up to subsequent Councils, the County Commission and the Land Use Planners from the County to determine what happens on those parcels.

Mayor Anderson - The example that was given was the Wal-Mart that was proposed and approved by the County over near Somerset and Hunter Oaks subdivisions. That was a long drawn out process. The citizens of Weddington feel more comfortable with us applying zoning than the County.

Councilmember Thomisser - In looking at this map, I see Union County surrounding the gold area.

Mayor Pro Tem Barry - You make a great point when you talk about that. When COG's first map came, we created a large donut hole in the center. It would be purely in poor form for the County to come in once we begin the annexation process and change the land use on some of these other parcels now that we have begun the process of annexation.

Mayor Anderson - We hope that it would be a cooperative effort between the County and municipalities.

Councilmember McKee - If three large parcels are owned by the same person, we would take one of these parcels and leave the other two out. It really blocks them off from doing anything else to the unannexed property. If the owner is willing to voluntarily be annexed, then we don't need to go through the expense and the following procedure of forced annexation if we can get those three to volunteer. Is that the purpose of annexation - to control commercial development in Weddington? Then we have achieved our goal.

B. Public Comment. Mr. Walker Davidson - Can you clarify the steps of annexation?

Ms. Bennett - You are not in an official step of annexation right now. The first step is to adopt a Resolution of Intent to annex the area. That is when it officially starts the process in motion. That sets up several meetings with a Public Informational Meeting and then a public hearing where you would have a chance to speak with the Council about the annexation. Then the Council would have to adopt an Annexation Ordinance. You are in the pre-process right now.

Mr. Davidson - Is there a decision to be made tonight?

Ms. Bennett - They are deciding whether to move forward and to adopt a Resolution to start the official process.

C. Consideration of the Involuntary Annexation Area. Attorney Fox - What you would need to do is direct COG to prepare a Resolution of Intent that would include the area that has been identified on the map with the qualifications that she has determined them to be. You can adopt a smaller annexation area based on the formula you have identified at any point during the process but you cannot make it larger.

Ms. Bennett – You can drop the annexation at any point up until you adopt an Annexation Ordinance. You don't have to go through with it until you have adopted the ordinance.

Mayor Pro Tem Barry moved to direct COG to prepare a Resolution of Intent based upon the map that was presented.

Councilmember McKee asked for a friendly amendment to see if the large land owner would like to ask for a voluntary annexation. "It would save time and money if he wants to be voluntarily annexed; then we don't need to proceed with anything else. The last involuntary annexation, costs us \$80,000 in legal fees because we were sued. That plus inflation will probably put it closer to \$95,000."

Mayor Pro Tem Barry did not accept the amendment. He stated, "We can always withdraw the motion to annex if they made that decision and we can instruct our attorney to reach out to them."

Attorney Fox - There is still a month before COG will come back with a Resolution of Intent. If there is an overture made within that month, you can do it during that time.

Mayor Anderson - Given the fierce opposition of one of the neighborhoods that is being considered for annexation, I am not in favor of forced annexation. In the past we may have had one or two who did not want to come into Weddington for whatever reason. This seems to be a whole neighborhood. My feeling is we don't really need them. They need us. They are the ones that are right across the street from that place. I hope they don't regret passing up this opportunity for us to help them and now they will be on their own against the County if something goes in there that they don't like. We have worked really hard in this Town to develop a sense of community pride and spirit and to drag people in who don't want to be

in Weddington and who are offended by us, I think it is counterproductive to that objective that we set. I am probably going to vote against this. I see more disadvantages than advantages.

Councilmember Thomisser - I agree with the Mayor. They know what is across the street from them and they are still adamant about not wanting to be annexed.

The vote on the motion is as follows:

AYES:	Councilmember Gilmartin and Mayor Pro Tem Barry
NAYS:	Councilmembers Thomisser and McKee

Mayor Anderson voted against the motion; therefore the motion failed.

D. Update and Discussion Regarding Downtown Streetscape Plan – Downtown Chairman Scott Buzzard. The Town Council received a packet of information showing examples of proposed banners, map of road project, map showing where street lights will be placed, diagram of Town monument/marker, cost worksheet for 26 lights with banners and three gateway markers, and picture showing placement of Town marker.

Mr. Buzz Bizzell – We started this project in 2007 when the NCDOT had not yet made their improvements. Within a few weeks the barrels are gone and we have a plan that is designed, engineered and now has been bid out and priced and ready to look at. Our beginning process was to create a framework to frame these streets and create a little bit of identity. The banners would give Weddington a face and greeting when people drive down 16 and 84. In the beginning we took a look at the highway and how the width of that would be impacted with the existing streets. It does make quite a difference with what we have out there today. When you are covering this much distance we have to alternate the lights. They are basically 100 feet apart but since they alternate from one side of the street to the other we are looking at a 50 foot spread of light. This is decorative lighting and not designed to create a blast of daylight on the highway. There is a lot of light spill from the shopping center. That allows us to have a low count on our lighting but still take advantage of good visibility. As you look at the Downtown gateway marker, we designed this based on a lot of the historic architecture of Weddington and the fact that throughout the years there has been a lot of agricultural farm and horse type activity. It has created an identity that a lot of people are familiar with. The light fixtures are made out of aluminum and will require no maintenance. They are designed to look like they were made from wood. If we were to decide to add LED lighting which is basically \$600 more per pole it increases the total price to about \$200,000. It creates a 15 year life without ever having to change bulbs. The cost of the light fixture is \$930. Without doing LED lighting, maintenance would be required after five years. The LED light will be just as bright. The color of the light will be slightly different. LED will have a slightly blue tint. It is energy efficient and will not have to be maintained for 15 years. The cost to operate is pennies in comparison.

Mayor Anderson - Do you get tax credits for that?

Mr. Bizzell - I would think so. I can find out for you if you want.

Mayor Anderson - It seems to me that the size of the light is out of scale. This is a very big road now so I was wondering if you looked at a bigger light.

Mr. Bizzell - The lamp head is almost four feet tall and the post is 14 feet high. It is a very large light.

Mayor Pro Tem Barry - Where is the location of the gateways?

Mr. Buzzard - We don't have the locations nailed down at this point. One will be near the Highgate Subdivision, on the south side across from Bluebird Lane and on Highway 84, possibly on the Lutheran Church Property. If you decide on those spots, then we will approach the property owner and try to get easements.

Councilmember Thomisser - What are the banners made of?

Mr. Bizzell - They are digitally printed on a sheet of very thin aluminum. They are not canvas. They are rigid when placed on poles. You can trade these out seasonally.

Mayor Anderson - We have been saving for this for well over five years. We have a commitment from the shopping center to pay for the two lights at the shopping center.

Councilmember McKee - Originally in discussions with DOT they said they would bid on the installation of the conduit after the roads were completed.

Mr. Buzzard - When we first approached DOT they were very excited about being able to do it in conjunction with the widening and then they changed their mind.

Councilmember Gilmartin moved to proceed with Downtown Streetscape Project of decorative street lighting and Town monuments at a price not to exceed \$210,000 and to pursue the LED lighting.

