

**TOWN OF WEDDINGTON  
REGULAR TOWN COUNCIL MEETING  
MONDAY, NOVEMBER 10, 2014 - 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 10, 2014, with Mayor Bill Deter presiding.

Present: Mayor Bill Deter, Mayor Pro Tem Don Titherington, Councilmembers Pamela Hadley and Barbara Harrison, Attorney Anthony Fox, Finance Officer Leslie Gaylord, Town Planner Julian Burton and Town Administrator Amy McCollum

Absent: Councilmember Michael Smith

Visitors: Bill Price, John Roberts, Tim Wescott, Bob Lockerman, Bill Snider, Monica Snider, Gene Melchior, Tracy Stone, Rob Kreisher, Don Titherington, Elton Hardy, Gordon Daniels and Bill Carter.

Prayer – Mayor Bill Deter offered the Invocation.

**Item No. 1. Open the Meeting.** Mayor Deter called the November 10, 2014 Regular Town Council Meeting to order at 7:02 p.m.

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

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

**Item No. 4. Introduction of Mr. Adam Walsh – Historic Intern.** Councilwoman Barbara Harrison introduced Mr. Adam Walsh who will assist the Town as the Historic Intern. She stated, “Adam is a junior at Weddington High School and has been really great about volunteering for all of our Town events. He will continue interviewing our past Councilmembers and our current Planning Board so that we have our history recorded.”

**Item No. 5. Public Comments.** Mr. Elton Hardy – I sent you an email a couple of weeks ago regarding something that is outside of your budgeting, powers and authorities and that is the pending redistricting. In the next 10 years people that live in Weddington will no longer go to Weddington schools simply because we do not have the school facilities and the School Board has clearly stated they have no intentions to build schools. They intend to shift everyone to the east. As we approve Vintage Creek, the Falls at Weddington, everyone is fully aware that Antioch Church Road is the next slice that will be moved to Sun Valley which decreases your property value by 20%. What really brought this to mind is that 10% of my neighborhood is old people and those 10% sold their houses in the last six months. The people that moved into their houses are pregnant or have up to four children. I know it is not within your budgeting and powers but the Weddington citizens need the Town Council to speak up to the powers that be. I am not sure what the solution is other than new schools are controlling growth.

Ms. Tracy Stone – I live close to where the Falls at Weddington is being considered. I would like to ask you to take it off the Consent Agenda tonight and either discuss separately or move it to future consideration because one of the things that I have heard is that they are talking about putting in an above ground sewer line. I do not know if that was approved by the Planning Board or not but one way or the other I would like you to think about whether you would like to have an above ground sewer line and a 50 foot wide area of trees taken down behind your houses.

**Item No. 6. Additions, Deletions and/or Adoption of the Agenda.**

Councilwoman Pamela Hadley moved to remove Item 8.E. from the Consent Agenda and move to New Business. All were in favor, with votes recorded as follows:

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

**Item No. 7. Approval of Minutes.**

**A. October 13, 2014 Regular Town Council Meeting.** Councilwoman Hadley noted one change to the minutes and moved to approve the October 13, 2014 Regular Town Council Meeting minutes with the correction. All were in favor, with votes recorded as follows:

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

**B. October 27, 2014 Special Town Council Meeting.** Councilwoman Hadley moved to approve the October 27, 2014 Special Town Council Meeting Minutes. All were in favor, with votes recorded as follows:

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

**Item No. 8. Consent Agenda (Public Hearings to be held December 8, 2014 at 7:00 p.m. the Weddington Town Hall).**

Mayor Pro Tem Don Titherington stated, "In regards to Ms. Stone's statement during Public Comments. I know there is a lot of interest in that. The best process for us is to call for that public hearing because that is when we can get a lot of input and ask questions. This is only calling for the public hearing which will be held in December which is where we get that feedback. It is part of that process."

**A. Call for Public Hearing - Review and Consideration of Proposed Text Amendments to Section 46-45 – Revising the Duration of Financial Guarantees (Performance Bonds).** The Town Council received a copy of the proposed text amendments. Mayor Pro Tem Titherington moved to call for a public hearing to consider proposed text amendments to Section 46-45. The public hearing is to be held December 8, 2014 at 7:00 p.m. at the Weddington Town Hall. All were in favor, with votes recorded as follows:

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

**B. Call for Public Hearing - Review and Consideration of Proposed Text Amendments to Section 46-49 – Revising the Duration of Financial Guarantees (Maintenance Bonds).** The Town Council received a copy of the proposed text amendments. Mayor Pro Tem Titherington moved to call for a public hearing to consider proposed text amendments to Section 46-49. The public hearing is to be held December 8, 2014 at 7:00 p.m. at the Weddington Town Hall. All were in favor, with votes recorded as follows:

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

**C. Call for Public Hearing - Review and Consideration of Proposed Text Amendments to Section 46-75 and 46-76 – Updating Street Design Requirements to Match NCDOT Standards and Town of Weddington Road Standards.** The Town Council received a copy of the proposed text amendments. Mayor Pro Tem Titherington moved to call for a public hearing to consider proposed text amendments to Section 46-75. The public hearing is to be held December 8, 2014 at 7:00 p.m. at the Weddington Town Hall. All were in favor, with votes recorded as follows:

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

**D. Call for Public Hearing - Review and Consideration of Weddington Roadway Standards.** The Town Council received a copy of the proposed Weddington Roadway Standards. Mayor Pro Tem Titherington moved to call for a public hearing to consider the proposed standards. The public hearing is to be held December 8, 2014 at 7:00 p.m. at the Weddington Town Hall. All were in favor, with votes recorded as follows:

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

**E. Call for Public Hearing - Review and Consideration of Construction Plan Guidelines.** This item was moved to New Business.

**F. Call for Public Hearing - Review and Consideration of Proposed Text Amendments to Section 58-52, 58-53, 58-54 and 58-58 – Updating List of Permitted Conditional Uses in Residential Zoning Districts.**

The Town Council received a copy of the proposed text amendments. Mayor Pro Tem Titherington moved to call for a public hearing to consider proposed text amendments to Sections 58-52, 58-53, 58-54 and 58-58. The public hearing is to be held December 8, 2014 at 7:00 p.m. at the Weddington Town Hall. All were in favor, with votes recorded as follows:

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

**G. Call for Public Hearing - Review and Consideration of Proposed Text Amendments to Section 58-271 – Implementing a “Statement of Readiness” on Any Development Requiring Conditional Zoning.**

The Town Council received a copy of the proposed text amendments. Mayor Pro Tem Titherington moved to call for a public hearing to consider proposed text amendments to Section 58-271. The public hearing is to be held December 8, 2014 at 7:00 p.m. at the Weddington Town Hall. All were in favor, with votes recorded as follows:

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

**H. Call for Public Hearing – Review and Consideration of Proposed Text Amendments to Section 46-43 – Ensuring That Only One Septic Drain Field and Repair Area can be Located on Each Lot.**

The Town Council received a copy of the proposed text amendments. Mayor Pro Tem Titherington moved to call for a public hearing to consider proposed text amendments to Section 46-43. The public hearing is to be held December 8, 2014 at 7:00 p.m. at the Weddington Town Hall. All were in favor, with votes recorded as follows:

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

**I. Call for Public Hearing - Review and Consideration of Preliminary Plat for Weddington Preserve.**

The Town Council received a copy of the Subdivision Preliminary Plat Application. Mayor Pro Tem Titherington moved to call for a public hearing to consider the Preliminary Plat for Weddington Preserve. The public hearing is to be held December 8, 2014 at 7:00 p.m. at the Weddington Town Hall. All were in favor, with votes recorded as follows:

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

**J. Call for Public Hearing - Review and Consideration of Preliminary Plat for Falls at Weddington.** The Town Council received a copy of the Subdivision Preliminary Plat Application. Mayor Pro Tem Titherington moved to call for a public hearing to consider the Preliminary Plat for the Falls at Weddington. The public hearing is to be held December 8, 2014 at 7:00 p.m. at the Weddington Town Hall. All were in favor, with votes recorded as follows:

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

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

**A. Public Hearing to Review Proposed Text Amendments – Temporary Use Permit (Section 58-13 (3) b) – Referencing Checklist/Application and Updating Checklist to Include Emergency Services.** The Town Council received a copy of the proposed text amendments and the Temporary Use Permit Application Checklist.

