

**TOWN OF WEDDINGTON  
REGULAR TOWN COUNCIL MEETING  
MONDAY, JANUARY 11, 2010 - 7:00 P.M.  
MINUTES**

The Town Council of the Town of Weddington, North Carolina, met in a Regular Session at the Providence Volunteer Fire Department, 5025 Hemby Road, Weddington, NC 28104 on January 11, 2010, at 7:00 p.m. with Mayor Nancy D. Anderson presiding.

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

Absent: None

Visitors: Walter Staton, Barbara Harrison, Pat Harrison, Ed Goscicki, Attorney Keith Merritt, Matt Schultz, Bill Short, Scott Gregory, Kathy Gregory, Brian King, Jody Legg, Sally Terpak, Walker Davidson, Jerry Fitzgerald, L.A. Smith, Jan Taylor, Mettie Spittle, Stephen Meier, Pete D'Adamo, Joyce W. Summerville, Ken Evans, Liz Lowry, Audrey House, Jan Spittle, Gregg Wyant, Debra Fitzgerald, Don Titherington, Chuck Denny, Carl Halas, Beverly Corver, Gini Briggs, Ed Briggs, Tommy Taylor, Kent Hayes, Anthony Burman, Craig Horn, Linda Manus, Paul Demontesquiou, George Eanes, Mary Eanes, Charles Debbout, Matthew McGizz, Leon Davis, Ann Davis, Grant Harper, Charles Winchester, Charles Keating, Bill Price, Scott Buzzard, Jim Polizzi, Robert Gunst, Christopher Partridge, Maria Partridge, Charles T. Brann, Paisley Gordon, John T. Legg, Ron Terpak, Tommy Price, Sandra McKee, Tom Honeycutt, Michael Carver, Greg Thomas, Terry L. Moore, Providence Fire Chief Dave Banick, John Zachary and Melissa Emerine.

**Item No. 1. Open the Meeting – Invocation and Pledge of Allegiance.** Mayor Nancy D. Anderson called the January 11, 2010 Regular Town Council Meeting to order at 7:00 p.m. Mayor Anderson offered the Invocation and Troop 99 led in the Pledge of Allegiance.

**Item No. 2. Determination of Quorum/Additions or Deletions to the Agenda.** There was a quorum.

Mayor Pro Tem Daniel Barry moved to approve the agenda with the following items being moved from New Business to the Consent Agenda:

- Acceptance of Certificate of Sufficiency – Voluntary Annexation Request from Cecil and Carolyn Turner and Michael David Turner for Property Located on Potter Road
- Consideration of Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-31 – Voluntary Annexation Request from Cecil and Carolyn Turner and Michael David Turner for Property Located on Potter Road (Public Hearing to be held February 8, 2010 at 7:00 p.m. at the Weddington Town Hall, 1924 Weddington Road, Weddington, NC 28104)
- Consideration of Resolution Requesting the Addition of Potters Cove and Jean Place in the Potters Creek Subdivision to the North Carolina Department of Transportation State Maintained Secondary Road System
- Consideration of Application for Renewal of Temporary Construction Trailer - Bromley Subdivision

All were in favor, with votes recorded as follows:

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

**Item No. 3. Public Hearing.**

**A. Public Hearing to Review and Consider a Conditional Use Permit for a 156' Elevated Water Storage Tank Proposed to be Located at 1929 Weddington Road – Parcel # 06-150-074.** Mayor Anderson - This is a quasi-judicial public hearing. After the public hearing, there will be a time for public comments. Public comments are for any subject except for material covered in the public hearing.