Finance Officer Leslie Gaylord - We have in the current year budget \$130,000 for transportation improvements. A total of \$30,000 was for the streetscape and gateways and \$100,000 was for road design. We also have the additional \$50,000 which has not been allocated for anything else.

Councilmember McKee - I still have a problem with the cost figures and not knowing what DOT will do. We did not get a clear answer from them. These figures should have gone to the Downtown Committee first.

The motion is as follows:

AYES: Councilmembers Thomisser, Gilmartin and Mayor Pro Tem Barry
NAYS: Councilmember McKee

Item No. 5. Public Hearing.

A. Public Hearing to Consider an Ordinance Regulating the Residential Open Burning of Yard Waste in the Corporate Weddington Town Limits. Mayor Anderson opened the public hearing to consider an ordinance regulating the residential open burning of yard waste in the corporate Weddington Town Limits. The Town Council received a copy of Draft 1 and Draft 2. Town Planner Cook reviewed the following proposed ordinance:

DRAFT 2

**ORDINANCE REGULATING THE OPEN BURNING OF RESIDENTIAL YARD WASTE
IN THE TOWN LIMITS OF WEDDINGTON**

WHEREAS, the Town Council of Weddington deems it to be in the best interests of its citizens to protect their safety, health, and welfare from fire hazards, air pollution, and nuisances associated with the burning of yard waste; therefore, be it ordained by the Weddington Town Council as follows:

Section 1. Definitions

“Open Burning” means the burning of yard waste in such a manner that the products of the combustion are emitted directly into the air without passing through a chimney.

“Yard Waste” means any grass, weeds, tree trimmings, shrubbery prunings, or other vegetation generated from the maintenance of yards or gardens.

“Recreational fire” means an outdoor fire for cooking or personal enjoyment or warmth.

Section 2. Conditions for Open Burning within the Corporate Limits of Weddington

Open burning shall be allowed only on bare ground, at least fifty (50) feet away from any structure, away from any combustible materials, not under branches or power lines, and only on non windy days. A means of extinguishing the fire (such as a fire extinguisher, a garden hose long enough to reach past the burn site, or a sand or dirt pile and shovel) shall be ready at the burn site. Open burning fires shall be fed gradually and constantly attended by a competent adult until fully extinguished.

Section 3. Prohibited within the Corporate Limits of Weddington

Running ground fires that are intended to clear undergrowth by running along the ground and the burning of any toxic materials are prohibited.

Section 4. Recreational Fires

Recreational fires are permitted when burned in enclosures that are built for that purpose, such as fire pits, BBQ grills, and outdoor fireplaces. Recreational fires shall be constantly attended by a competent adult until extinguished. Fire extinguishing equipment, such as a water hose or fire extinguisher, shall be maintained and available for immediate use at the site.

Section 5. Enforcement

- a. Any open burning or recreational fire in violation of this ordinance shall be extinguished by the burner or the fire department.
- b. Any law or code enforcement officer may issue a first offense warning citation. Subsequent violations are subject to civil citations, with penalties of \$50 for the second offense, \$100 for the third, and \$200 for all subsequent violations.
- c. If a violator fails to pay within 10 days of issuance, the Town may seek to recover the penalty by filing a civil action in the nature of a debt.
- d. The Town may seek to enforce this ordinance through any appropriate equitable action.
- e. Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.
- f. The Town may seek to enforce this ordinance by using any one or a combination of the foregoing remedies.

Section 6. Effective Date

This ordinance shall be effective this 8th day of November 2010.

Town Planner Cook - Draft 1 is actually the version that the Town Council called for the public hearing and consideration of at the last meeting. This is language that Councilmember Thomisser proposed at the last meeting. Draft 2 reflects some minor revisions from the Town Attorney that did not substantially change the text.

Attorney Fox reviewed the differences between Drafts 1 and 2.

Mayor Anderson - As Council recalls we did send this to the Planning Board. The Planning Board did not recommend that we need to make any changes.

Planning Board Member Jeff Perryman – The Planning Board felt that the North Carolina General Statutes that specifically address open burning are very complete and they cover all the rules and address the concerns about public safety, public health and even the nuisance concerns. We already had existing State Statutes to cover open burning restrictions. I don't believe an ordinance was warranted based on the current number of dispatches we have had in Town regarding this. I did have the opportunity to speak to the acting Fire Chief for the Providence VFD, Daryl Matthews, and three other members. To their recollection in the last year they have had just a couple of calls and the majority was from one individual. It was asked at our meeting if either the Town Council or Town staff had been approached by either the deputies or by the fire department to state that the Town has an issue that warrants the Council's concern. Based on the fact that we have State Statutes covering open burning and the fact that we don't have a history of these types of calls being prevalent, the Planning Board felt that an additional ordinance was not warranted at this time.

Councilmember Thomisser - This is a safe burning ordinance. There has been a lot of misinformation about this ordinance. Approximately 50% of all wild fires in North Carolina are due to unsafe burning. What this ordinance allows you to do is burn grass and tree trimmings, leaf, shrubs and allows you to have recreational fires and outdoor fireplaces, fire pits and BBQ grills. It requires you to pay attention to the fire. It requires you to have the necessary fire extinguisher equipment. That is basic. It does not allow you to burn within 50 feet of your house. It does not allow you to have running ground fires and it does not allow you to burn toxic materials such as construction material, insulation, etc. I agree that there is a State Statute. It is vague. The Statute also says that the fire has to be 100 feet from your house. In Weddington we have lots that are narrow. Let's talk about individual rights. You have a subdivision of 100 houses and perhaps maybe five people in that subdivision see fit to burn. What about the other 95 people? Do they have individual rights for their needs and safety? I think they do. I would like to call the former Providence VFD Chief Dave Banick to answer some questions. Mr. Banick, in the last 12 months how many out of control fires did you witness?

Mr. David Banick - One was on Weddington-Matthews Road and the other was in the Providence Woods South Subdivision. The fires were made up of construction debris and natural vegetation. Both of them were at least 10 x 10 within 50 feet of residences and both had gotten out of control.

Councilmember Thomisser - Would it be possible for the fire department to work in conjunction with the Town Planner as far as enforcement is concerned?

Mr. Banick - I believe so.

Attorney Fox - If you pass this ordinance, it does have an enforcement component to it. It spells out the 2nd, 3rd and 4th offense. It also allows for an injunctive relief.

Mayor Anderson - A lot of what has been presented was about fire safety but air pollution is a big issue. Our transportation region is in the nonattainment area which means we have too many noxious gases that are affecting our air quality. If we do adopt an ordinance, I would like to include in it something regarding air quality action days. Air quality action days means there is a high level of ozone which mostly happens in the summertime. When it is orange or above there should be absolutely no burning by farmers or anyone else. It also happens during drought season. I think that we should include

something about air quality. There also was a draft ordinance prepared by Planning Board Chairman Dorine Sharp. It is very clear and to the point and restates the State Statutes.