Mayor Deter opened the public hearing.

Town Planner Julian Burton – There have been concerns that it was not required for some of our larger temporary use events for the applicant to provide emergency services on site. What has been proposed is a text amendment to Section 58-13 (3)(b). The text references the application checklist and that application checklist has been amended to require the applicant to provide confirmation that emergency services will be located on site for the duration of the event for events with over 200 attendees. In Section 58-13 (4) (iv) it allows the Planning Board to place conditions related to emergency services.

Councilwoman Harrison – I do the Temporary Use Permits on behalf of the Town for Town events. I was able to get the medical services for the last festival; however, the way they do it is they stay unless they get a call. They showed up and five minutes into the festival they got a call and had to leave. They will come if you do not charge a general admission to get into the event. What I am concerned about is they are changing emergency services and I think it is going to be harder for us to get an ambulance. I think it may mean that we would have to pay for it and that would be thousands of dollars for an event. There are some unknowns for me.

Mayor Pro Tem Titherington - Emergency services is a broad term.

Councilwoman Hadley - Does it include first responders?

Town Planner Burton - I believe that it is left vague intentionally to allow the Planning Board to determine on a case by case basis what would be appropriate for that particular event.

Councilwoman Harrison - I always had fire services there for the duration of the event but with medical they will only come if we do not charge general admission and if they get a call they have to go.

Mayor Pro Tem Titherington – For a football game you want the ambulance there. There is a level of risk there. If it is the Weddington Festival hopefully there would be nothing more than bumps and bruises then the fire department is okay. The Planning Board wants that flexibility to determine what is appropriate and customary for each event.

Town Planner Burton - They have to provide their plan for emergency services and then the Planning Board can add conditions.

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

**B. Consideration of Ordinance Adopting Proposed Text Amendments to Section 58-13 (3)(b).** Mayor Pro Tem Titherington moved to approve the Ordinance adopting proposed text amendments to Section 58-13. The vote on the motion is as follows:

AYES: Mayor Pro Tem Titherington  
NAYS: Councilmembers Harrison and Hadley

**C. Public Hearing to Review Proposed Text Amendments – Drainfields (Section 46-40 (a) (1) i) – Ensuring that Only One Septic Drain Field and Repair Area can be Located on Each Lot.** The Town Council received a copy of the proposed text amendments. Mayor Deter opened the public hearing.

Town Planner Burton - This amendment is for Section 46-40 and it is within the procedure for review of minor subdivisions. Basically it is making sure that septic tank drain field and repair area must be located on the same lot as the principal residence for which it is designed. It is to ensure that there is not more than one septic tank, drainfield and repair area on a lot. There will be a public hearing at your next meeting to consider a similar text amendment for major subdivisions. This is just for minor subdivisions.

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

**D. Consideration of Ordinance Adopting Proposed Text Amendments to Section 46-40 (a)(1) i).** Councilwoman Harrison moved to adopt Ordinance O-2014-12:

**AN ORDINANCE TO AMEND SECTION 46-40  
OF THE CODE OF ORDINANCES  
OF THE TOWN OF WEDDINGTON  
O-2014-12**

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WEDDINGTON THAT SECTION 46-40 OF THE CODE OF ORDINANCES BE AMENDED AS FOLLOWS:**

**Sec. 46-40. Procedure for review of minor subdivisions.**

(a) *Preliminary plat review for minor subdivisions.*

- (1) Prior to submission of a final plat, the subdivider shall submit to the subdivision administrator three copies of a preliminary plat of the proposed subdivision, containing the information shown below:
  - a. A sketch vicinity map including north arrow showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways.
  - b. The boundaries of the tracts.
  - c. The total acreage to be subdivided.
  - d. The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it.
  - e. The name, address and telephone number of the property owner.
  - f. The name of the proposed subdivision.
  - g. Streets and lots of adjacent developed or platted properties.
  - h. The zoning classification of the tract and of adjacent properties.
  - i. With subdivisions where individual septic tanks are the proposed method for wastewater treatment, the preliminary plat shall be based on the physical characteristics of the site. The applicant shall conduct at least two soil core borings for every one acre of land in the tract to be subdivided and the borings shall be an average of at least four feet in depth. Each boring shall be assigned a separate number and the report shall present the findings of each boring. The subdivider shall show the location of each boring, by number assigned, on the preliminary plat. The report shall contain a written finding stating that each lot contains, separate from an adequate

building site meeting all setbacks required by the town, a septic tank drain field, drainfield repair area, and area for well site, all meeting state regulations. **The septic tank drainfield and repair area must be located on the same lot as the principal residence for which it is designed.** The report shall contain a map of the subdivision showing the following:

1. All streets and property lines;
  2. Proposed building area for each lot;
  3. Septic tank and drainfield;
  4. Site and repair area for each lot;
  5. Proposed area for well site for each lot; and
  6. A separate map drawn at the same scale as the final plat showing streets and lot lines, topography with contour intervals of no greater than ten feet (at the discretion of the subdivision administrator contour intervals of five feet may be required), and an accurate mapping of all soil classifications found on the site and general depths thereof.
- (2) The report shall be prepared by a qualified soil scientist and the qualifications and references of the soil scientist shall be documented in the report. Lots to be served by public water shall not be subject to the well site area requirements and lots to be served by public sewer shall not be subject to the septic tank drainfield designation requirements. Approval of the proposed lots by the county health department for septic tanks shall be acceptable in lieu of the soils test requirement.
  - (3) The above preliminary plat shall be prepared by a registered land surveyor currently licensed by the state by the state board of registration for professional engineers and land surveyors.
  - (4) The preliminary plat shall be submitted to the subdivision administrator along with a fee in accordance with a fee schedule adopted by the town council. No application shall be considered complete or processed by the subdivision administrator unless accompanied by said fee. In addition, the town shall be reimbursed by the subdivider for all costs associated with the town's engineering and/or consulting services with respect to review of the preliminary plat prior to preliminary plat approval. The subdivision administrator shall review the preliminary plat within ten days of its submission for general compliance with the requirements of this chapter and chapter 58, and shall advise the subdivider or his authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the final plat, and shall approve, approve based on certain conditions, or disapprove the preliminary plat.
  - (5) One copy of the preliminary plat along with the subdivision administrator's comments, recommendations and/or conditions shall be returned to the subdivider and one copy of the same shall be retained by the subdivision administrator.
  - (6) In the event the subdivider disagrees with the written comments and/or recommendations of the subdivision administrator, he may appeal the subdivision administrator's decision to the planning board.
  - (7) In the event of an appeal of the subdivision administrator's decision, one copy of the preliminary plat along with the subdivision administrator's comments, recommendations, and his reasons for disapproval shall be forwarded to the planning board. In the event of an appeal of the subdivision administrator's decision, the planning board shall review and approve or disapprove the preliminary plat at its next regular meeting that follows at least 15 days after the subdivision administrator's recommendation regarding the preliminary plat, or at such other meeting as may be called by the planning board to consider same.
  - (8) If the preliminary plat is not approved by the planning board, a written statement of the reasons for denial shall be provided to the subdivider, with a copy being returned to the subdivision administrator within seven days of disapproval. Upon making necessary changes, but not later than 180 days from receipt of the disapproved plat by the subdivider, the subdivider may resubmit the preliminary plat to the planning board for approval.
  - (9) Preliminary plat approval of a minor subdivision shall constitute a vested right, as defined in G.S. 160A-385.1.

Adopted this 10<sup>th</sup> day of November, 2014.

All were in favor, with votes recorded as follows:

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

**E. Public Hearing to Review Proposed Stormwater Ordinance.** The Town Council received a copy of the proposed Stormwater Ordinance. Mayor Deter opened the public hearing.