Attorney Anthony Fox - This is a quasi-judicial proceeding. What you are more familiar with is the public comment section of the Council meetings where you are given an opportunity to speak and voice your comment and you are given a time period in which you can do that in generally two to three minutes. Unlike that proceeding which is sort of a legislative process, this is a quasi-judicial process more akin to a court proceeding. You might want to think of it this way. The Council, your governing body, is the judge. The applicant is a party and anyone opposing the applicant might be another party provided they are a party of interest. The proceeding works a little bit differently. The evidence that the Council has to make its decision on has to be competent material and substantial evidence. Not opinion, not emotion but actually specific facts that are developed during the course of the hearing. For those of you who want to participate in this proceeding remember that this Council has to base its decision solely on facts. As a quasi-judicial proceeding, there is an important characteristic of that and that characteristic is that the evidence that is presented has to be sworn evidence. You have to swear or affirm to speak tonight on the issue that is before the Council. Once everybody speaks, the evidence will be weighed by this Council. The Council will look at and base its determination on whether the application meets or does not meet the four or five elements that are set out in this type of proceeding. For those who want to come and speak, who are sworn, the testimony ought to relate to the four factors that this Council has to weigh in the approval or denial of the application. The four factors are: Testimony and evidence has to relate to whether the use will not materially endanger the public health or safety if located where proposed and developed according to plan. The next factor will be whether the use meets all required conditions and specifications. The third factor is whether the use will not substantially injure the value of adjoining or abutting property or the use is a public necessity. The fourth element will be the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located in and will be in general conformance with the ordinance and the Town's Land Use Plan. The evidence that anyone wants to present tonight needs to somehow relate to those four factors. Once the evidence is in, then the Council will then deliberate and make its decision. It is not required to make a decision tonight. They can choose to do so depending on the scope and wrap up the evidence that is going to be presented to it.

Town Administrator/Clerk Amy S. McCollum swore in the following individuals wishing to give testimony: Jordan Cook, Jerry Fitzgerald, Attorney Keith Merritt, Pete D'Adamo, Stephen Meier, Matt Schultz, Edward Goscicki, L.A. Smith, Paul DeMontesquiou, Walter Staton, Scott Gregory, Don Titherington, Chief Dave Banick, Walker Davidson, Robert Gunst and Brian King.

Mayor Anderson opened the public hearing to consider a Conditional Use Permit for a 156' Elevated Water Storage Tank proposed to be located at 1929 Weddington Road – Parcel # 06-150-074.

Attorney Fox - Staff will present first. Staff will then be subject to questions by the applicant. Parties of interest which include the church and abutting property owners, the public and then the Council can question staff and then the applicant will then go next. The applicant will be subject to cross examination by staff, parties of interest including the church, the public and Council.

Town Planner Cook submitted agenda items as evidence – Staff’s Exhibit #1:

- Memo from Zoning Administrator/Planner Jordan Cook dated January 11, 2010
- Conditional Use Permit Application (Application Number: CUP-03-09)
- Authorization from the Kings for Union County to apply for a Conditional Use Permit to design and construct a water storage tank on Parcel 06-150-074
- Narrative for Conditional Use Permit
- Adjoining/Adjacent Property Owners
- GIS Map of the Site
- Flood Insurance Rate Map of the Site
- Soil Map and Web Soil Survey
- Picture Locations for Tank Views
- Pictures of Different Views of the two Tower Choices
- Aerial Map
- Zoning Map
- Conditional Use Permit Findings of Fact Checklist
- Cover Sheet, Sheet Index and Vicinity Map
- General Legend and Project Notes
- Standard Details
- Drainage Structure Plan and Sections
- Erosion Control Details
- Erosion, Sediment and Storm Water Details
- Site Plan
- Yard Piping Plan
- Erosion Control and Grading Plan
- Storm Water Plan
- Landscaping Plan
- Tank Piping Plan
- Hydropillar Elevated Storage Tank Plan and Details – Alternate 1
- Waterspheoid Elevated Storage Tank Plan and Details – Alternate 2

Staff’s Exhibit #2 that was passed out at Meeting

- Letter dated November 18, 2009 from Peter C. D’Adamo with HDR Engineering, Inc. of the Carolinas
- Six Photographs of Water Tanks in Waxhaw

