

**TOWN OF WEDDINGTON
SPECIAL TOWN COUNCIL WORK SESSION WITH
THE UNION COUNTY BOARD OF COUNTY COMMISSIONERS
MONDAY, OCTOBER 10, 2011 – 4:30 P.M.
WEDDINGTON UNITED METHODIST CHURCH – HELMS HALL
13901 PROVIDENCE ROAD
WEDDINGTON, NC 28104
MINUTES**

The Town Council of the Town of Weddington, North Carolina, met in a Special Work Session with the Union County Board of County Commissioners at the WUMC – Helms Hall, 13901 Providence Road, Weddington, NC 28104 on October 10, 2011, with Mayor Nancy D. Anderson presiding.

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

Absent: Councilmember Robert Gilmartin

Union County – Chairman Jerry Simpson, Vice-Chairman Todd Johnson, Commissioners Jonathan Thomas and Tracy Kuehler, County Manager Cindy Coto and County Clerk Lynn West

Visitors: Representative Craig Horn, Kent Hayes, Genny Reid, Richard Sahlie, Larry Wood, Pam Hadley, Barbara Harrison, Annette Baker, Dick Douthwaite, Paul Gross, Craig Bohlen, Jan Taylor, Dennis Taylor, Joe Tolan, Russ Brasher, Silvano Ferrazzo, Brooke Dunwoody, John Houston, Jim Vivian and Jerry Fitzgerald

Item No. 1. Open the Meeting. Mayor Nancy D. Anderson called the Special Town Council Work Session to order at 4:38 p.m. There was a quorum.

Mayor Anderson - We will not have a public comment section. This is a staff level meeting and you will have ample time to make comments later on during our regular meeting.

Item No. 2. Discussion of Fire Service within the Town of Weddington. Mayor Anderson - This discussion has been going on now for eight years. We wanted to let the Commissioners know that over the past couple of weeks the Town Council has decided that we would like to explore having a municipal fire district for the Town. We believe that the closer you can get government to the people it effects, the more effective it is. As their elected officials, we should assume responsibility for establishing the level of fire service and how much of a financial burden the tax payers are willing to bear. We have had our staff attorney work on this issue for months. Representative Craig Horn has done a huge amount of work trying to figure out how to do that.

Attorney Anthony Fox – Weddington is in a unique position of being served by three volunteer fire departments with three separate fire districts. Those districts were created in concert with Union County. They were created by local acts. As part of the local act, the Town was required to give away its right to control the territory within its corporate limits. The three fire departments include Providence VFD, Wesley Chapel VFD and Stallings VFD. Out of that arrangement and the drawing of the insurance district lines, unique circumstances were created where some of the property owners while they may be right across the street from the volunteer fire department are not served by that department. It is also a reality

in Weddington that one of the fire departments is situated in an area that is a little bit less central to the other two fire departments. In looking at this and trying to determine whether or not the Town could better deal with this approach to fire service, the Town explored the creation of a separate fire district. Another unique component of the current arrangement is that one of the fire departments is serviced by a fire fee. The other is serviced by a fire tax. That creates further inequities. The Town has looked at ways to try to remedy this. Some of the approaches we have developed include the authority under G.S. 160A to create its own fire department. The other approach that has been talked about with the Council is to create a fire district that is controlled by the Town and move that responsibility from Union County that you currently exercise for both Providence VFD and Wesley Chapel VFD. What that would do is give the Town the ability to decide whether all of its jurisdiction should be governed by a fire tax and then to set the rate and be accountable to its residents for that. One of the issues is how do you get to that level if indeed the County is amenable to that. How do you disengage the Town from the current structure? The current structure is a fire district approved by the County and the tax rate is set by the County and commissioners. Part of the transition would be to create this district and the Town to create a tax. There seems to be three approaches to doing that. One is for the Town and County to agree to work together to divest the Town and move it from the district. The County Commissioners would agree to allow territory within Weddington that is governed by Wesley Chapel VFD to be removed from that local act and be given back to the Town. The other would be a similar arrangement with Providence VFD that was created through a local act and put that back into the Town. It would require some coordination. The Town would assume that territory and create the appropriate fire and insurance districts. I spoke to the School of Government and they believe another approach is that the act to be part of the district could be unilaterally rescinded by the Town. I believe there is a collaborative spirit here and cooperation is being sought. The third approach is to do it by a local act. The local act would just spell out the creation of this district.