Councilmember McKee – I am not big on ordinances. This ordinance is strictly a safety precaution. When I lived in Wesley Chapel, I had about four acres. It was solid woods except where the house and yard was cut out. We used to burn all the time. One time a fire of mine got out of control and actually got into my neighbor's yard. From that time on I learned a lesson that if you are going to burn, you need to take safety precautions and at least have a hose out there. This is the only reason I support this type of ordinance. Some of the language can be changed. You don't want to burn your neighbor's house down. If we can do anything to help educate people by adopting an ordinance similar to Draft 2 then I think we have done our job.

Mayor Pro Tem Barry – Werner, explain to me the difference between what you mean by open burning and what you consider a recreational fire?

Councilmember Thomisser - A recreational fire is an outdoor fireplace or a bonfire. Open burning is actually burning yard waste.

Mayor Pro Tem Barry - Isn't a recreational fire burning yard waste? The way this language is drafted is something that becomes unenforceable and has unintended consequences. I am all for preventing runaway fires and preventing a community hazard. The way this is drafted I could have a neighbor call me and say, "We have a guy that is burning yard debris" and when the fire department shows up with the sheriff to write a ticket the person could say "Oh... I am out here keeping my hands warm." We need to create an ordinance that does what we really want it to do and doesn't have any unintended consequences. We want to create something that says let's stop the foolishness, make sure people are using best practices when they are burning and do the best we can to prevent somebody from burning their neighbor's house down. This is overkill because of the way the language is drafted. I go and order a cord of split firewood and use it to burn. Somebody cut a tree down to split to sell to me so I could burn and now it is open burning because it is debris from a tree. We need to protect ourselves as a government from unintended consequences of the legislation and the ordinances that we have. We have unenforceable terms in here.

Councilmember Thomisser – Recreational fire are permitted in enclosures that are built for that purpose such as fire pits and fireplaces.

Mayor Pro Tem Barry - My neighbor's fire pit, which is just bare dirt, which they sit around with lounge chairs and watch a good fire on Friday night. They are burning trimmings from their trees. They can start a fire that is 6' tall and they let it burn down so it is almost a bon fire. All the material used was gleamed from their property. They are burning yard debris. Someone could report them for open burning but what they are really doing is having a recreational fire. This creates a situation where our public safety officials are caught in the middle.

Mr. Ronald Fee – Years and years ago right after a snow and everything was wet; kids across the street were firing rockets. One landed in our yard and they didn't bother to tell us that it ignited a fire. It spread over 2,000 square feet. It took a garden hose and hours of oscillating sprinklers to put it out. This is wet material. We had a neighbor back behind us who in 22 years now has been burning his trash. The flames are sometimes 8-10' tall. About a month ago my wife directed me to the front of the house to notice that there was a fire down the street. I could not see so I got some binoculars out and took a look. I could not see anyone around the fire. I got in the car and drove up in their driveway. Here is an area in a heavily wooded tree area. There is a pair of rakes leaning against two trees. No humans or garden hose in sight. I called him and got no answer. That is what I call dangerous. Something like that in dry conditions can get out of control and we have a big problem. You can come up with something to put some teeth in this

thing. If nothing else so we can give them a piece of paper and say we need to look at this and understand because most people are smart enough to do that even if they don't realize you need to stand there and control the fire.

Mr. Barrie Davis – I am a retired scientist. I compliment you, Mayor Anderson, for taking into account toxic materials. I think we should be trying to teach people to stop burning things. I never burn anything. I mow my leaves into the yard. I stop putting fertilizer on my lawn. This is a gift with those leaves falling. It is full of nutrients – it enriches the soil. For people sitting around a fire pit throwing logs on it; it is insanity. We need to encourage people to think.

Mr. Kent Hayes - I live at 4309 Horseshoe Bend in Providence Woods South off Hemby Road. My subdivision is composed of lots that are one acre or larger. Also, Weddington is still a rural community and many residences back up to undeveloped acreage. My neighbors and I use burning as a method to control yard waste. Burning is one of several effective methods of yard waste control and to my knowledge, there has never been a problem with burning of yard waste. I have to wonder why someone thinks there is a need for an open burning ordinance. I hope this is not a quarrel between neighbors, where one neighbor burns and the other neighbor complains to a councilman and that councilman tries to regulate the entire town for personal or political reasons. We don't need this ordinance. There are state and county laws already regulating burning. Those laws establish burning procedures and fines for non compliance. The taxpayers in Weddington are paying for fire protection with fire taxes and fees, and in the Providence Fire District; the Town also directly subsidizes the department's budget. All prudent homeowners keep fire insurance on their property. There are solutions through the courts for neighbors to solve disagreements. The good citizens of Weddington use common sense; if they see a fire and think the fire is out of control, they just call 911 or put it out if they can. It is not necessary for the Town of Weddington to tell its citizens to be personally responsible and burn in a safe place, away from structures and to control and prevent the spread of any fire. This ordinance would be an overbearing government's intrusion, as the ordinance attempts to restrict the responsible citizen's property rights. But if you insist on passing this ordinance, as a citizen, I would appreciate the legal and expert definition of these terms prior to passage. What are the definitions as utilized in this ordinance for the terms "chimney, vegetation, bare ground, combustible materials, windy days, competent adult, toxic materials, fire pit, BBQ grill, outdoor fireplace, code enforcement officer, and appropriate equitable action? Why does the ordinance prohibit anyone but the fire department or burner from extinguishing a violation fire? If a violation fire is extinguished prior to a written citation, what basis and criteria does the enforcement officer use to issue a citation? What is a citizen's right to appeal the ordinance and fines? What are the criteria for establishing a violation continuance? We don't need this ordinance. Sometimes, good intentions are not necessarily the right thing to do. Sometimes, doing nothing is the best thing.

Mr. Michael Davis - I have been in Wellington Woods for almost 32 years. We live in a very heavily wooded area. Burning has been used consistently over the years to keep the trimmings down. If you live in a wooded area like this, we get a lot of limbs constantly falling out of the trees. They accumulate. Right now I have two large piles in my backyard that I have been waiting for the weather to get wet enough to attempt to burn. You act like this is somebody's 50/100 foot yard and you have a little grass clippings. Everybody in my neighborhood is on at least 2 ½ acres of heavy woods. I look after my woods very closely and keep them cleaned up and it is something we have to do. There have been four incidents that I am aware of over the last few years. All four were involved with Duke Power lines, not anyone burning. We do not need any more additional problems in here as far as somebody telling us what to do. We all have enough common sense and if we don't the insurance company will certainly take care of that.

Mr. Bill Price – I don't think we need this ordinance. Common sense, personal liability and personal responsibility - you can have your fires but take care of them and stay out there with them. A fire is not something you light and walk away from and expect nothing to happen. They are very dangerous.