Town Planner Burton - Our Stormwater Ordinance as it stands now is really minimal. Ms. Bonnie Fisher with USI, our engineering consultant, put this together and it has been reviewed by staff, Planning Board and our Town Attorney. It adds some stricter regulations to stormwater requirements for any development creating over 20,000 square feet of impervious surface. Impervious surface basically means water does not go through it. Pervious would be normal ground where water can get absorbed. Section 58-543 (b) says all non residential development and all major residential development creating more than 20,000 square feet of impervious area shall provide stormwater detention to control the peak stormwater runoff from a 2, 10, 25, 50 and 100 year 24 hour storm events to predevelopment rates. It will be requiring detention for up to 100 year 24 hour storm events. It also requires the HOA or whoever owns the stormwater management facility to create an escrow account to maintain the stormwater management facility.

Town Planner Burton reviewed with the Council what had changed with the ordinance since it was shown at last month’s meeting and provided in their packet.

Councilwoman Hadley - Give me a timeline on the escrow account.

Town Attorney Fox – It is ongoing because these stormwater facilities if they fail can create an expense. If the escrow account amasses to a point that the HOA in conjunction with the Town feels that it is sufficient then the HOA has the flexibility to reduce the amount of the HOA fees that go into escrow for purposes of the maintenance and they will have the ability to manage that. It just gives them the ability to deposit funds each year into the escrow account. It does not tell how much they are required to deposit. They could decide that there are sufficient funds to address the abnormality.

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

**F. Consideration of Ordinance Adopting Stormwater Ordinance.** Mayor Pro Tem Titherington moved to adopt Ordinance O-2014-14:

**AN ORDINANCE TO AMEND ARTICLE XIII  
OF THE CODE OF ORDINANCES  
OF THE TOWN OF WEDDINGTON  
O-2014-14**

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WEDDINGTON THAT ARTICLE XIII OF THE CODE OF ORDINANCES BE AMENDED AS FOLLOWS:**

**ARTICLE XIII**

**DIVISION 6. DRAINAGE, STORM WATER MANAGEMENT & WETLAND PROTECTION**

**Section 58-541. NATURAL DRAINAGE SYSTEM UTILIZED TO EXTENT FEASIBLE**

To the extent practicable, all development shall conform to the natural contours of the land and natural and pre-existing manmade drainage ways shall remain undisturbed.

To the extent practicable, lot boundaries shall be made to coincide with natural and pre-existing manmade drainage ways within subdivisions to eliminate the creation of lots that could only be built upon by altering such drainage ways.

**Section 58-542.            DEVELOPMENTS MUST DRAIN PROPERLY**

All developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site. Surface water shall not be regarded as unduly retained if:

- A. The retention results from a technique, practice or device deliberately installed as part of an approved sedimentation or stormwater runoff control plan; or
- B. The retention is not substantially different in location or degree than that experienced by the development site in its pre-development stage, unless such retention presents a danger to health or safety.

No development may be constructed or maintained so that such development unreasonably impedes the natural flow of water from high adjacent properties across such development, thereby unreasonably causing substantial damage to such higher adjacent properties.

No surface water may be channeled or directed into a sanitary sewer.

Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or adjacent streets.

Private roads and access ways within non-subdivided developments shall utilize curb and gutter and storm drains to provide adequate drainage if the grade of such roads or access ways is too steep to provide drainage in another manner, or if other sufficient reasons exist to require such construction.

Construction specifications for drainage swales, curbs and gutters, and storm drains shall be reviewed and approved by the Zoning Administrator with the assistance of the Town’s Engineering Consultant, as necessary. All systems shall be designed in accordance with the Town’s Stormwater Manual, as adopted, for a fully developed basin upstream based on the adopted town land use plan. Design of such systems shall be certified by a registered North Carolina professional engineer as an integral part of any permit application.

**Section 58-543.            GENERAL STANDARDS FOR STORMWATER MANAGEMENT**

A. The Town of Weddington hereby adopts and incorporates herein the provisions contained in the Charlotte-Mecklenburg Stormwater Design Manual, dated January 1, 2014 (as amended) (hereinafter referenced as the “Stormwater Manual”), with the following exceptions:

- 1) Necessary deviations may be necessary to accommodate soil types found in Union County and the Town of Weddington.
- 2) Rainfall data for stormwater management design calculations shall be the most current available and shall be obtained from the National Oceanic and Atmospheric (NOAA) Precipitation Frequency Data Server website.
- 3) When discrepancies are found between the Stormwater Manual and the Town of Weddington zoning or subdivision regulations, the stricter regulation shall apply.
- 4) The Town Engineer may approve other deviations from the Stormwater Manual in unique cases where hardship is demonstrated. Any deviation is also subject to approval from the Town Council.

B. All developments shall be constructed and maintained so that properties are not unreasonably burdened with storm water runoff as a result of such developments. More specifically:

- 1) All nonresidential development and all major residential development creating more than 20,000 square feet of impervious area shall provide storm water detention to control the peak stormwater runoff from the 2, 10, 25, 50, and 100 year, 24 hour storm events to pre-development rates. Stormwater volume control shall also be provided for the 1-year, 24 hour storm. Design of facilities shall be consistent with the Stormwater Manual except as stated herein.
- 2) Minor residential subdivisions and individual single-family residences are exempt from requirements of this section.
- 3) Stormwater management facilities shall not be located within 20 feet of any property lines.
- 4) A registered North Carolina professional engineer shall certify documents demonstrating that construction of the project or subdivision will not increase the rate of runoff from the site nor cause any adverse impacts on downstream facilities or property.
- 5) Where stormwater management facilities are proposed to be constructed, the owners, heirs, assigns or successors of the land, including any homeowners associations, will agree to perpetual maintenance of the facility and will release and hold harmless the Town of Weddington from any liability, claims, demands, attorney's fees, and costs or judgments arising from said facility. At a minimum, the facility will be inspected by a registered North Carolina professional engineer on a yearly basis and the annual inspection report submitted by the owner to the Zoning Administrator for purposes of compliance.
- 6) An evaluation of any dam that is part of a stormwater management facility shall be made by the designer, in accordance with the Dam Safety Law of 1967, and submitted to the dam safety engineer for review, if required.
- 7) No certificate of compliance or release of performance bond funds shall be issued for any development until a registered land surveyor has surveyed the as-built storm drainage and storm water management facilities and the revised calculations have been submitted to and approved by the Town of Weddington. The revised calculations must be sealed by a registered North Carolina professional engineer. In addition, the Town shall not grant final plat approval unless the Town Engineer has approved the plans, and the Town has approved the as-built detention plans and/or a performance bond has been secured.
- 8) A permanent drainage easement that encompasses the facility shall be shown on a recorded plat, along with an access easement from the facility to a public right-of-way. This easement will be described by metes and bounds on the plat.
- 9) There will be a note placed on the recorded plat that clearly describes who is responsible for maintenance of the stormwater management facilities, pipes, and/or channels located within the permanent facility.
- 10) Required drainage easements for streams shall be provided as described in Zoning Ordinance Section 58-338, "Setbacks from Streams".

**Section 58-543.1 REQUIREMENTS FOR STORMWATER MANAGEMENT PLAN APPROVAL**

**A. Stormwater Management Plan Required for All Developments**

No Conditional Use, Vested Rights, Rezoning, or Zoning application for Non-Residential Uses or Preliminary Subdivision Plat for Residential or Non-Residential Uses will be considered as complete unless it includes a stormwater management plan detailing in concept how runoff resulting from the development will be controlled or managed. Preliminary informational meetings with the Town Zoning Administrator or the Planning Board may be allowed without a complete Stormwater Management Concept Plan.

No Zoning Permit or Final Plat approval shall be issued until a satisfactory final stormwater management plan has been reviewed and approved by the Town upon determination that the plan is consistent with the requirements of this ordinance.

All costs for the Town's engineering review of the storm water management concept plans and final plans shall be borne by the owner/developer.