Mayor Anderson – Our objective is to maintain the high level of service that we already have. We are fortunate to be served by three excellent fire departments. If you look at all of the things that go into that high quality service, you think about personnel, training, expertise, equipment and facilities. All of which are superior. Providence VFD needs an upgrade. There is only one factor that would change that and that is response time. We hope to have citizens served by the fire station closest to their home because they will get there faster. That is the variable that we would like to work with. If that responsibility is given over to Weddington, then we can deal with that issue ourselves. Commissioner Thomas and I had a conversation today. He informed me that he had talked to the fire officials at Wesley Chapel VFD and Providence VFD and they seemed to be getting closer on a possible merger. If that is how things shake out in a year or two; that is fine, but it should be Weddington's decision. We would then only be contracting with two fire companies instead of three. I anticipate that we will still today have to contract with all three fire companies that are currently servicing us.

Commissioner Kuehler – What I think I heard you say was if Weddington were to take over, there are still parcels in the Town limits of Weddington that would be serviced by Wesley Chapel VFD. Wesley Chapel VFD will still be compensated for parcels that are serviced by them as well as Stallings VFD and Providence VFD.

Mayor Anderson – One of the fire stations of Wesley Chapel VFD is in the Town of Weddington. We will never be able to make it without all three of them. We just think it would work better if the Weddington Town officials had those conversations regarding the level of service that we want and what we are willing to pay for it.

Commissioner Kuehler - Is there a way the County can assess whether this is the right thing for the citizens? Is there a way to take it down to this is what needs to happen in order for Weddington to take

control of its fire service so that the County knows what it is looking at and can have meaningful discussions?

Attorney Fox - One of two things can happen. I think there can be a Resolution adopted by the Town and the County whereby both parties can agree from a certain date and time moving forward that the responsibility for fire service and insurance district lines within the Town of Weddington would be controlled by Weddington. Another approach would be to have another local act changing the boundaries for Wesley Chapel VFD and for Providence VFD as well as Stallings VFD. I think what is going to have to happen is for the County to get comfortable with giving the administration involved in fire service in Weddington to Weddington and working through the respective volunteer fire departments territorial issues that go with that because Wesley Chapel VFD will continue to serve part of Union County regardless of the removal of its incorporated territory. Stallings VFD will continue to serve part of Union County as well.

Representative Horn – I have talked with the Department of Insurance which oversees the State Fire Marshall's office. I have been in contact with the North Carolina League of Municipalities and North Carolina research legislative legal team to find out what if anything needs to be done by the State in this case. They have all referred me to pretty much the same statutes. All of them collectively say that generally speaking municipalities have the authority to create a fire service area - not a fire tax district. The municipality has the authority to contract for or provide fire service but they must pay for it out of general tax revenues. They cannot pay for it out of a fire tax or fire fee. It has to be incorporated into the general services provided by a municipality. There is no additional legislation required for municipalities in the State of North Carolina who look to do this. The devil is in the details. How you work out some conflicting issues as far as service districts and tax districts. It would be nice if everyone was on the same page. Beyond that they still believe that this can move forward as long as it is done carefully with great attention to what words are used. As far as we see it, the State does not want to stick its nose in this. We just need to figure out how to do it. The authority is there. The State micromanages entirely too much already and we are trying to get out of that business. We want everyone to play nice together and when they cannot we draw up the rules. My role here is to ensure that whenever this group decides what they want to do, I am going to do my best to ensure that you have authority to do it easily and simply rather than lengthy and costly.

Councilmember Thomisser - Is there any situation in North Carolina similar to the current situation in Weddington?

Representative Horn – Not that I am presently aware. I did speak with Kelly Kukura at the State League of Municipalities. There have been some similar incidences like this historically. They have all been resolved. She is as committed as I am to figure out how to do that. Once we figure out what we want to do, we will make sure that the State gets out of your way.