Ms. Janet Fee – I am the President of the Homeowners Association for Wellington Woods 4 & 5. We are fully wooded so we live in the woods. All of us residents are concerned about preventing the California problems we see in the news where an out of control fire can get in those trees and destroy all of our houses. I don't believe anyone is talking about banning burning. We are talking about prevention of a problem that could be massive. People who prevent things don't get nearly the accolades as the people who solve the problem once it exists. Sometimes you do need measures in place to prevent things. I strongly support an ordinance. Do something. As a President of a Homeowners Association, I get flooded with any problem in the neighborhood. We did have a serious dog situation about a year ago where a dog attacked a lady and bit her severely. It was a blessing to me to be able to get online and find that there was an Animal Control Ordinance in Union County. It gave me the foundation, the background and the support I needed to go to both the people who had the complaint and the owner of that dog and say "Here is an ordinance. Let's sit down and talk about what we can do to prevent this from happening in the future." I was so grateful to have an ordinance to base my approach to these people. Having something on paper from my government body gave me a foundation and a support I would not have had. If we can have some parameters where safe burning can be conducted, then I can talk to these people who I think have done some unsafe things. Give us something for safe burning.

Mr. Walker Davidson – I have three reasons why I oppose the burning ordinance. I like to burn yard waste on my property. Both of my next door neighbors and I have been burning yard waste for over 11 years. We have not had any problems. I realize you are not trying to ban all burning of yard waste. There are state laws in place. It is not as if there are no laws. When the Planning Board was asked, "Do we need a burn ordinance?", they researched and discussed the issue and made the following recommendation: *We do not feel that an ordinance is necessary at this time. After reviewing the Town Council's request, we feel that the current state regulations and penalties that are on the books at this point are sufficient. We do not feel that a new Town Ordinance is warranted. We will readdress this issue in the future if needed. Send education materials regarding burning through the newsletter and website.* I am satisfied with that. One thing that bothers me about this is this burning ordinance came from a small group of people and will affect over 10,000 people. The request didn't come from the three fire departments serving Weddington. It didn't come from the local law enforcement officials. If you insist on having a burn ordinance, I wish you would tell the Planning Board what you are looking for and have them do the language because they have a lot of experience in ordinances. The ordinance we have is confusing.

Mr. Richard Douthwaite - I support the North Carolina Open burning rules. They are sufficient. I have been using them as a guideline for over 25 years with no problems. I think your educational effort is the way to go.

Councilmember Thomisser - We have had people talk about situations in Providence Woods and Wellington Woods. This is not common to one particular area in Weddington. This is not about one neighbor versus another. We are just asking to be safe.

Councilmember McKee - How do we enforce the state law?

Attorney Fox - The enforcement is either a misdemeanor or a civil citation that the State would enforce.

Councilmember McKee - How would a violation in Weddington be handled by the State? What would be the process if someone calls and says somebody is burning outside of the State ordinance?

Attorney Fox - I would assume the highway patrol could be a mechanism. The deputy sheriff might be another means to enforce that.

Town Planner Cook – It was my understanding that the Fire Marshal would get involved.

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

Council took a five minute recess.

Item No. 6. Public Comment. Mr. Ken Dowd – I want to discuss Item 11. E. We have been involved in a few projects in the Town for some time and we have worked hard to get permits to do these projects. I respectfully request that you not do anything to keep us from having these permits extended. Based on what I am reading, this Resolution could stop us in 2011. Developers and builders will be stopped if you approve this. It was too hard to obtain these permits over the years. Our last permit for our dam took 26 months to get approved. Help us and not approve this and let us keep our permits going.

Mr. Steve Cloutier – I am the President of the Providence VFD Board of Directors. There has been a lot of discussion in the news media and around the community about the fire department. I am here to tell Town Council as well as taxpayers and residents that the Providence Volunteer Department is up and running and will continue to enhance the service that we provide the citizens in our community. We had a change in leadership in the department over the summer. There were some hard feelings and some misinformation that has been passed among the community. The department continues to be manned with men during the daytime and at night with paid staff. We continue to maintain all of our equipment. We have upgraded many things on the equipment. The firefighters continue to train every month. We appointed last night Daryl Matthews who is our deputy chief as our interim chief. The Board has decided to begin the process again to look at who the chief is going to be whether it will be someone within the department, outside of the department or outside of the community. There are enormous pressures on all of us. I am committed to the Town to make sure everything is done above board and that we have the right people in leadership positions. When you dial 911 and you need fire protection and a fire truck, one will be on its way. If you have a medical emergency, we respond as well. We will continue to do that. For those of you who may have already heard through the news media, we do have an OSHA investigation. A compliance officer came out and looked at some of our records and found that there were some paperwork violations. All of those have been taken care of. I met with OSHA today and he reduced the penalties and fine. We have added additional self-contained breathing apparatus masks so every fire fighter has his own personal mask carried in their coat. We have had some open discussions on the board talking about a possible merger with Wesley Chapel. We met with the Public Safety Committee last week and heard some comments from the upcoming chief with Matthews and what the Town of Matthews has done with their fire service and how they finance it and how they fund it and who buys the apparatus. We have gone through some growing pains. I don't like the word inability because we do have the ability. I would like to thank the Town for their financial support. I know you give us significant money every year and it goes to our paid staff so we can have qualified people here and ready to respond when the alarm goes off.

Item No. 7. Approval of Minutes.

A. September 13, 2010 Regular Town Council Meeting. Councilmember Gilmartin moved to approve the September 13, 2010 Regular Town Council Meeting minutes. All were in favor, with votes recorded as follows:

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

B. October 15, 2010 Special Town Council Meeting. Councilmember Gilmartin moved to approve the October 15, 2010 Special Town Council Meeting minutes. All were in favor, with votes recorded as follows:

AYES: Councilmembers Thomisser, Gilmartin, McKee and Mayor Pro Tem Barry

NAYS: None

Item No. 8. Consent Agenda.

A. Call for Public Hearing to Review and Consider a Proposed Text Amendment regarding Miniature Horses and Yard Requirements for Miniature Horses (Public Hearing to be held December 13, 2010 at 7:00 p.m. at the Weddington Town Hall). The Town Council received a copy of the proposed text change. This item was moved to New Business.

B. Call for Public Hearing to Review and Consider a Proposed Text Amendment to Add "Private Banquet, Reception and Conference Center" Uses as a Conditional Use (Public Hearing to be held December 13, 2010 at 7:00 p.m. at the Weddington Town Hall). This item was moved to New Business.

C. Consideration of Release of Conservation Bond for Providence Forest Estates. The Town Council received the following memo from Town Administrator/Clerk Amy McCollum:

The Town is currently holding a bond in the amount of \$15,000 for the Providence Forest Estates Subdivision for the maintenance of the conservation area. The annual maintenance costs for this subdivision is \$5,000. The conservation lands have been turned over to the Homeowners Association and their Balance Sheet which is attached shows that they are financially able to take over the maintenance of the conservation area; therefore, staff requests that the Town Council release the conservation bond for Providence Forest Estates.

The Town Council received the deed for the conservation lands for Providence Forest Estates, Articles of Incorporation of the Providence Forest Estates Homeowners Association, Inc., Maintenance Plan and Maintenance Agreement, Annual Maintenance Budget, Final Record Plat for Providence Forest and Balance Sheet.

Mayor Pro Tem Barry moved to release the conservation bond in the amount of \$15,000 for Providence Forest Estates. All were in favor, with votes recorded as follows:

AYES: Councilmembers Thomisser, Gilmartin, McKee and Mayor Pro Tem Barry

NAYS: None

Item No. 9. Consideration of Public Hearing.