**B. Stormwater Management Concept Plan Requirements**

A stormwater management concept plan shall be required with all permit applications and will include sufficient information to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site on water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The information provided shall meet the design requirements of the Stormwater Manual. The following items are required to be submitted for review of the Stormwater Management Concept Plan:

- 1) Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys; boundaries of existing predominant vegetation and proposed limits of clearing and grading; proposed Open Space area; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.
- 2) A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers, and other setbacks. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.
- 3) A written or graphic concept plan of the proposed post-construction stormwater management system including: preliminary selection and location of proposed structural storm water controls; low impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of proposed Open Space areas; location of all floodplain/floodway limits; relationship of the site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.
- 4) Preliminary selection and rationale for any structural stormwater management practices along with sufficient engineering analysis to show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with the Town of Weddington Storm Water Management ordinance and the specifications of the Stormwater Manual.
- 5) A note acknowledging responsibility for the operation and maintenance of any stormwater management facility, and that such obligation shall be disclosed to future owners

### **C. Final Stormwater Management Plan Requirements**

After review of the stormwater management concept plan and modifications to that plan as deemed necessary by the Town, a final stormwater management plan shall be submitted for approval. The final stormwater management plan shall detail how post-construction runoff will be controlled, managed, and maintained in perpetuity, and how the proposed project will meet the requirements of this ordinance. All such plans shall conform to the design requirements of the Stormwater Manual and shall be prepared by a North Carolina licensed professional engineer. The plan submittal shall include all of the information required in the submittal checklist established by the Zoning Administrator

### **D. Performance Bond/Security**

The Town of Weddington may, at its discretion, require the submittal of a performance security or bond prior to issuance of a permit in order to insure that the stormwater management facilities are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security shall be the total estimated construction cost of the stormwater management practices approved under the permit, plus 50%. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan.

The installation performance security shall be released in full only upon submission of "as built plans" and written certification by a registered North Carolina professional engineer that the detention facility has been installed in accordance with the approved plan and other applicable provisions of this ordinance.

**Section 58-543.2 MAINTENANCE OF STORMWATER FACILITIES**

**A. General Standards for Maintenance**

The owner, its successors and assigns, including any homeowners association, of a stormwater management facility installed pursuant to this ordinance shall maintain and operate the practice so as to preserve and continue its function in controlling storm water runoff at the degree or amount of function for which the facility was designed.

**B. Operation and Maintenance Agreement**

Prior to the conveyance or transfer of any lot or building site to be served by a storm water control facility pursuant to this ordinance, and prior to issuance of any permit for development requiring a storm water control facility pursuant to this ordinance, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the facility. Until the transference of all property, sites, or lots served by facility, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the storm water control facility, and shall state the terms, conditions, and schedule of maintenance for facility. In addition, it shall grant to the Town a right of entry in the event that the Town Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the facility; however, in no case shall the right of entry, of itself, confer an obligation on the Town to assume responsibility for the facility.

A maintenance plan must be attached as an addendum to the operation and maintenance agreement which identifies the specific maintenance activities to be performed for each facility. The operation and maintenance agreement and maintenance plan templates to be completed may be obtained from the Town of Weddington. The operation and maintenance agreement must be approved by the Town Administrator prior to construction plan approval. The agreement shall be referenced on the final plat and recorded with the county Register of Deeds upon final plat approval. A copy of the recorded maintenance agreement shall be given to the Town Administrator within fourteen (14) days following its recordation.

For all stormwater management facilities required pursuant to this ordinance, the required operation and maintenance agreement provided by the owner, homeowner’s association, or similar entity, shall include all of the following provisions:

- (1) Acknowledgment that the owner or association shall continuously operate and maintain the stormwater management facilities.
- (2) Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the stormwater management facilities. If stormwater management facilities are not performing adequately or as intended or are not properly maintained, the Town of Weddington, in its sole discretion, may remedy the situation, and in such instances the Town of Weddington shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the owner or association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the stormwater management facilities provided that the Town of Weddington shall first consent to the expenditure.
- (3) Both developer contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur,

the developer shall pay into the escrow account an amount equal to fifteen (15) percent of the initial construction cost of the stormwater management facilities. Two-thirds (2/3) of the total amount of sinking fund budget shall be deposited into the escrow account within the first five (5) years and the full amount shall be deposited within ten (10) years following initial construction of the stormwater management facilities. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the owner or association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.

- (4) The percent of developer contribution and lengths of time to fund the escrow account may be varied by the Town of Weddington depending on the design and materials of the stormwater control and management facility.
- (5) Granting to the Town of Weddington a right of entry to inspect, monitor, maintain, repair, and reconstruct stormwater management facilities.
- (6) Allowing the Town of Weddington to recover from the owner or association and its members any and all costs the Town of Weddington expends to maintain or repair the stormwater management facilities or to correct any operational deficiencies. Failure to pay the Town of Weddington all of its expended costs, after forty-five days written notice, shall constitute a breach of the agreement. In case of a deficiency, the Town of Weddington shall thereafter be entitled to bring an action against the owner or the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs, and attorney fees shall be added to the recovery.
- (7) A statement that this agreement shall not obligate the Town of Weddington to maintain or repair any stormwater management facilities, and the Town of Weddington shall not be liable to any person for the condition or operation of stormwater management facilities.
- (8) A statement that this agreement shall not in any way diminish, limit, or restrict the right of the Town of Weddington to enforce any of its ordinances as authorized by law.
- (9) A provision indemnifying and holding harmless the Town of Weddington for any costs and injuries arising from or related to the stormwater management facilities, unless the Town of Weddington has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.

### **C. Maintenance Easement**

Prior to approval of the Final Stormwater Management Plan, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land, including any homeowners associations, served by the stormwater management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Weddington, or their contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this ordinance. The easement agreement shall be recorded in the Union County Register of Deeds land records.

### **D. Inspections**

The person responsible for maintenance of any stormwater management facility installed pursuant to this ordinance shall submit to the Zoning Administrator an annual inspection report from a qualified registered North Carolina professional engineer performing services only in their area of competence. The inspection report shall contain all of the following:

- 1) The name and address of the land owner;
- 2) The recorded book and page number of the lot of each stormwater management facility;
- 3) A statement that an inspection was made of all stormwater management facilities;
- 4) The date the inspection was made;
- 5) A statement that all inspected stormwater facilities are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance; and
- 6) The original signature and seal of the engineer. An original inspection report shall be provided to the Zoning Administrator beginning one year from the date of as-built certification and each year thereafter on or before the anniversary date of the as-built certification.

**E. Records of Installation and Maintenance Activities**

The owner, its successors and assigns, including any homeowners association, of each storm water management facility shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Zoning Administrator.

**F. Nuisance**

The owner, its successors and assigns, including any homeowners association, of each stormwater management facility, shall maintain it so as not to create a nuisance condition.

**Section 58-543.3 ENFORCEMENT AND VIOLATIONS**

**A. General**

The provisions of this ordinance shall be enforced by the Zoning Administrator, his or her designee, or any authorized agent of the Town of Weddington. Whenever this Section refers to the Zoning Administrator, it includes his or her designee as well as any authorized agent of the Town of Weddington.

Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this ordinance, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this ordinance, is unlawful and shall constitute a violation of this ordinance.

Each day that a violation continues shall constitute a separate and distinct violation or offense.

Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, detention facility, stormwater management facility, practice, or condition in violation of this ordinance, as well as any person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this Section. For the purposes of this article, responsible person(s) shall include but not be limited to:

- 1) Person Maintaining Condition Resulting In or Constituting Violation
- 2) Any person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists.
- 3) Responsibility For Land or Use of Land

- 4) The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for storm water management practices pursuant to a private agreement or public document, and any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

## **B. Inspections and Investigations by the Town**

Inspections by the Town of Weddington may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in detention facility; and evaluating the condition of detention facility.

The Zoning Administrator shall have the authority to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting. No Person shall refuse entry or access to the Zoning Administrator who requests entry for purpose of inspection or investigation, and who presents appropriate credentials, nor shall any Person obstruct, hamper, or interfere with the Zoning Administrator while in the process of carrying out official duties. The Zoning Administrator shall also have the power to require written statements, or the filing of reports under oath as part of an investigation.