Commissioner Thomas – I certainly appreciate the memo. At the end of the day, it is what is in the best interest for Weddington. You certainly know what future you want and what services you want rendered. At the end of the day, I believe that we need to exhaust all options. It was encouraging when I found out that six of the eight concerns that the Providence VFD Directors had have been met by Wesley Chapel VFD with regards to the merger. I believe that an audited copy of their financials is also being prepared to be turned over. To me, that is tremendous progress and whether or not the Town of Weddington deems that as being appropriate or not I believe it is my responsibility to make sure that they exhaust every option so that you can decide in conjunction with Representative Horn on what your future is going to look like.

Mayor Anderson – So do I hear you saying that you guys would be amenable to turning this over to us? Where do we go from here?

Vice-Chairman Johnson – Attorney Fox mentioned three options. I missed Option 2.

Attorney Fox – I think the options include the Town rescind the local act. That is consistent with what Representative Horn stated. If you want to keep it a district and have a separate fire tax I think the only way to do that is through a local act. The second option is through a collective spirit of these governing bodies to decide that they are in agreement that the Town can govern the provision of fire services within the corporate limits of the Town and that would mean developing the appropriate tool to recognize that the Town no longer has consented to its inclusion in those local acts that created the tax districts and fee districts and work toward the Town then setting up the appropriate vehicle for providing fire services as the Town is authorized to do in the general statutes. The Town as result of that would have to increase its property tax rate to be commensurate with what that former fee for tax was to cover the provision of fire services. The third one is a position that the School of Government believes is the Town can rescind its earlier consent to be a part of those districts.

Vice-Chairman Johnson – So the Town could establish its own fire district regardless of whether we consent or not?

Mayor Anderson – Yes, but that is not the best way to do it. The best way is to do it together.

Chairman Simpson – One of the things that I learned in getting in politics is that the fire departments are a big issue. The County does not own any fire equipment and only the fire departments own the fire equipment and the fire departments raise the money so I want the fire departments' opinion when we start talking about these issues. I believe that they demonstrate over time that they do an excellent job of providing for fire service and they do it very economically. I think Commissioner Kuehler asked at our last Commissioner Meeting for staff to pull some information together with regards to what the steps might be. I have received some information from Attorney Crook. There are four things with regard to the steps to a fire service district and one of those is it economically feasible to provide service in a district without unreasonable or burdensome annual tax levies? We need to be real careful when we start juggling the current system to not create an undue tax burden on any individual or any particular section. It goes on to say that territory lying within municipal limits cannot be included within a fire service district unless the municipal governing body consents by resolution. It will come by a formal resolution by the municipality. My interest would be in wanting to hear formally from Weddington exactly what it is the citizens of Weddington want and share that information with us and we can move in that direction.

Mayor Anderson – We are their elected officials and we speak with them and it is our job to go out and talk with them. We have had lots and lots of meetings about this. I feel like we have listened well to our citizens because somewhere from 25-30% of the population is served by Providence VFD and most of the remaining is served by Wesley Chapel VFD. We have two different tax rates. How is that fair? We would like to equalize that out. All of the tax payers of Weddington have been subsidizing Providence VFD so the people that live in the Wesley Chapel VFD district are paying three times. They pay their county tax, they pay their tax to Wesley Chapel VFD and then to the Town of Weddington and we take it and give it somewhere else. I think it would be much cleaner. Not only could we maintain our excellent service that we already have but the financial burden will be more equalized. That is a decision that the elected officials need to make.

Attorney Fox – There is some discussion about letting the voters decide. I don't believe there is authority to hold a referendum on a point like this.

Representative Horn - It is my understanding that it is not an option under present law. We would have to pass a bill authorizing a referendum for this purpose. It is going to be time consuming and costly.

Councilmember Thomisser - My feeling is that we were elected as leaders of Weddington and we are quite capable of arriving at a decision that is best for the citizens of Weddington. The fire service over the years has changed. What we have now was set up years ago. We should have a situation that is fair for all of the citizens of Weddington and most important is response time and mileage. We need to find a system that is fair to both departments so that one department does not lose anything and another department gains tremendously. Currently up until two years ago I was paying \$50.00 a year fire fee. Someone that had a house half the size of mine was paying the same amount. That was not right for a person with a bigger house to pay the same fire fee. I believe that the citizens understand that the situation has changed tremendously. It is going to cost more for fire service and we need to get into that line of thinking.