Town Planner Cook: Union County is the applicant and they request a Conditional Use Permit for a 156’ 1.5 million gallon elevated storage tank. This proposed tank will be located on 4.87 acres at 1929 Weddington Road. You can see the area on your packet showing that site as well as the zoning map in your packet. Water storage is classified as a Class II Essential Service in our Code of Ordinances. It is permitted with a Conditional Use Permit in the R-40 zoning district. I mentioned the two styles of water tanks that they are proposing and the pictures are in your packet. The applicant has left it up to the Town Council to pick which style they favor. The site is accessed by a 20’ wide gravel road from Weddington Road. A security gate will be installed at some point on that road and the actual tower will be enclosed in a 300’ x 300’ fenced area. The Planning Board asked me to go into a little more detail on the gate. The first plan that I received from the applicant showed a chain link fence close to Weddington Road. I made a comment which is also on the sheet that I passed out - that additional item you received tonight. I made a comment to do something more aesthetically pleasing than a chain link fence. The applicant had come back to us and proposed a fence that was actually coated in green vinyl and pushed back from the road so you could not see it. The Planning Board wrote some questions about security and safety with having a

fence that far back, a driveway where you could not see the fence. They thought it may lend itself to some security and safety risks. They went back and forth and that will be a condition. You will see at the end of it just to discuss the type of security gate or fence and actual location of it. They wanted me to make sure that I pointed that out. The applicant does meet all the required setbacks for a Class II Essential Service in the R-40 zoning district. They also meet all the required landscaping requirements and will use some of the mature existing vegetation onsite to accomplish that. You can see from the aerial that the site is heavily wooded. On November 23, 2009, the Planning Board gave this Conditional Use Permit a favorable recommendation with the following conditions:

1. All engineers' comments must be addressed by the time of construction.
2. The applicant must apply for a NCDOT driveway permit.
3. The discussion of the location and design of the access gate.

These were the redlines. The applicant provided this information from the redlines that I had given them back on the first review. I asked the applicant to address outdoor lighting. They stated that the only lighting that would be needed if even required is lighting on top of the water tower per FAA regulations. They changed the access road to 20' to comply with our code. I asked them to address noise. They did state that there would not be any noise associated with this water tank and periodically Union County staff will have to visit the site to maintain it. That would be the only noise associated with it. I asked if Union County had explored options of using an on ground water tank. Item H discusses the security gate. I did ask for something more aesthetically pleasing. They did do that. The Planning Board wanted you to go into more detail about that. They also asked if the fence on the site would be visible from Providence Road or the Methodist Church. It doesn't look like it. They are leaving a lot of the natural buffers around it. There has to be a 30' buffer around the entire area which they are leaving on all but one side. They are replanting it on that one side.

Mayor Anderson - As part of your testimony are you entering into evidence the Town of Weddington Zoning Ordinance and the Land Use Plan?

Attorney Fox – I think the parties can stipulate that the current Weddington Land Use Plan and Zoning Ordinance are admissible as part of this hearing without objection.

The parties agreed.

Mayor Anderson – For the record, can you define Class II Essential Services?

Town Planner Cook - An Essential Service in itself means publicly or privately owned facilities or systems for the distribution of gas, electricity, steam or water, the collection and disposal of sewage or refuse, the transmission of communications or similar functions necessary for the provision of public services. The term essential services is divided into the following classes: Class II – Booster stations pumping stations, switching facilities, substations, lift stations or other similar required facilities in connection with telephone non wire communications, electricity, steam, water, water storage, sewer or other similar utilities. This classification is not intended to govern apparatuses and functions set out in Essential Services Class IV more particularly defined below.

Attorney Keith Merritt representing Union County – The third Finding of Fact to be made is that the use will not substantially injure the value of an adjoining or abutting piece of property or the use is a public necessity. Is the provision of water a public necessity pursuant to your interpretation of your ordinances?

Town Planner Cook – Yes, water is a public necessity.

Mr. John Zachary – Why was this particular location selected and what other alternates were considered?