A. Consideration of Ordinance Regulating the Residential Open Burning of Yard Waste in the Corporate Weddington Town Limits. Councilmember Thomisser moved to approve Version 2 of the Ordinance Regulating the residential open burning of yard waste in the Corporate Weddington Town Limits with the amendment to Section 4 to include the section allowing an exception for burning on a farm.

Mayor Anderson - I think the issue I heard was that people use yard waste to start their recreational fires. Kindling is what people use to burn their cord of wood. Daniel, it seems like you are not against this

concept but you are against some of the wording. Would you be against adopting the State and county regulations?

Mayor Pro Tem Barry - When the first ordinance presentation came, I was adamantly against it. The language was indicative of a burn ban. I would support anything that created reasonableness in an approach with clear definitions and clear expectations about what enforcements would be. There is too much grey area between what is open burning and what is a recreational fire. We are going to end up putting whoever it is who has to enforce this in a position of interpreting when somebody is warming their hands and cooking a hotdog and when somebody is burning yard debris and creating a nuisance.

Councilmember Thomisser - In Draft 2 it specifically states that a recreational fire means an outdoor fire for cooking or personal enjoyment. If you are cooking a hotdog or marshmallow or you have a recreational fire for warmth, I can't see how you can further clarify that.

Councilmember McKee - Daniel's problem is that we don't say what can be used for that recreational burning. He doesn't know if he can buy a load of wood or he has to use twigs or if he can use a combination.

Councilmember Thomisser - "Open Burning" means the burning of yard waste in such a manner that the products of the combustion are emitted directly into the air without passing through a chimney. "Yard Waste" means any grass, weeds, tree trimmings, shrubbery prunings, or other vegetation generated from the maintenance of yards or gardens. It says you can do that. If you can already burn that, then you can burn that as a recreational fire which is permitted. I don't understand Mr. Barry's concern.

Mayor Pro Tem Barry - If I have a recreational fire that is made up from material that is characterized as yard waste for open burning purposes, who makes the determination as to whether or not it is a recreational fire or whether it falls under the categorization of the open burn? We are putting them in a position of determining. We are not defining it clear enough to give the enforcement people the ability to deal with this in a manner that isn't setting up neighbor versus neighbor. We don't need to be in the middle of that and we don't need to put our enforcement people in the middle of that. I am not against creating some kind of burning ordinance that protects the safety and defines clearly what safe burning practices are. I don't want to overregulate this issue. We are walking down a road of unintended consequences.

The vote is as follows:

AYES:	Councilmembers Thomisser and McKee
NAYS:	Councilmember Gilmartin and Mayor Pro Tem Barry

The Mayor voted in the negative; therefore the motion failed.

Mayor Anderson - We have people who have expressed an interest in supporting the concept but not this wording. I would like to ask the council to bring something that they consider appropriate and useful. I am in favor of the concept but not in favor of the wording. We should put it on the agenda for the next time.

Mayor Pro Tem Barry - We need to adopt the State Statute so that then our Sheriff or the Fire Department can enforce it.

Councilmember Thomisser - I would recommend Mayor Pro Tem Barry and the Mayor to draft language to be presented at the next meeting.

There was consensus to allow Mayor Pro Tem Barry and the Mayor draft language to be presented at the Council meeting in January.

Item No. 10. Old Business.

A. Review and Consideration of a Code of Ethics for the Weddington Town Council. The Town Council received the following memo from Town Administrator/Clerk McCollum:

Session Law 2009-403 enacted a new statute, G.S. 160A-83, which requires all North Carolina cities, counties, local boards of education, etc. to adopt a resolution or policy containing a code of ethics to guide actions by the governing board members in the performance of their official duties as members of that governing board. It must be adopted on or before January 1, 2011.

The proposed Code of Ethics that is in your packet was reviewed by legal. Several examples from other Towns and the School of Government were received to help draft this document. The Code of Ethics is required to address at least five key responsibilities of board members, responsibilities that reflect concern for ethical principles as well as for the effects of the board members' decisions on others. The five areas to be addressed are:

- The need to obey all applicable laws regarding official actions taken as a board member.
- The need to uphold the integrity and independence of the board member's office.
- The need to avoid impropriety in the exercise of the board member's official duties.
- The need to faithfully perform the duties of the office.
- The need to conduct the affairs of the governing board in an open and public manner, including complying with all applicable laws governing open meetings and public records.

The statute leaves local boards a good deal of leeway in deciding what their codes will contain, as long as the code addresses the five topics.

Mayor Pro Tem Barry moved to adopt Ordinance O-2010-17:

**CODE OF ETHICS FOR THE
WEDDINGTON TOWN COUNCIL
TOWN OF WEDDINGTON, NORTH CAROLINA
O-2010-17**

PREAMBLE

WHEREAS, the Constitution of North Carolina, Article I, Section 35, reminds us that a "frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty," and

WHEREAS, a spirit of honesty and forthrightness is reflected in North Carolina's state motto, *Esse quam videri*, "To be rather than to seem," and

WHEREAS, Section 160A-86 of the North Carolina General Statutes requires local governing boards to adopt a code of ethics, and

WHEREAS, as public officials we are charged with upholding the trust of the citizens of this Town, and with obeying the law.

NOW THEREFORE, in recognition of our blessings and obligations as citizens of the State of North Carolina and as public officials representing the citizens of the Town of Weddington, and acting pursuant to the requirements of Section 160A-86 of the North Carolina General Statutes, we the Weddington Town Council do hereby adopt the following General Principles and Code of Ethics to guide the Town Council in its lawful decision-making.

GENERAL PRINCIPLES UNDERLYING THE CODE OF ETHICS

- The stability and proper operation of democratic representative government depend upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials.
- Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.
- Board members must be able to act in a manner that maintains their integrity and independence, yet is responsive to the interests and needs of those they represent.
- Board members must always remain aware that at various times they play different roles:
 - ✓ As advocates, who strive to advance the legitimate needs of their citizens
 - ✓ As legislators, who balance the public interest and private rights in considering and enacting ordinances, orders, and resolutions
 - ✓ As decision-makers, who arrive at fair and impartial quasi-judicial and administrative determinations
- Board members must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.
- Board members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each official must find within his or her own conscience the touchstone by which to determine what conduct is appropriate.

CODE OF ETHICS

The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for the Town Council and to help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a board member's best judgment.

SECTION 1 OFFICIAL ACTIONS

Board members should obey all laws applicable to their official actions as members of the board. Board members should be guided by the spirit as well as the letter of the law in whatever they do. At the same time, board members should feel free to assert policy positions and opinions without fear of reprisal from fellow board members or citizens. To declare that a board member is behaving unethically because one disagrees with that board member on a question of policy (and not because of the board member's behavior) is unfair, dishonest, irresponsible, and itself unethical.