Anthony Fox – The statute authorizes the County to create tax districts and requires certain findings to be made for a tax district to be created. Part of that does include a requirement for the Town to incorporate territory to be included in that district to provide consent. What we are dealing with here is that latter part. Can we with the County's consent withdraw the consent? You are not dealing with the creation. You are talking about for a portion of that district that is within the corporate limits of Weddington can the governing bodies agree to withdraw Weddington's prior consent for that property to be included in the district and allow Weddington going forward to govern that area? I do not think those findings are applicable to that process.

Commissioner Kuehler – It would be really nice if there was a model to follow that someone else has done. We have not been able to find one. How many counties in North Carolina are able to charge fees versus a tax?

Representative Horn – There are only two counties with fire fees with Union County being one of them. All of the other counties in North Carolina went to a fire tax.

Councilmember McKee – I suggest that we create a Resolution on the two options that we are in favor of and then the County decide which one they want to go with. I think they are right that Weddington should initiate the Resolution to move in that direction. We actually have a discussion at our Regular Town Council meeting discussing this issue tonight. This has been going on for years. It has been a long process. It is time for the Town Council to initiate.

Mayor Pro Tem Barry – We need to be clear to the County Commissioners on what our expectations are. I do not like either/ors. I think we need to say we plan to move in this direction and we hope you will support us. We need to make that final decision tonight. Our preference is that we go at this together.

Item No. 3. Discussion of Weddington Water Storage Facility. Mayor Anderson - The County came to the Town and applied for a water tower at a parcel along Providence Road just south of Rea Road. It was approved by the Town Council with conditions. We rescinded that approval and asked that the County go back and look at how we can make it a ground level storage tank versus a tower. We have heard favorable comments from all commissioners that they would be willing to go back and look at this. It always comes down to the funding.

Chairman Simpson – We were moving forward with the water tower then we received from Weddington a couple of caveats relative to open space/park and wanting it to be a ground level tank.

Mayor Anderson - We did not make that a part of the original approval - only the open space/park part.

Chairman Simpson – We had that information and it was under consideration and then you rescinded that request so here we are. One of the frustrations that I find in government is the legal side. There are a lot of questions now of exactly where are we in the process relative to actions by Weddington and where we were in that process.

Mayor Anderson - Maybe we start with the end goal and how do we get there. I will try to summarize the end goal. We accept the site that has already been looked at and we request that the County do a ground storage level tank. Weddington is willing to pay for additional operating costs of that pump station and we would be willing to take care of the maintenance of the grounds.

Councilmember McKee – We offered \$20,000 a year for 10 years and to look at it at the end of that period and for the Town to do the upkeep and maintenance of all the grounds.

Anthony Fox – The Town was willing to entertain that if Union County were to present a request along those lines.

Mayor Anderson – The majority of the Weddington Town Council agreed with the County that it was absolutely important that we have some sort of water storage facility here in Weddington as part of the main system of the County to maintain the pressure. It is my feeling that the site is not up for discussion. What we are looking for is to lower the tower. If you talk to the citizens, that is what their objection was to the ugly factor. Again the citizens want water, they want their neighbors to have water and they want their fire departments to have water. We are just trying to figure out a compromise. I am just hoping we can come up with an agreement on how we can fund this together.

Councilmember Thomisser – Lynda Paxton, Mayor of Stallings, was quoted in the newspaper as saying she had a big problem on Chestnut Lane in the Stallings Area with water pressure. I questioned Mr. Goscicki before if we had a water problem or a water pressure problem. They have said we have a water pressure problem. We have 60 subdivisions in Weddington that are on water wells. We have 16 subdivisions that are on county water. I went to those subdivisions and I asked them how their water pressure was? There was only one subdivision that said their water pressure was terrible. That subdivision was Rose Hill -which happens to be closer to Stallings. I have a problem spending that kind of money to fix one neighborhood. No one has proven to me yet that Weddington has a water pressure problem except one neighborhood.

Mayor Anderson - The majority of the Town Council feels that it is important. Clearly you have a different opinion about this. We are not here tonight to debate the need for the tower.