Attorney Merritt – Are you allowing questions from anyone in the audience or only from those people who took an oath or are basically here to represent or have an interest in the hearing? I am curious to the scope of who is going to be able to ask questions.

Mayor Anderson – We really did not define interested parties. Since we are talking about an Essential Service, I am going to speak for the Council, since we are talking about a service to all the citizens in Weddington, i.e., water, everyone is an interested party. Councilmembers, are you going to let just the adjoining property owners speak about this or do you want every citizen in Weddington to be heard?

Council wanted everyone to be heard.

Attorney Merritt – Do they need to be sworn in order to participate in this level of the public hearing?

Mayor Anderson – In the past, if people are asking questions for clarification we have not sworn them in. If they are providing testimony, then we have to swear them in.

Attorney Fox - I would remind the public if there are questions at this juncture, it needs to relate to the testimony of the witness that has just been provided in the presentation and should relate to that presentation.

Mayor Anderson – As to the question about the site selected and other alternative sites, this was the application that the Town received. It was for this site only. I am sure that the applicant can elaborate on that later when they present their material as to why this was selected.

Mr. Scott Gregory – I am an adjoining property owner. I think at one point in time there was a study completed from the County from another group of engineers that had recommended that the water tower be put down near Rea Road near Old Mill. Where did that go? If that was the best use plan from that engineering group, why would you choose to move it here?

Town Planner Cook - I can only evaluate the Conditional Use Permit Application that I received. I think that site selection is something the applicant can answer better than me. I have to review what I receive. I don't go beyond that application.

Attorney Fox - I know there is a desire to speak on the overall issue that is before the Council. This is like a hearing process. All you have heard at this juncture is staff's presentation. The applicant will be presenting and some of the questions that you may have may be answered through the applicant's presentation and/or it may be more appropriate to ask questions to the applicant in terms of selection of the site and the like.

Councilmember Jerry McKee - The definition of Essential Services... what does essential mean?

Town Planner Cook - Something every community has to have and defined in the Code.

Councilmember McKee – Let me give you an example. If you were making a ham sandwich and you did not put any ham in there, the ham would be essential to the sandwich. Is that correct?

Town Planner Cook – Yes, I would say so.

Attorney Keith Merritt – I am representing Union County. With me here tonight is Pete D’Adamo. He is from HDR Engineering. This is the group that has put together the technical documents submitted to the Town and the firm that has been advising and assisting the County with the water tower project. Ed Goscicki, Union County Public Works Director, is also here to answer questions. Matt Schultz also from HDR Engineering was responsible for a lot of the hydraulic modeling that was done that establishes the need for the water tower. Also with us tonight is Steve Meier with Tank Industry Consultants. He is an engineer that specializes in water tank design and safety issues. We are here tonight to request that the Council approve a Conditional Use Permit for the construction of a new water tower to serve Weddington located at 1929 Weddington Road. As Mr. Fox pointed out, the Council will be required to make four findings at the end of the hearing. At this point in time, your Planning Board and your staff have reviewed the application and have made a determination that the conditions have been met and have recommended approval of the CUP and we urge that you adopt the recommendation of your Planning Board and staff. I would like to turn the presentation over to Mr. D’Adamo to give you more background as far as the engineering.