SECTION 2 INTEGRITY AND INDEPENDENCE

Board members should act with integrity and independence from improper influence as they exercise the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

- Adhering firmly to a code of sound values
- Behaving consistently and with respect toward everyone with whom they interact
- Exhibiting trustworthiness
- Living as if they are on duty as elected officials regardless of where they are or what they doing
- Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner
- Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others
- Disclosing contacts and information about issues that they receive outside of public meetings and refraining from giving, seeking or receiving information about quasi-judicial matters outside of the quasi-judicial proceedings themselves
- Treating other board members and the public with respect and honoring the opinions of others even when the board members disagree with those opinions
- Not reaching conclusions on issues until all sides have been heard
- Showing respect for their offices and not behaving in ways that reflect badly on those offices
- Recognizing that they are part of a larger group and acting accordingly
- Recognizing that individual board members are not generally allowed to act on behalf of the board but may only do so if the board specifically authorizes it, and that the board must take official action as a body

SECTION 3 AVOIDING IMPROPRIETY

Board members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach. Although opinions may vary about what behavior is inappropriate, this board will consider impropriety in terms of whether a reasonable person who is aware of all of the relevant facts and circumstances surrounding the board member's action would conclude that the action was inappropriate.

If a board member believes that his or her actions, while legal and ethical, may be misunderstood, the member should seek the advice of the Town Attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it (such as consulting with the attorney).

SECTION 4 PERFORMANCE OF DUTIES

Board members should faithfully perform the duties of their offices. They should act as the especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned. Board members should faithfully attend and prepare for meetings. They should carefully analyze all credible information properly submitted to them, mindful of the need not to engage in communications outside the meeting in quasi-judicial matters. They should demand full accountability from those over whom the board has authority.

Board members should be willing to bear their fair share of the board's workload. To the extent appropriate, they should be willing to put the board's interests ahead of their own.

SECTION 5 OPENNESS AND TRANSPARENCY

Board members should conduct the affairs of the board in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should remember when they meet that they are conducting the public's business. They should also remember that local government records belong to the public and not to board members or their employees.

In order to ensure strict compliance with the laws concerning openness, board members should make clear that an environment of transparency and candor is to be maintained at all times in the governmental unit. They should prohibit unjustified delay in fulfilling public records requests. They should take deliberate steps to make certain that any closed sessions held by the board are lawfully conducted and that such sessions do not stray from the purposes for which they are called.

Adopted by the Town Council on the _____ day of _____, 2010.

Appendix 1 Guidelines for Ethical Behavior

The following guidelines are designed to translate current legal requirements into specific behaviors board members should avoid. While statutory provisions should be viewed as a minimum standard, board members should always consider whether there are ethical problems with other behaviors, even if such behavior does not violate criminal or other statutes dealing with conflicts of interest or other subjects.

1. Avoid deriving a direct benefit from contracts in which you are involved in making or administering on behalf of the public agency - G.S. 14-234(a)(1).
2. Avoid attempting to influence others involved in making or administering a contract on behalf of the public agency, even if you aren't involved, if you will derive a direct benefit from the contract - G.S. 14-234 (a)(2).
3. Avoid soliciting or receiving any gift or reward in exchange for recommending, influencing, or attempting to influence the award of a contract by the public agency you serve - G.S. 14-234(a)(3).
4. Consider the ethical and practical consequences of deriving a direct benefit from a contract authorized under any exception to the statute and weigh these considerations against the potential advantage to the public agency and to yourself. Follow reporting requirements to ensure transparency - G.S. 14-234(b); (d1).

5. Avoid participating in deliberations about or voting on a contract in which you have a direct benefit, when the contract is undertaken as allowed under any exception to the statute - G.S. 14-234(b1); criminal penalty.
6. Avoid using your knowledge of contemplated action by you or your unit, or information known to you in your official capacity and not made public, to acquire a financial interest in any property, transaction, or enterprise, or to gain a financial benefit that may be affected by the information or contemplated action. Avoid intentionally aiding another to do any of these things - G.S. 14-234.1.
7. Avoid receiving any gift or favor from a current, past, or potential contractor - G.S. 133-32(a).
8. Consider the ethical and practical consequences of accepting a gift or favor under any exception to the statutory prohibition, and follow reporting requirements to ensure transparency - G.S. 133-32(d).
9. Avoid voting on matters involving your own financial interest or official conduct - G.S. 160A-75; 153A-44. Identify and disclose these matters in advance so your board can determine whether you have a conflict allowing you to be excused by the board from voting. When in doubt, obtain an opinion from the Town Attorney about whether you must vote or may be excused.
10. Avoid voting on any zoning map or text amendment where the outcome of the vote is reasonably likely to have a direct, substantial, and readily identifiable financial impact on you - G.S. 153A-340(g); G.S. 160A-381(d).
11. Do not participate in or vote on any quasi-judicial matter, including matters that come before the board when the board is acting in a quasi-judicial capacity under G.S. 153A-345 or G.S. 160A-388, if participation would violate affected persons' constitutional right to an impartial decision-maker. Impermissible conflicts under this statutory standard include "having a fixed opinion prior to hearing the matter that is not susceptible to change"; "undisclosed ex parte communications [communications between a board member and someone involved in the matter that occur outside the official quasi-judicial proceeding]"; "a close familial, business, or other associational relationship with an affected person"; or "a financial interest in the outcome of the matter" - G.S. 153A-345(e1), G.S. 160A-388(e1).
12. Fulfill your statutory obligation to vote on all matters that come before you even when there are appearances of conflict, and only refrain from voting when there is a legal basis for being or a requirement to be excused from voting - G.S. 153A-44; G.S. 160A-75.

All were in favor, with votes recorded as follows:

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

B. Consideration of Proposal for Heating and Air Repairs for the Weddington Town Hall.

Councilmember Thomisser moved to approve the installation of a heat pump system for the upstairs of Town Hall at a cost of \$4,187.00. All were in favor, with votes recorded as follows:

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

Mayor Anderson questioned if the Town would be eligible for tax credits for this purchase.

Item No. 11. New Business.

A. Consideration to Direct Weddington Public Safety Advisory Committee to Determine Whether Recent Events at the Providence VFD have Resulted in Their Inability to Meet the Terms of the Service Contract with the Town of Weddington. The Town Council received the following information:

- Fire Suppression Contract dated October 13, 2008 with the Providence VFD
- Information regarding Fire Protection from the County and Municipal Government in North Carolina Book

Councilmember Thomisser - We have had three fire chiefs in the last three years. I wonder where the continuity is. The current fire department is experiencing declining revenues. Last time they were in a deficit of \$60,000. Approximately 50% of their board has resigned in the last three months. We are currently subsidizing the fire department in the amount of \$216,300. I am very concerned about what we are getting for our money. I am concerned about that fire department. I think it would be in the best interest of the people of Weddington to review it at the next Public Safety Committee Meeting.

Councilmember McKee – We need to be proactive on what should be recommended to Union County for this area regarding the fire study.

Mayor Anderson - Your committee should look at what is in the best interest of the Town going forward and you do not seem to have any concerns whether Providence is meeting their obligation to us. I have received assurances that we are receiving the same fire coverage or maybe better in the evenings. The problem is that we are over budget because we are having to pay them. It is not the quality or the coverage. I think this is the perfect opportunity for the committee to review this.