Vice-Chairman Johnson – I would ask the Town Council to tell me where you would want a water tower. I am not in favor of the County paying the additional funds for a ground storage tank. If the Town would come to us and say we would like to pay for the change. Our role is to provide the service and to fulfill the need. If we fulfill the need and it is “x” amount of dollars then the Town Council or the citizens choose “x” + “something else” then our role and our duty to the users of Union County should pay “x” to provide the basic service. There are towers all over the County. It is hard for me to tell all these other folks that have towers in their back yard that because you do not live here that we are going to have to spend your user money to build something different. We have to decide as a County whether we are going to set a precedent. If we build a ground tank here, as this County continues to grow there will be a ground tank at every single site that we build from this point on.

Mayor Pro Tem Barry – I understand what you are saying but has the County already in the enterprise fund set that precedent with the extra work that they did on sewage treatment plant down by Cureton?

Vice-Chairman Johnson – I view that as a separate situation. Odors which can cause asthmatic reactions are different from visual effect. I would be doing the same thing as these citizens if this was in my back yard. I would be fighting it tooth and nail.

Mayor Anderson – Then what is the remedy?

Vice-Chairman Johnson – Weddington needs to tell us where you want to put this if you want it.

Mayor Pro Tem Barry - We changed our zoning rules in Weddington 18 months ago to have the ability to have a face to face conversation about issues. The County never approached us about where to put a water tower. They showed up with engineering work and said this is what we want to do.

Mayor Anderson – It is not so much the construction costs - it is the additional water line. That belongs to Union County. Am I hearing you correctly that you are willing to navigate a discussion on this? How much is Weddington willing to pay? What I heard loud and clear is that the residents think that it is the County's responsibility to pay that extra but we did acknowledge that the operational costs will clearly be more and so we offered \$20,000 a year for 10 years. The precedent has been set and the Town of Weddington has done it. We have worked with the County on every single level. The first example was contract deputies to provide increased security and police protection on our end of the county. We have a density that we did not feel that the zone officers were here close enough. They were sometimes 40 minutes away. We upgraded if you will and took upon ourselves to hire the additional police protection. We then needed EMS service and Wesley Chapel VFD built a new station down on New Town Road. The County would not put an ambulance there because they said there was not enough call volume. It is all about response time. Weddington provided the ambulance for you to operate. We wrote the check in the amount of \$100,000 for the ambulance. We have been working with the County on the WCWAA issue for years. I am a little puzzled as to why this is different and would not be given the same consideration. Is it about the amount?

Vice-Chairman Johnson – It is more about the principal for me. I feel that the role of Union County government is to provide for the need. It is not to go above and beyond to provide additional services. This is the level of the County services and you wanted more in the past then Weddington stepped up and gave that additional level of service.

Mayor Anderson – We do want a different level of service. We do not want the government issued standard water tower. What is the price you are going to require?

Vice-Chairman Johnson – We do not know the difference or the figures. What I need is more than \$20,000 from the Town on a yearly basis.

Commissioner Kuehler – I was against paying for the capping of the sewer plant for the same reason I hear tonight of why you are against it because it is an increased or enhanced service. I said back then the sewer plant had been there forever. They were going to put a school on the property and people had a fit because we had been spraying sewer sludge on the land. The County was in the process of rezoning it to a light industrial and annexing into Waxhaw. Waxhaw put very high density zoning on the property. All of a sudden we got all commercial development and residential development. When the plant was built there was no one around. I do not think the cows minded the smell. We started getting the complaints. I was against it because the sewer plant was there first and all the residences came after. Waxhaw did not come to the table with any money and I do not think they were even asked. For whatever reason, it was approved. I got to see that enhanced level of service and to me it is not different - safety, visual and property rights. I own the vertical property rights as well as the horizontal property rights. We have

towers all over the County but someone decided to bury power lines and then that became the trend. You have to start somewhere. I have seen the other towers and they are in industrial areas and they are in commercial centers and they are not in million dollar very established houses back yards. I thought it was an interesting question to show us where I can put a water tower here. If there is a place, I would like to know that as well. I do not think anyone sitting at the table would argue that putting a tower in that area is not going to affect the property values of the people living there. Their values are going to go down. I believe that this is something that needs to be worked out or we need to find another place. I have looked at the engineering studies. Our own engineering study used in its deciding factor on how to rank the five properties that there were no surrounding residences or very few residences that would be affected by the water tower yet we are doing it.