## **58-543.4 REMEDIES AND PENALTIES**

**General** The remedies and penalties provided for violations of this ordinance, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

### **A. Remedies**

The Zoning Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

As long as a violation of this ordinance continues and remains uncorrected, the Zoning Administrator or other authorized agent may withhold, and the Town Planning Board may disapprove, any request for permit or development approval or authorization provided for by this ordinance or the Zoning Ordinance for the land on which the violation occurs.

The Zoning Administrator, with the written authorization of the Town Council, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this ordinance. Any person violating this ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by North Carolina G.S. § 160A-193, the Zoning Administrator, with the written authorization of the Town Council may cause the violation to be corrected and the costs to be assessed as a lien against the property.

The Zoning Administrator may issue a stop work order to the person(s) violating this ordinance. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be

withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

**B. Civil Penalties**

Violation of this ordinance may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued by the Zoning Administrator. Civil penalties may be assessed up to the full amount allowed by law.

**C. Criminal Penalties**

Violation of this ordinance may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.

**Section 58-543.5 PROCEDURES**

**A. Initiation/Complaint**

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the Zoning Administrator, who shall record the complaint. The complaint shall be investigated promptly by the Zoning Administrator.

**B. Inspection**

The Zoning Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this ordinance.

**C. Notice of Violation and Order to Correct**

When the Zoning Administrator finds that any building, structure, or land is in violation of this ordinance, the Zoning Administrator shall notify, in writing, the property *owner* or other person violating this ordinance. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

The Zoning Administrator may deliver the notice of violation and correction order personally, by the Town of Weddington Code Enforcement Officer, by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure.

If a violation is not corrected within a reasonable period of time, as provided in the notification, the Zoning Administrator may take appropriate action under this ordinance to correct and abate the violation and to ensure compliance with this ordinance.

**D. Extension of Time**

A person who receives a notice of violation and correction order, or the *owner* of the land on which the violation occurs, may submit to the Zoning Administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Zoning Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 90 days. The Zoning Administrator may

grant 30-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this ordinance. The Zoning Administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

**E. Enforcement After Time to Correct**

After the time has expired to correct a violation, including any extension(s) if authorized by the Zoning Administrator, the Zoning Administrator shall determine if the violation is corrected. If the violation is not corrected, the Zoning Administrator may act to impose one or more of the remedies and penalties authorized by this ordinance.

**F. Emergency Enforcement**

If delay in correcting a violation would seriously threaten the effective enforcement of this ordinance or pose an immediate danger to the public health, safety, or welfare, then the Zoning Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Zoning Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

**Section 58-544. WETLANDS**

All developments shall fully comply with the State and Federal requirements of Sections 401 and 404 of the Clean Water Act, related to the protection of wetlands and surface waters. All developments shall obtain any required permits from the United States Army Corps of Engineers, pursuant to section 404 before submitting a permit application. When required, water quality certifications must also be obtained from the North Carolina Department of Environment and Natural Resources, Division of Water Quality, pursuant to section 401 of the Clean Water Act before submitting a permit application.

**Section 58-545. POND EVALUATION**

All preliminary plats that include proposed permanent ponds, and all preliminary plats that include stormwater runoff to any existing permanent ponds, shall be subject to the review of the state dam safety engineer. An evaluation of the pond dam shall be made by the designer, in accordance with the Dam Safety Law of 1967, and submitted to the dam safety engineer for review.

All proposed ponds shall be designed and constructed to safely withstand the 100-year storm with a minimum of one foot of freeboard at the dam. Design calculations shall include the assumption of future buildout of the drainage basin.

All existing ponds shall be evaluated and rehabilitated as necessary to ensure that the ponds will safely withstand the 50-year storm with a minimum of 0.50 feet of freeboard at the dam. Design calculations shall include the assumption of future buildout of the drainage basin.

**Section 58-546. NPDES STORMWATER PROGRAM PHASE II (POST CONSTRUCTION STORMWATER MANAGEMENT)**

Development and redevelopment projects within the Town of Weddington must apply to the NC Department of Energy, Mineral, and Land Resources for a State Stormwater permit. Written approval from the State shall be required prior to Town approval of proposed development.

The requirements for post-construction stormwater management apply to developments in which the total land disturbance is one acre or more. The NPDES program classifies development into two categories: low-density

and high density. Both categories of projects require a permit. Project design requirements are shown in Section 9 of S.L. (Session Law) 2006-246. Exclusions from Post-Construction Practices are shown in Section 8.

New development activities within the Sixmile Creek Watershed are subject to more stringent requirements as a result of an Administrative Law Judge ruling and Environmental Management Commission (EMC) decisions relating to the protection of the Carolina Heelsplitter, an endangered species. NCDENR policies shall govern development in this watershed and specific requirements should be verified with State personnel.

**Section 58-547.            DEFINITIONS**

When used in this Ordinance, the following words and terms shall have the meaning set forth in this section, unless other provisions of this Ordinance specifically indicate otherwise.

**Built-upon area (BUA)** - That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. “Built-upon area” does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

**Detention** - The temporary storage of storm water runoff in a stormwater management practice with the goals of controlling peak discharge rates and discharge volume.

**Development** - Any land-disturbing activity that increases the amount of built upon area or that otherwise decreases the infiltration of precipitation into the soil.

**Drainage Easement** - An area of land dedicated for the purpose of conveying stormwater runoff by means of an open channel or drainage pipe.

**Floodplain** - The one percent Annual Chance Floodplain as delineated by the North Carolina Floodplain Mapping Program in the Division of Emergency Management.

**Freeboard** - The elevation difference between the full pond and the crest of the dam embankment. Freeboard protects the bank from wave action and overtopping under high-intensity rainfall.

**Impervious Area** - Surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, gravel surfaces, sidewalks, driveways, etc.).

**Runoff** - The excess precipitation from rain or snowfall which flows over the ground.

**Stormwater Management Facility** - A physical device designed to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics to approximate the pre-development hydrology on a developed site. “Stormwater Management Facility” is synonymous with “stormwater control facility”, “stormwater management practice”, “detention facility”, “BMP”, and similar terms used in this ordinance.

Adopted this 10<sup>th</sup> day of November, 2014.

All were in favor, with votes recorded as follows:

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

**G. Public Hearing to Review Proposed Text Amendments to Section 46-76 and 58-4 – Revising the Buffering Requirements Along Thoroughfares.** The Town Council received a copy of the proposed text amendments.

Mayor Deter opened the public hearing.

Town Planner Burton - The Council had an interest in a text amendment to increase the required thoroughfare buffer. The new text amendment would increase the required buffer to 100 feet for subdivisions. The only exception is if that 100 foot buffer would exceed 15% of the total acreage then administratively we would reduce that buffer down until it was exactly 15%. The original text shows that we base the buffer width on acreage and that part of the table has been removed. The other changes in that section remove the ability for an applicant to reduce the buffer width by 20% if they put up a fence or wall. The construction standards for the wall or fence remain as they were before. The definition for open space has been changed as follows to try to supplement the requirements for a thoroughfare buffer:

**Sec. 58-4. - Definitions.**

*Open space* means a land area or water feature that conserves, enhances, or creates natural or scenic resources and wildlife habitat or that enhances or creates outdoor recreational opportunities. Open space may be dedicated for public use or held under private ownership. ~~Open space may be active (e.g., soccer, baseball, or football fields, playgrounds, etc.) or passive (e.g., bicycle, walking, and jogging trails, etc.) recreation.~~ **The required open space for conventional subdivisions should be adjacent to the required roadway buffer unless the open space is protecting a natural feature or stormwater management facility on the property.** All conservation land, as defined in section 58-58(4)d is considered open space. However, not all open space is necessarily conservation land. As defined, open space may be land left in its natural state or grass and medians planted with trees in a residential, commercial or nonresidential development.

Town Planner Burton - The text says that the required open space for conventional subdivisions “should” be adjacent to the required roadway buffer. In your packet it said “shall” be adjacent. I have had some discussions with Planning Board Members and Attorney Fox and we were thinking we needed a little more flexibility on whether or not we require open space to be right up on the thoroughfare buffer. We were not sure if “should” is the right word. Do you want to discuss some alternatives to encourage open space towards a thoroughfare buffer but not require all open space to be against a thoroughfare buffer?