Mayor Pro Tem Barry - I think it is important to stay in front of the debate. I think it is important for the Council to communicate to the board that we are confident in the services that you are delivering at this point. Let us be clear that we know it is upside down and you have been running ragged with some turnover and we want to be there to help you if we can but we are sensitive to the issues you are dealing with.

Mayor Anderson - Sounds like the fire department is already having discussions regarding a voluntary merger. Let the people that know about fighting fires to figure this out.

Councilmember McKee also discussed the intersection of Antioch Church Road and Beulah Church Road and also wants the Public Safety Committee to work on this item.

Mayor Pro Tem Barry advised that he had also sent an email to Barry Moose with NCDOT regarding this intersection.

By consensus, the Town Council asked the Public Safety Committee to work with the fire chiefs and to talk about the fire department issues and the safety issues with the Antioch Church Road and Beulah Church Road intersection.

B. Consideration of Appointment of Representative to Library Strategic Planning Committee. The Board of County Commissioners on October 18, 2010 voted to establish a Library Strategic Planning Committee. Two of the members of this committee were to be either representatives from the Town Councils of Waxhaw and Weddington, or individuals appointed or chosen by the two towns.

The Library received a grant from the State library to conduct a strategic planning process. A key component is a Steering Committee composed of representative members of public organizations, stakeholders and citizens who will assist the Library staff to develop vision and mission statements. After a citizen survey is conducted, the Steering Committee will establish goals for the next several years. Because the work has high public value, we ask that the Board of County Commissioners appoint the member of the Steering Committee. The process will take approximately six months, November through April, with likely monthly meetings. A time investment of 12 to 18 hours would be expected of the members.

Mayor Anderson asked to be the Town's representative on this committee. She stated, "I have been working on this project way before I became Mayor and would like to continue with that."

Councilmember Thomisser advised that he would also like to serve on this committee.

Councilmember Gilmartin moved to appoint Mayor Anderson with Councilmember Thomisser as the alternate to the Library Strategic Planning Committee. All were in favor, with votes recorded as follows:

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

C. Consideration of Appointment Policy and Possible Amendments to the Membership of the Downtown Development Committee and Public Safety Advisory Board.

Mayor Pro Tem Barry moved to defer consideration on this item until December to allow further input from the Council on the draft Appointment Policy. All were in favor, with votes recorded as follows:

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

D. Consideration of Appointments to Board and Committees. Mayor Pro Tem Barry moved to defer appointments to Boards and Committees until the December Meeting. All were in favor, with votes recorded as follows:

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

E. Consideration of Resolution Concerning the North Carolina Permit Extension Act of 2009.

Attorney Fox – The NC General Assembly passed in 2009 an act that tolled the expiration periods for certain types of development approvals during the period 2008 through 2010. It then passed another act to further amend and toll those time periods. The second amendment would take the tolling period through the end of December 31, 2011, however that act said that that date would apply automatically unless the municipality chose to opt out of that additional one year tolling period. Not all approvals are subject to a tolling to December 31, 2011. There is a resolution before you that is allowing you to opt out if you choose to. It is a policy decision for you to decide whether you want this tolling to stop in December 2010 or continue to December 2011.

Councilmember Thomisser moved to not approve the Resolution and to allow the permits to be valid through December 31, 2011. All were in favor, with votes recorded as follows:

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

F. Consideration of Partnering with Village of Wesley Chapel on Parks Concept. Councilmember Gilmartin advised that he received a call from a Councilwoman with Wesley Chapel wanting to know if the Town would be interested in participating in helping to share in the expense of purchasing 20 to 40 acres for a passive park and amphitheater. Mr. Gilmartin discussed the two sites.

The Council by consensus asked that Councilmember Gilmartin relay to them that the Town is not interested in participating at this time due to ongoing issues at the Optimist Park.

G. Call for Public Hearing to Review and Consider a Proposed Text Amendment regarding Miniature Horses and Yard Requirements for Miniature Horses (Public Hearing to be held December 13, 2010 at 7:00 p.m. at the Weddington Town Hall). The Town Council received a copy of the proposed text change.

Mr. Rob Dow – I think what the Planning Board came up with is a reasonable allowance for what is a new breed.

Councilmember Thomisser – How many situations do we have in Weddington with miniature horses? Is this an isolated incident?

Mr. Dow - We had one person who has a problem and came in with a text change so we had to address it. We did not in effect actually help her totally. She still has a problem. With her request we realized that there was a hole in our ordinance.

Mayor Pro Tem Barry - You mentioned that this does not fix her problem.

Mr. Dow - I think what we came up with would be the ideal situation that fit with our horse allocation per acre and that is what we based it on. It is guess work. You cannot legislate how a person takes care of their property. Miniature horses are smaller but they are carrying the same amount of pressure and erosion on the earth. We felt that two miniature horses worked out to be about the same as one horse as far as wear and tear on the soil. A person can keep 20 horses on 10 acres and do a beautiful job but that is a rarity. If we want to get into that, we would have to legislate a lot of stuff to go along with it. From our standpoint, we do not look at an application based on trying to solve her problem; we look at what everyone in Weddington would want to do.

Mayor Pro Tem Barry moved to call for a public hearing to consider a proposed text amendment regarding miniature horses and yard requirements for miniature horses. The public hearing is to be held December 13, 2010 at 7:00 p.m. at the Weddington Town Hall. The vote is as follows:

AYES: Councilmembers Gilmartin, McKee and Mayor Pro Tem Barry
NAYS: Councilmember Thomisser

H. Call for Public Hearing to Review and Consider a Proposed Text Amendment to Add "Private Banquet, Reception and Conference Center" Uses as a Conditional Use (Public Hearing to be held December 13, 2010 at 7:00 p.m. at the Weddington Town Hall). The Town Council received a copy of the proposed text change and the following memo from Town Planner Jordan Cook:

- On July 12, 2010 the Planning Board reviewed a citizen proposed text amendment to add “Private Banquet, Reception and Conference Center” as a Conditional Use in all residential zoning districts.

- The Planning Board gave an unfavorable recommendation to the text amendment as proposed only because they didn't feel that the use should be allowed in all residential zoning districts.

However, the Planning Board did agree with the concept and the use as a whole. The Planning Board recommended that the use ("Private Banquet, Reception and Conference Center") be added as a permitted use in the MX (Mixed Use) district. Therefore any applicant requesting that use would be required to go through the Conditional Zoning process.

- The Planning Board asked that the Town Council determine whether this is a use that is wanted within the Town of Weddington. If so, the Planning Board will review the details of the text amendment.