Mr. Pete D’Adamo – I am with HDR Engineers. We historically have done a lot of work for Union County and have been involved in this particular project as well as others that relate to this project. I would like to offer a brief presentation that we presented to the Planning Board which will give a little bit of history of the project and a little bit about this specific project that is being proposed at this site and talk about the necessity for the project. This slide shows the approximate Town boundary and as you can see the proposed tank site just to give perspective to those who may not know where we are talking about. This site is across from the Town Hall. This shows the zoning map. The site is R-40. The installation of a water storage tank would be classified under the Class II Essential Services and as you know requires conditional use approval. The parcel size is a little less than five acres. Based on the design that has been laid out for the tank and the site facilities, the disturbed area is about 1.8 acres within a new impervious area of a little less than .3 acres. All of these things are important as it relates to the design of the storm water facilities and meeting ordinances. The flood elevation is 635’ above mean sea level whereas the tank finished floor elevation is 707’ mean sea level. The County’s water system is a very complex network of pipes, tanks and pumps and the goal, in this particular area of the County system, is to maintain what we call a hydraulic grade line of 853’ and that is based on being able to provide adequate water pressure to run your fixtures as well as during a fire, flow to meet minimum fire flow requirements and have adequate residual pressure at the fire hydrants. That is part of what establishes the water level in this tank and the height of the tank and then also points us in certain places to look for a tank site based on the ground elevation. The top water level is 853’ and there is about 10’ above that to the very top of the tank which is 863’. This is an aerial photograph. This is the site in question. The tank is proposed to be located towards the back corner. *(Mr. D’Adamo pointed on the map to the following roads or landmarks: NC 84, Weddington-Matthews Road, Town Hall, Providence Road, the church, gas station and the shopping center)*. This is zoned R-40 but is contiguous to commercially zoned areas. In terms of current development, there is not a lot. There is a house over here and one off the site here. This is a map of the adjoining property owners to give you a little perspective of where the site is. We submitted plans to the Town for review. This is basically the site in question. There is a 20’ wide access gravel road up to the tank. This is depicting the tank both at the base and the diameter at the top. This gives you an overall perspective. Our goal was to provide adequate buffers and try and locate it on the site to be as unobtrusive as possible with respect to the aesthetics. This is the Utility or Yard Piping Plan. The County has an existing 24” water main along Weddington Road and it is important that we are able to tap a large diameter water main to fill this tank as well as release water from this tank. That will maximize the right pressures into this distribution system and maximize fire flow which is good in terms of obviously protecting public property and health. Other factors, we have two pipes coming in. One to fill and one to release and it ties into this 24”. These tanks are also equipped with overflow and they have foundation drains and those will be diverted to a structure here that has a spreader that is part of the overall tank design. Tanks are maintained periodically. Sometimes when they go in to inspect the tank, inspect the coatings and things