Mayor Deter - I agree that “shall” eliminates any flexibility. There was some discussion of using the term “may” instead of “should”.

Attorney Fox - It is a policy decision for the Council to decide whether or not they want to influence development and have most of the open space up against a roadway buffer or if you still want to see developments with some degree of open space integrated throughout the landscape of the community.

Mayor Pro Tem Titherington - I think the Planning Board wanted flexibility because depending on the site and existing neighbors they want that flexibility to make some of those adjustments and that open space may be on the back side and they felt that “shall” locked them in.

Attorney Fox – “May” gives the developer and the Planning Board some discretion about it.

Councilwoman Hadley – How does this affect open space? Julian was telling me that the buffer is not part of the open space. It is totally separate. We have 10% for the space and 15% for the buffer which is 25% overall. How does this compare to other municipalities? I am all for a buffer but I wanted to make sure that it could not automatically be put in the rear because viewshed is important so evidentially it can not be.

Mayor Pro Tem Titherington – The buffer is at the roads.

Councilwoman Hadley - How does the 25% relate to comparable municipalities that have the same objective that we do?

Mayor Pro Tem Titherington - I would say that it meets the citizens' request both from the surveys for the last decade that they want to maintain and protect viewshed and I think it protects the Town's interests.

Councilwoman Hadley - I agree.

Mayor Deter - I believe that one of the more stringent buffering towns is Marvin and we are below them.

Mr. John Roberts – Where does the 100 foot start? Is it the centerline of the road or right-of-way?

Town Planner Burton – It is the edge of the right-of-way.

Mr. Roberts – Does this ordinance require any maintenance of the buffer? Does it have to be landscaped or who would do that?

Town Planner Burton - There are landscape buffer requirements. There is a certain amount of trees and shrubs depending on the size of the buffer that you are required to plant. Existing trees and shrubs can meet the requirements and the HOA would be responsible for maintenance.

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

**H. Consideration of Ordinance Adopting Proposed Text Amendments to Section 46-76 and 58-4.** Mayor Pro Tem Titherington moved to adopt Ordinance O-2014-14 and change the word “should” to “may”.

**AN ORDINANCE TO AMEND SECTIONS 46-76 AND 58-4  
OF THE CODE OF ORDINANCES  
OF THE TOWN OF WEDDINGTON  
O-2014-13**

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WEDDINGTON THAT SECTIONS 46-76 AND 58-4 OF THE CODE OF ORDINANCES BE AMENDED AS FOLLOWS:**

**Sec. 46-76. - Road standards and buffering along thoroughfares.**

(d) *Buffering along thoroughfares.*

- (1) Where side and rear lot lines abut along a major or minor thoroughfare as designated on the Mecklenburg-Union Metropolitan Planning Organization (MUMPO) thoroughfare plan as adopted by the town, the subdivider shall provide a natural buffer between the lot lines paralleling the thoroughfare and the thoroughfare road right-of-way. The natural buffer shall materially screen all principal and accessory uses from public view from the thoroughfare. The buffer shall consist of a natural planting or a berm with natural planting. Any walls, fences or other constructed devices shall be allowed within the buffer area, and shall be approved by the zoning administrator.
- (2) The subdivider is encouraged to propose the use of existing natural vegetation and/or topography or a combination of existing features as prescribed in this section when the purpose and intent of this section can be met with such methods.
- (3) Such screening shall be located on the property with the use with which it is associated or required, and shall materially screen the subject use from the view of the adjoining properties. Screening shall be in the form of all natural material, including brick with no exposed cement block. When screening

is in the form of natural vegetation, a buffer strip at least ten feet wide shall be planted. This strip shall be free of all encroachments by building, parking areas or impervious coverage.

- (4) ~~Buffer requirements include a given minimum distance separation from the property line and required planting trees and shrubs within the buffer. The minimum buffer requirements, which are based on the size of the lot are in accordance with table 46-76.~~ **The buffer requirement is 100 feet for subdivisions, which is the minimum distance separation from the edge of the road right of way. Table 46-76 lists the required planting of trees and shrubs within this buffer. If the required buffer exceeds 15 percent of the total acreage of the parcel, the zoning administrator may reduce the required buffer to an amount equal to 15 percent.**

TABLE 46-76

ACRES	< 0.5	0.5	1.0	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0	5.5	6.0	6.5	7.0	7.5	8.0	8.5	9.0	9.5	10 or more
WIDTH*	10-15	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40	42	44	46	48	50-75
Depth		18	21	24	27	30	33	36	39	42	45	48	51	54	57	60	63	66	69	72	
TREES (per 100 ft)	3		4			5			6			7			8			9			
SHRUBS (per 100 ft)	20																				

\*The minimum width of a buffer may be reduced by an additional 20 percent if a fence or wall is constructed in accordance with these regulations:  
ft = feet –

- (5) The width of the buffer may be reduced by 20 percent if a wall or fence is provided that meets the following standards: **Any fence or wall shall be permitted with the following standards:**
- a. **Constructed in a durable fashion of brick, stone, other masonry materials or wood posts and planks or metal or other materials specifically designed as fencing materials, or any combination thereof as may be approved by the zoning administrator. No more than 25 percent of the fence surface shall be left open, and the finished side of the fence shall face the abutting property. A chainlink fence with plastic, metal or wooden slats may not be used when abutting residential uses and districts;**
  - b. **Walls and fences shall be a minimum height of six feet.**

**Sec. 58-4. - Definitions.**

*Open space* means a land area or water feature that conserves, enhances, or creates natural or scenic resources and wildlife habitat or that enhances or creates outdoor recreational opportunities. Open space may be dedicated for public use or held under private ownership. ~~Open space may be active (e.g., soccer, baseball, or football fields, playgrounds, etc.) or passive (e.g., bicycle, walking, and jogging trails, etc.) recreation.~~ **The required open space for conventional subdivisions may be adjacent to the required roadway buffer unless the open space is protecting a natural feature or stormwater management facility on the property.** All conservation land, as defined in section 58-58(4)d is considered open space. However, not all open space is necessarily conservation land. As defined, open space may be land left in its natural state or grass and medians planted with trees in a residential, commercial or nonresidential development.

Adopted this 10<sup>th</sup> day of November, 2014.

All were in favor, with votes recorded as follows:

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

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

**Item No. 11. New Business.**

**A. Review and Consideration of Resolution - Initial Certification Fire District.** Mayor Deter – This is part of the process of the Fire Service District that the Town created in 2012. The NC Department of Insurance has a process that we have to go through and part of that process involves the Town passing a Resolution for the Initial Certification of the Fire District.

Councilwoman Hadley moved to approve Resolution R-2014-06:

**TOWN OF WEDDINGTON  
RESOLUTION  
INITIAL CERTIFICATION  
FIRE DISTRICT  
R-2014-06**

**WHEREAS**, G.S. 118-38 requires certification to the Commissioner of Insurance as to the firemen and fire departments who serve the citizens of North Carolina within the various cities and counties of our State as a requirement for eligibility for benefits under the “North Carolina Firemen’s and Rescue Squad Workers Pension Fund Act” and also the “Law Enforcement Officers, Firemen’s, Rescue Squad Workers’ and Civil Air Patrol Members’ Death Benefits Act” (143-166.2, (d)), the undersigned certifies to the North Carolina Commissioner of Insurance that:

1. The Providence VFD serves the citizens of Weddington and performs such functions as protection of life and property through firefighting within the Town limits of Weddington.
2. The North Carolina Commissioner of Insurance has determined that the Weddington Fire District which is served by the above named Fire Department, is classified as not less than Class 9 in accordance with rating methods or insurance classification rules in effect, or by such other reasonable methods as determined by the Commissioner.
3. The above named Fire Department operates fire apparatus and equipment of a value of Five Thousand Dollars or more and has the following members. (Attach Roster).
4. The above named Fire Department has been approved to serve within the Town limits of the Town of Weddington by resolution by the Town Council of Weddington at a meeting held on the 14<sup>th</sup> day of May, 2012, and the undersigned was directed to execute and forward a copy of same to the North Carolina Commissioners of Insurance.