Mayor Pro Tem Barry – Weddington recognizes and supports the County's desire to improve water pressure and storage in Western Union County. We made that decision. The challenge we have is the style, location and scope of the facilities. We have not been engaged; we just keep getting engineering drawings. We are ready to help to find a solution. We just need to be invited to the table.

Chairman Simpson – One of the disadvantages that we have as County Commissioners is there are 14 municipalities in Union County. These municipalities want to determine what their communities are going to look at. Then you put it back on five people who have to make decisions for the entire County. Stallings has water issues. The water system is a total system to serve all of Union County. That is what we have to look at. I went to Google and I could not find any information anywhere that said that water towers had a negative economic impact on a community. I spoke to a real estate agent and he gave me an example of where a water tower had an impact on an individual's desire to purchase or not purchase a piece of property. My desire is to try to provide the service at the least cost and sometimes you have to make some tough decisions. Our updated Water and Sewer Master Plan is close to being available. Mr. Goscicki can look at that information and make an intelligent decision. Once I know that information I will know whether it is a water tower or a ground level storage tank or if in fact that location is the best location. I will have to make that decision based on the total County.

Mayor Anderson – You are saying that we need to table this conversation until January because right now we do not have all of the information.

Mayor Pro Tem Barry - We are going to sit tight for 45 days and have Jordan be the staff contact with the County on this issue.

County Manager Cindy Coto advised that the preliminary information may be ready by November with a goal to send to County Commissioners in December for adoption.

Item No. 4. Discussion of WCWAA Matter. Mayor Pro Tem Barry - We had a meeting two weeks ago where the WCWAA's Attorney presented to the community their remediation plan. I was looking to receive feedback on that plan.

Anthony Fox – The Park initiated a meeting with the abutting property owners to the park to address and present a proposed mitigation plan that has been developed by their engineer. The plan does not return the area to a no-rise situation. It was demonstrated by the plan that there would not be any affected housing structures by the plan yet there were certain demonstrative rises in the base flood elevation. The Park left the meeting informing the adjoining property owners that they would reach out and have individual discussions with each of them to see if they would be comfortable with the proposed plan. We are awaiting the outcome of that effort.

Nancy Anderson – Do we know when this is going to be? This has been going on for years.

Anthony Fox – I did have a conversation with Attorney Duggan. This has been an ongoing process. This is a difficult situation for both parties. This does have competing interests from abutting property owners to get their property unaffected by a rise, there is interest of the Park to preserve recreational opportunities for the citizens and residents of Weddington and Union County and there is regulatory oversight from both from the State and FEMA.

Mayor Pro Tem Barry - We have spent \$106,000 on this issue. There has got to be an end or an exit strategy.

Councilmember Thomisser – I have walked the property of these affected property owners and when we have two to three days of rain it is unbelievable the amount of water that is coming up to these people's back yard. I would not want it. A 30% reduction is unacceptable.

Commissioner Kuehler – This has been something that I have been working on and actually spearheaded the effort to get FEMA Expert Ernie Abbott involved so we could actually move the process along faster than it was going. The plan does not have to be approved by the property owners for it to get sent to FEMA. The ultimate decision is going to be with FEMA whether they are going to accept the remediation. I want to point out that the Park has sued their past engineers. At the time, the Park was allowed to cause up to a foot rise and FEMA would have approved it and allowed them to do it. We need to get the plan to FEMA that is not going to bankrupt the Park but is going to restore the homeowner to the best of the ability that the Park can afford.

Attorney Fox – This started as a commitment of the collective bodies to continue this exercise to achieve a goal of allowing the Park to operate in an environment to gain regulatory approval. The plan will ultimately come before the County and the Town as a submittal by the Park.

Item No. 5. Adjournment. Mayor Pro Tem Barry moved to adjourn the October 10, 2011 Special Town Council Work Session. All were in favor, with votes recorded as follows:

AYES: Councilmembers Thomisser, McKee and Mayor Pro Tem Barry

NAYS: None

The meeting ended at 6:13 p.m.

Nancy D. Anderson, Mayor

Amy S. McCollum, Town Clerk