like that, they will drain the tank. Since water is precious and water costs money, usually the way the County would do that is they would drain it as far as they could, as low as they could back into the pipes that feed the residents. There may be a small amount of release drainage here so they can empty the tank completely and inspect it. That is part of the regular maintenance of the water storage tank. This is just the Sediment Erosion Control Plan. It will show the location of a silt fence and it is primarily related to when they start building the tank to minimize erosion and dirt on the streets. This is an overall plan showing how that will be contained which is subsequent to approval of NCDENR. This is the Stormwater Management Plan. The facility is designed with a dry pond and the goal and what it was designed for was to meet pre-existing conditions for the two and ten-year storm as required by the Town and also provide a spillway for a 100-year storm event. Based on that consideration we designed this with swells along each side of the entrance road and then this dry pond here and that is because we are creating some additional impervious area on the site that was not there before and so we have to make sure that when it rains, we release a two or ten-year storm with the same energy and volume that it would be if this was never constructed. Finally we have Landscaping Plan. Again our goal was because this is a wooded site, to try and maintain as much natural buffer as we could. We will have to clear out to build the entrance road and to erect the tank and the appurtenances that go with the tank and the storm water pond. We have planned 30' buffers as well as planted buffers to supplement the natural vegetation for the adjoining property. As was mentioned earlier, we have looked at a couple of different tank styles. If you have driven around knowing you were coming here tonight, there are several different styles out there. What we are talking about is an elevated tank and you will see some that have several legs that come down with the bowl up at the top. Those are less expensive and less durable. We looked at two styles: the fluted column or the hydro pillar tank. It has a larger base of steel that supports the bowl up at the top. This is where the water is located. The water level in this tank will fluctuate up and down during the course of the day. Water tanks serve primarily three purposes: to provide emergency storage, to provide fire flow storage and to provide operational storage or what we call diurnal storage because during the course of the day people tend to take showers at the same time of day and you have these ups and downs of water demand. A tank provides that buffer that allows that to float off of that. Tanks have changed in terms of how we look at them now. Water quality is a big issue. In the old days tanks were on everybody's minds and certainly these guys' minds wanted a full tank all the time because we want fire flow. Now we have to design them so they do fluctuate up and down because there is concern about water quality and if the tank stays full all the time the water becomes stale. That is part of the operation. That tank level will go up and down a certain band width. If that bowl is 30' high it might go up and down 10' during the course of the day. This is a hydro pillar style with a fluted column. This is steel. They also make what is called a hydro pillar composite. You may have seen it driving around. This portion is actually concrete and the top part is steel. This style is called a spheroid tank. It is almost the same width at the base down at the foundation but then it is much more tapered and has this more elliptical shape at the top. We feel these are the best style tanks from an aesthetic standpoint but we wanted to have the Town to have a say in what they may prefer. One of the things we wanted to do in terms of trying to inform everyone about this is look at the tank that was proposed and then look at some views of that taking the proposed tank design, taking the physical survey of the site and then using CAD computer generation to plop that tank right on the site so if it was built today you could see what it looked like from different vantage points. I will go through a series of six photographs. I am going to show the spheroid type tank. I do have as part of the slides the hydro pillar style tank. This is the view looking south on NC 84. For the purposes of this presentation we picked a blue color. If you have driven around there are a lot of different options you could have in terms of color and what tanks say. Some are made to look like golf balls or peaches. This view is from Providence Road over to the tank site. Three is close to the other location. Four is on the other side of the intersection of Providence Road and Highway 84 looking this way. Five is looking at Weddington-Matthews over to the Town Hall. Last one is closer to Town Hall looking over. HDR has been involved with the County's Comprehensive Water Plan both in 2000 and 2005. As a part of that effort, we look at the entire County both western and eastern side. We developed a hydraulic computer model that lets us go in and look at both existing demands as well as projected future growth not only in the County but all the

towns. We met with them and got all the information on their comprehensive plan, zonings and any information about development. So we plugged that all into a hydraulic model and say what problems do we have today? What complaints have we had from a pressure standpoint? In the future as the County grows, what problems will we have and how do we fix them? Whether there are more pipes in the ground, pump stations, tanks. We did develop the hydraulic model and as a part of the 2000 and 2005 Water Master Plan it was identified a need for a storage tank in this area and it was mentioned in the vicinity of Old Mill and Providence Road but no specific exact site. It was a planning study. The need for the project was concerns about low pressure and inadequate fire flow. Subsequent to that in 2007 the County hired HDR to do a study and we evaluated eight sites for looking at a water tower site. I think we all accepted the fact that a water storage tank was needed in this area. So now we are trying to figure out what makes sense. We looked at these eight sites under several criteria. We have to maintain 853' top water level. We want a ground level that is reasonably higher or we will end up with a very high tank. We tried to look at sites that had ground elevations of 700' or above. We tried to look at sites that were in fairly close proximity to existing County pipelines and particularly larger pipelines. Like the 16's and 24's because that is what you need for the fire flow and to maintain the pressure. We considered whether there was residential development in the vicinity of the tank. We also, at that time, looked at what we thought were land values. You all know things have gone crazy with land values. We compared them and we identified several sites of interest. All but one of those was in the Town of Weddington. As we did that analysis one of the sites that was mentioned as a feasible site was this site. The next criteria that was considered was the County staff was given by their Commissioners the task of talking to property owners at each of these sites to see if there was a willing seller. That analysis was done and this was the only site that had a willing seller. That is when they entered into an option with this property owner and we moved forward with looking at how we go about putting a tank on this site. In terms of their overall system this shows some of their infrastructure. These are the pipeline sizes. Right now there are two pumping stations that operate and can provide water to the Weddington area. The overall goal of this project is to dedicate, once this tank is built, to the Marvin Pump Station to this particular tank to simplify the operation. The way this pump station operates now is it has a fairly high head that has to be overcome to meet customers along the way and so the goal would be that this pump station would be able to fill this tower periodically. One of the questions that had come up was why not a ground level storage tank at this site instead of an elevated tank because of concerns over aesthetics. There are several issues to consider and we did consider them. Because this has to serve customers along the way so it has to operate at a pretty high head or pressure. If you put a ground level tank which was maybe 30' tall, all that pressure that is in the line that you need to serve certain customers would have to be killed at the tank. Right now it is designed to fill a 150' tank. That is a lot of lost energy that you would have to recoup to serve the rest of the folks in this area. A ground level tank will require a pump station which will require multiple pumps that will require an emergency generator. That has to be exercised once a week. That picks up the noise level and complexity of the system. The other issue is that it is going to be a much more complicated system to control because this tank is going to fill up to a certain degree but it is also going to be connected to a new pump that will serve a different part of the area. You've got competing issues in terms of two pumps tied to one tank. That is more complex and more likely to fail and have problems, more instrumentation that has to talk to one another. Our belief was that an elevated tank is a much simpler way to provide the fire flow and domestic pressure in this particular area. This is an analysis that we did with our hydraulic model. This is called static pressure. If you put a pressure gauge on a hydrant that is tied into the line under normal circumstances the State requirement is we have to maintain 30 psi. That is what you need in case you have two floors and you have toilets on the top floor and you need a certain amount of pressure to make everything work. We looked at a max day of demand and accounting in the western part of the County of 20 million gallons a day which has already happened. When it happened in 2007/2008 and identified under those conditions there is a certain portion of folks at a higher elevation that aren't going to meet that requirement. We have had a lot of discussions with property owners and the County has been dealing with that to try and up their pressure right now. We also looked at running another simulation instead of max day demand of 20 million gallons a day was 25 and depending on which growth projections, again this is