All were in favor, with votes recorded as follows:

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

**B. Update from Public Safety Chairman Gene Melchior and Committee Members Regarding Public Safety Action Items from Council Retreat.** Public Safety Chairman Gene Melchior updated the Town Council on items given to the Public Safety Committee from the February Retreat. He stated, “We have decided there was not enough interest at this time to start a CERT Team. We have only had around six people that have

shown an interest and we have decided based on previous work that we have done as a Public Safety Committee that we would need a minimum of 20 to 25 people to start one. Hopefully with the festival next year we will be able to drum up more interest because we did not have a lot of visibility where we were and hopefully we can engage more people and bring it up again next year. NCDOT has advised that they feel the lighting around the roundabout is adequate and meets their requirements. The only alternative that we might pursue is to take our street lighting further down.”

Mayor Deter - Can we put reflectors around the base?

Councilwoman Hadley - I wondered if when they widen Highway 84 at that point would be an opportunity to get more lighting when the other side of the roundabout is widened.

Mayor Deter - That could be 10 years.

Mayor Pro Tem Titherington - Maybe that is a retreat agenda item that we need to tackle.

Mayor Deter - Would they be receptive to reflectors to at least highlight that curb?

Mr. Melchior advised that he would ask NCDOT.

Town Administrator McCollum advised that she will provide cost estimates at the retreat on what it would cost to extend the street lighting.

Mr. Melchior - The next request was to investigate whether we increase the speed limit on Providence Road from 35 MPH to 45 mph. NCDOT said that we can if the Town Council wanted to.

Councilwoman Harrison - I asked this request because no one seems to go 35 mph. I believe that Councilmember Smith said that you feel it should stay at 35 mph.

Mr. Melchior – Yes because if we increase the speed limit it will just make them go faster.

Mayor Deter - I like the 35 mph out here simply because you have Polivka across the street and you have people trying to figure out where to turn in and out.

Councilwoman Harrison - I know you have a schedule for the speed trailer. Is there a way to get it out on Providence Road so people get a clue on how fast they are going?

Mayor Pro Tem Titherington - Most of the people I talk with have the same concerns around safety and feel we should keep it at 35 mph with the recognition that people are not going 35 mph.

Council agreed to keep the speed limit 35 mph but requested that the speed trailer be put out there occasionally.

Mr. Melchior – We have started the radar schedule and have taken the 12 key locations that you have identified and we are building a baseline for those. Right now we are using just the radar trailer because the radar sign is still not working correctly. We were having difficulty in getting every day recorded. The sign is under warranty.

Mr. Tim Wescott - Based on your retreat and feedback we got we have been looking at an early warning siren system for the Town. We have come up with two possible options to consider if this is something you want to do. One is a standalone system that would have to be controlled close to home and the other one is integrated into an existing Union County regional kind of approach to early warning. I have included three siren providers in your information. During the course of doing the research on this as far as siren providers, I received two to three alerts on my cell phone so it is showing me that our existing system is notifying us. In fact we had a code

alert on our home phone regarding a missing child from Weddington High School. I do not think based on feedback that I have gotten from you that you want to own a standalone system.

Mayor Deter – Does the County have a system?

Mr. Wescott – Not necessarily for sirens. They have what is called CodeRed. There are a variety of prices, decibels, distance for the sirens and so forth and that has to be taken into account. Before jumping off that cliff I wanted to get a feel for the appetite for something like this. There is grant money available to assist in funding something like this if it is something that the Council wants to pursue.

Mayor Pro Tem Titherington - I thought the report was outstanding. The financials were a little staggering at first but I guess there is grant money available.

Councilwoman Harrison – Maybe this should be a retreat agenda item.

Mr. Wescott - We need to ask ourselves do our current platforms meet the needs for notification or in certain areas a siren would be an added benefit? I found through my research that people are not very fond of sirens. They will barely tolerate existing sirens and implementing new sirens you would have to have a really big payoff for that with the costs associated with that.

Citizens in the audience said that support of these would only come after something happens and that they have apps on their smart phones that tell them when bad weather is coming. It was discussed that some of the older residents do not have cell phones. Council asked that staff notify residents in the newsletter and other Town communication to sign up for what is already available through Union County.

Council thanked the Public Safety Committee for their work.

**C. Review and Consideration of Town’s Participation in Local Cost Sharing for Sidewalks for the Proposed Rea Road Extension (NCDOT STIP No. U-3467).** The Town Council received emails from Mr. Bobby Norburn, Senior Planner with Mulkey Engineers and Consultants and a copy of a worksheet detailing preliminary cost estimates for sidewalks within Weddington:

Mayor Deter - There are plans to extend Rea Road and come out on Highway 84. There are a number of different versions but as part of that plan there is a request similar to Providence Road to put sidewalks on both sides. We have an email from one of the planners asking if the Town is willing to fund the cost of those sidewalks. The costs of those sidewalks within the Town are going to be approximately \$128,000 to \$133,000. There would be a similar situation in Wesley Chapel and then there are some unincorporated areas that in this letter they are asking if Weddington is willing to foot the bill for the unincorporated areas. I think Union County needs to foot the bill for that.

Councilwoman Harrison – We just finished the 2040 Comprehensive Plan. They have combined Rea Road and Highway 84 into one project widening but at this point they have not said where on Highway 84 they are going to come out. In the comments it says new four lane roadway with sidewalks. Pam and I remember they said that for future roads they were going to pay for the sidewalks and that is what I see in the comments. At no point in any meeting have I gone to that they have said that the municipalities are paying for the sidewalks. We got the big shock in 2012 when we found out we owed money for the sidewalks because in 2000 the then current Mayor said that we would pay for the sidewalks.

Finance Officer Gaylord – He did not even say that; he just asked and they took it to be.

Councilwoman Harrison – No money was put away so we had to come up with the sidewalk money but we also have to maintain the sidewalks going forward. At this point I think we need more clarification. The previous Planner said that sidewalks would be included for future roads.

Councilwoman Hadley - Is it 20% of \$130,000 or is \$130,000 our 20% ?

Mayor Deter - \$130,000 is our costs.

Mayor Pro Tem Titherington – The \$6,000 is the unincorporated portion.

Councilwoman Harrison – A lot of people do not want sidewalks in front of their house. I got eight emails on this agenda item. I believe that we need more information.

Councilwoman Hadley - We were told that widening of roads included sidewalks. This is counter to everything we heard.

Mayor Pro Tem Titherington - The challenge that we have if we go back to what the citizens have been telling us in surveys is they want connectivity. It is not greenways because that is the big picture but they would like to see more connectivity amongst the Town. People are out there walking, jogging and biking on our current sidewalks. Connectivity is big with a lot of the respondents of the survey and we should think about how we get there but we need a cohesive plan on how to do that.

Councilwoman Harrison – The earliest you will see Rea Road is 2025.

Mayor Deter – I would hate to imagine Providence Road now without sidewalks and when this happens we are talking about a similar type of road.

Town Planner Burton - There is a deadline of December 19 to let NCDOT know.

Mayor Pro Tem Titherington – We need to find out the following: timeline for Rea Road, opt in date, what is Wesley Chapel going to do, check to see if there are any subdivisions in the Rea Road corridor that have reserved right-of-way and has there been an NCDOT commitment that sidewalks are included.

Mayor Pro Tem Titherington moved to authorize staff to work with NCDOT and other agencies to answer the questions that were outlined above. All were in favor, with votes recorded as follows:

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

**D. Review and Consideration of Releasing Bond Monies for the Devonridge Subdivision.** The Town Council received the following memo from Town Administrator Amy McCollum:

The Town is currently holding the following money for the Devonridge Subdivision:

Road Performance	\$87,885.00
Road Maintenance	\$29,212.00
Water and Sewer	\$61,270.40

Please find attached letters from US Infrastructure and Union County Public Works advising that the work has been completed and recommending release of the money for the road performance and for water and sewer improvements. The roads are private and it is a gated subdivision; therefore maintenance of the roads will be handled by the Homeowners Association. Please authorize staff to release the above money back to the developer for the Devonridge Subdivision.