Councilmember Gilmartin moved to direct the Town Planner to work with the Planning Board to craft language to add Private Banquet, Reception and Conference Centers to the M-X Zoning District. All were in favor, with votes recorded as follows:

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

Item No. 12. Update from Town Planner. The Town Council received the following update from Town Planner Cook:

- The Trust for Public Land is currently creating a base map with proposed trail locations based on the feedback received at the four Listening Sessions. Open House meetings will occur in mid November to discuss the trail locations. Please see the following website for further information: <http://www.carolinathreadtrail.org/>
- I have received a recombination plat from Forest Lawn Cemetery. This plat would simply add a ten acre parcel to the existing 52 acre cemetery parcel. Per Town Council's direction this project is being reviewed administratively because the existing Conditional Use Permit is not being materially changed.
- The B-1(CD) and B-2(CD) Rezonings will take place after I have met with all property owners involved in the rezonings. Meetings with the property owners are currently being scheduled.
- A citizen proposed Text Amendment regarding a private banquet, reception and conference center was on the October 25th Planning Board agenda. The Planning Board recommended adding the proposed use as a permitted use in the MX Zoning District rather than adding it as a Conditional Use to all residential zoning districts.
- The property owner at 109 Oxford Terrace has applied for a Text Amendment to the *Zoning Ordinance* to address miniature horses and the number of miniature horses permitted per lot. This Text Amendment was discussed at the September 27th and October 25th Planning Board meetings. This item will be on the December 13th Town Council agenda for Public Hearing and Consideration.
- The Planning Board discussed the Goals and Policies section of the Town's Land Use Plan at their July 26th meeting. Suggested updates and changes will be brought to the Town Council in the next few months after a full review of the Land Use Plan has been completed.
- Clean up on the Cox Road School site is complete.
- NCDOT has completed clearing vegetation and grading for the access road behind Town Hall. The access road will connect the back of the shopping center to Weddington-Matthews Road. Curbing for the access road has been installed. Weather has delayed the project but it should be completed within two weeks. NCDOT will remove all of the berm along Weddington-Matthews

Road. Most of the dirt from the berm will be used to construct the actual roadway. Any remaining dirt will be used to level out the back yard at Town Hall.

- Bob Cook with MUMPO (Mecklenburg Union Metropolitan Planning Organization) will give a “MUMPO 101” presentation at the December 13th Town Council meeting.
- Anthony Fox and I met on Thursday, October the 28th to discuss the RFP (Request for Proposals) for the library, open space, development, etc. We discussed the criteria and parameters of the RFP. Anthony has contacted other municipalities for RFP examples and will use those in drafting our RFP. Anthony and I will work on the first draft and then forward to the Town Council for comments and suggestions.
- NCDOT has acquired the right-of-way needed to install turn lanes and a traffic signal at the intersection of Hemby Road/Beulah Church Road and Weddington-Matthews Road. NCDOT is scheduled to begin work this year. The turn lanes and signal should be completed by late 2010 or early 2011.

Item No. 13. Update from Town Administrator/Clerk. The Town Council received a copy of the WCWAA Expenses and Most Recent Updated Goals and Objectives and the following update from Town Administrator/Clerk McCollum:

- Plans for the 3rd Annual Tree Lighting Event have been planned. The event will be held December 3 beginning at 5 p.m. at the Town Hall. The following groups are scheduled to perform: First Baptist Church Bells and Musical Ensemble, Weddington Middle School Chorus, Weddington United Methodist Church Youth Bell Chorus – Echoes of Faith, Weddington High School Jazz Band, and Siler Presbyterian Church Al-Le-Lu-La Company. Kids are asked to bring a homemade ornament for the tree.
- The first Public Safety Advisory Committee Meeting was held on October 26, 2010. The Mission Statement and Rules of Procedure were developed. Copies will be sent to you as soon as final changes are completed on those documents.
- The Town is sponsoring “Give a Kid a Coat” through the Union County Christmas Bureau. Residents are encouraged to drop off any new or gently used coats to the Town Hall by December 3.
- The Town is seeking reimbursement from Weddington Associates for the legal fees associated with the drafting of the temporary easement document for the access road behind Town Hall.
- A copy of the WCWAA Cost Worksheet and Most Up-to-Date Goals and Objectives is in the front of your books.
- One of the trees in the front yard was taken down on Tuesday of this week due to disease. It was inspected by the Union County Tree Forester and two other outside vendors.
- We have received the Well Permit from Union County. Work on the well, landscaping and sprinkler system will be occurring over the next two weeks.
- Attorney Fox is working on amending the Sewer Easement with Weddington United Methodist Church as discussed at the October 15, 2010 Special Town Council Meeting.
- A letter and map will be sent this week requesting that the Town be allowed to participate in the 2012 Urban Archery Season. Participation in this program will be ongoing unless the Town requests to be released from the program.

Upcoming Dates

- November 11 – Town Hall Closed for Veterans Day
- November 22 – Parks and Recreation Advisory Board Meeting (6:00 p.m.)
- November 22 – Planning Board Meeting (7:00 p.m.)

Item No. 14. Public Safety Report.

Providence Volunteer Fire Department - Activity Report (October 2010)

35 Total Calls for Service
5 Union County EMS calls
27 Union County Fire calls
2 Mecklenburg County Fire calls
1 Mecklenburg County EMS calls

23 of the calls were dispatched between 0600 and 1800 (day)
12 of the calls were dispatched between 1800 and 0600 (night)

Training Hours Completed: 201.5

- Topics Include:
 - Hydrant/Water Supplies
 - Pumping/Driver Operations
 - Several members attending classes at outside fire departments their fire fighter certifications.
- Events of the Month:
 - Assisted Waxhaw, Wesley Chapel and Mineral Springs fire departments with a commercial structure fire on Broome Street in Waxhaw.
 - Assisted Waxhaw Fire Department with a residential structure fire by supplying water with Tanker 324
 - Paid staff and volunteers qualified to wear SCBA were updated with their annual SCBA mask FIT and PFT tests. Any remaining members will receive the testing in November.
 - Fire Department members participated in 7 public relations events as a part of fire prevention month. Events were held at Antioch Elementary and Weddington Elementary schools and several neighborhoods.

The Town Council also received the Providence VFD Income and Expense Budget Performance and Balance Sheet

Weddington Deputies: 322 Calls

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

A. Finance Officer's Report. The Town Council received the Revenue and Expenditure Statement and the Balance Sheet for October 1, 2010 to October 31, 2010.

B. Tax Collector's Report. Monthly Report – October 2010

Adjust Under \$5.00	\$(3.69)
Overpayments	\$(589.09)
Pay Interest and Penalties	\$(129.62)
Refunds	\$588.99
Taxes Collected:	
2010	\$(75,272.43)
2009	\$(521.14)

2008	\$(427.02)
As of October 31, 2010; the following taxes remain Outstanding:	
2002	\$82.07
2003	\$196.11
2004	\$159.59
2005	\$320.66
2006	\$218.06
2007	\$511.14
2008	\$4,854.82
2009	\$10,200.02
2010	\$432,420.28
Total Outstanding:	\$448,962.75

Item No. 16. Transportation Report. Mayor Anderson reported that the next MUMPO meeting is November 17.

Item No. 17. Council Comments. There were no Council Comments.

Item No. 18. Closed Session to Consider Approval of Closed Session Minutes and Pursuant to NCGS 143-318.11 (a) (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. This item was removed from the agenda.

Item No. 19. Adjournment. Councilmember McKee moved to adjourn the November 8, 2010 Regular Town Council Meeting. All were in favor, with votes recorded as follows:

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

The meeting ended at 10:52 p.m.

Nancy D. Anderson, Mayor

Amy S. McCollum, Town Clerk