The Town Council also received the following:

- Agreement dated June 11, 2012
- Letter from US Infrastructure dated April 22, 2014
- Letter from Union County Public Works dated September 3, 2014
- Budget Summary – Operating for the Devonridge HOA for 2014
- Budget Summary – Reserve for the Devonridge HOA for 2014
- Appointment of Officers – Devonridge HOA (Director Action)
- Removal of Director and Appointment of Replacement Director – Devonridge HOA – Written Consent of Declarant Without Meeting
- Declaration of Restrictive Covenants of Devonridge Subdivision dated June 25, 2007
- Declaration of Covenants, Conditions and Restrictions of Devonridge Subdivision dated June 25, 2007
- Amendment to Bylaws – Devonridge HOA
- Bylaws of Devonridge HOA
- Articles of Incorporation of Devonridge HOA

Mayor Pro Tem Titherington moved to authorize the release of bond money for the Devonridge Subdivision. All were in favor, with votes recorded as follows:

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

**E. Call for Public Hearing - Review and Consideration of Construction Plan Guidelines.** Councilwoman Hadley - When I was reading the packet I was fine with this item until I came to the appendix for this item. It says that the maintenance plan shall indicate that the water control be inspected on a regular basis, etc. My question is does the developer hand over this to the HOA? It also says that the developer shall perpetually operate, maintain and repair at its sole expense the above referenced structures. Is there a time line on this? Are we able to hold a developer accountable for 25 years? There were other things through here that were a little too vague and maybe needed to be firmed up. I spoke to a couple members of the Planning Board and Council and they had the same concerns. What I would like to do is call for the public hearing but take the appendix and send that back to be reviewed by the Planning Board and the Town Attorney.

Councilwoman Harrison - How many developers went out of business due to the economy and then what happens?

Councilwoman Hadley – It also talks about the Town shall have a lien against the property. If that structure straddles my property would the Town put a lien on my lot? Too many red flags came up when I read this so I feel like it needs to have another pass.

Attorney Fox – If there is a failure of a water control system then who is ultimately going to be the party that the Town looks to fix it? You are going to have residents in those subdivisions that are going to be damaged and harmed.

Councilwoman Hadley moved to call for a public hearing to consider construction plan guidelines. The public hearing is to be held December 8, 2014 at 7:00 p.m. at the Weddington Town Hall. Councilwoman Hadley also asked that the guidelines be send back to the Planning Board and Attorney for further review to make sure that it captures the appropriate responsibilities of the parties. All were in favor, with votes recorded as follows:

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

**Item No. 12. Update from Town Planner.** The Town Council received the following update memo from Town Planner Burton:

- On October 27<sup>th</sup>, the Planning Board reviewed the following items:
  - Falls at Weddington Preliminary Plat
  - Weddington Preserve Preliminary Plat
  - Text amendments included in Consent Agenda and Public Hearings during 11/10/14 Town Council meeting
- The Planning Board will likely review the following items on November 24<sup>th</sup>, 2014:
  - Threshold Church Construction Documents
  - Vintage Creek Final Plat Map 1 and Monument Sign Application
  - All Saints Anglican Church Conditional Zoning application
  - Atherton Estates Monument Sign Application
- Additional updates:
  - Development of the West property (Laurel Grove Lane) is currently on hold until further notice.

**Item No. 13. Update from Town Administrator.** The Town Council received the following update memo from Town Administrator McCollum:

- Consultants for the Fire Study have advised that they should have a final report to the Town within the next two to three weeks so we should be able to have that on the agenda for December.
- Town Tree Lighting will be held on December 5, 2014 from 5 to 7 p.m. with the rain date being December 6, 2014. Local school and church groups will give special performances. Residents are asked to bring a new toy and/or non-perishable food item to be given to the Union County Christmas Bureau.
- Rob Dow and Jim Vivian’s terms on the Planning Board will expire in December. They have asked to be reappointed. We also have approximately five applications on file as well.
- Gene Melchior and Kimberly Crooks’ terms on the Public Safety Advisory Committee will expire in December. I have one application on file and have asked Mr. Melchior and Ms. Crooks to provide a new application if they are interested in being reappointed.
- Union Power Cooperative will conduct a second workshop to display and discuss the alternate route corridors that have been developed for the Weddington-Marvin 100 kV Line. Property owners of record in the siting study area are invited to the workshop. The workshop will be held at the Weddington United Methodist Church on November 13, 2014 from 4 to 7:30 p.m.
- Public Meeting #2 for updating the Union County Parks and Recreation Comprehensive Master Plan will be held at 6:30 p.m. on Tuesday, November 18 at Siler Presbyterian Church in Wesley Chapel.
- I am working on getting three quotes/proposals for a new Town Website and hope to have that on the Council’s agenda for December.
- I am also trying to get three quotes for new Town Banners to be on the agenda as well for December so that they can be ready to be installed in January when the Christmas banners are taken down.

**Upcoming Dates:**

November 10, 2014	-	Continued Providence VFD Budget Meeting at 5:00 p.m.
November 10, 2014	-	Regular Town Council Meeting at 7:00 p.m.
November 11, 2014	-	Closed for Veteran’s Day
November 19, 2014	-	PIM (All Saints Anglican Church) - 5 to 7 p.m. at Town Hall
November 20, 2014	-	PIM (All Saints Anglican Church) - 9 to 11 a.m. On Site
November 24, 2014	-	Planning Board Meeting
November 27 & 28, 2014	-	Closed for Thanksgiving
December 5, 2014	-	Christmas Tree Lighting – 5:00 p.m. to 7:00 p.m.

**Item No. 14. Public Safety Report.**

**PROVIDENCE VFD**

**Union**

Fire: 19  
EMS: 16  
Public Service: 5

**Mecklenburg:**

Fire: 8  
EMS: 1

**Total: 49**

The Town Council also received the Income and Expense Budget Performance and Balance Sheet for October 2014.

**Wesley Chapel VFD – 16 Calls**

**Stallings VFD – 2 Calls**

**Weddington Deputies – 722 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 by Department and Balance Sheet dated 10/1/2014 to 10/31/2014. Finance Officer Gaylord also reported that the Auditors will be at the January Town Council Meeting.

**B. Tax Collector’s Report. Monthly Report –October 2014**

<b>Transactions:</b>	
2014 Utility Charges	\$8,293.72
Refunds	\$609.28
Penalty and Interest Payments	\$(31.32)
J	
<b>Taxes Collected:</b>	
2013	\$(234.83)
2014	\$(155,653.79)
<b>As of October 31, 2014; the following taxes remain Outstanding:</b>	
2002	\$82.07
2003	\$129.05
2004	\$122.90
2005	\$252.74
2006	\$56.80
2007	\$144.42
2008	\$1,330.77
2009	\$1,464.23
2010	\$1,681.91
2011	\$2,667.62
2012	\$7,332.33
2013	\$8,152.85
2014	\$757,433.58

<b>Total Outstanding:</b>	\$780,851.27
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**Item No. 16. Transportation Report.** Councilwoman Harrison reported that the last meeting was cancelled and that she plans to have staff put a link on the Town’s website of all the NCDOT projects.

**Item No. 17. Council Comments.** Councilwoman Harrison – I want to thank Texas Roadhouse for providing Halloween Bags that gives a free meal ticket for us to give out at our events.

Councilwoman Hadley – We have been concerned about the shoulders on the roads in Weddington. I spoke with John Underwood with NCDOT and asked him if it would be helpful if we sent him some of the worst ones in Weddington. He actually agreed to it. The Mayor and I went out and took pictures of what we considered the worst areas and the Mayor sent to NCDOT. They have been out gravelling the shoulders. I want to make everyone aware of the cooperation that we received from NCDOT.

**Item No. 18. Adjournment.** Councilwoman Hadley moved to adjourn the November 10, 2014 Regular Town Council Meeting. All were in favor, with votes recorded as follows:

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

The meeting adjourned at 8:33 p.m.

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Bill Deter, Mayor

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Amy S. McCollum, Town Clerk