just the County not just the Weddington area. Depending on the growth projections you look at, that could happen in 2015 or 2016. You can see there are a lot of areas that don't meet the minimum requirements. What is not shown here is there are a lot of areas that don't meet the minimum fire flow requirements. If you have a fire they are going to have trouble. With the storage tank added in this area that shaded area goes away. That is an essential need for a storage tank to serve the Weddington area and that is really what we were looking at.

Mr. Walter Staton – You are an engineer with HDR Engineering?

Mr. D'Adamo – Correct.

Mr. Staton - In the past you have worked with the Union County Commissioners concerning a water tank in Weddington?

Mr. D'Adamo – Correct.

Mr. Staton - You chose several sites. What was the #1 site that you recommended to the Union County Commissioners some time back?

Mr. D'Adamo - As we said, we did a preliminary engineering report and looked at eight sites and ranked them. The #1 site was off of Providence Road.

Mayor Anderson – I ask that this preliminary report be added into evidence as Staff's Exhibit 3.

Mr. Staton - Let the people in Weddington see on the map the location that he recommended to the Union County Commissioners some time back.

Mr. D'Adamo - In a preliminary report, we ranked several sites and the overall recommendation and order of ranking that the report also said for the County Staff go to several top ranked sites and meet with the property owners and see if there would be a willing seller. This particular site here was ranked #1 (Rea Road and Providence Road) and it is my understanding the County Staff did go back and did not find a willing seller. The number 2 site was here off of Providence Road.

Mr. Staton - Please tell us what you mean by this site.

Mr. D'Adamo - It is a large site across from first ranked site off of Providence – Old Mill Road.

Mr. Staton - I noticed you have refrained from mentioning that the proposed water storage tank would be located next to the cemetery in Weddington.

Mr. D'Adamo - That is correct. It is located next to the church and cemetery.

Ms. L.A. Smith - You mentioned that this site moved from #4 to #1 and is that based purely because it is a willing seller and no other factors?

Mr. D'Adamo - This site met all the criteria that we established for a feasible site and it had a willing seller. That was the differential.

Ms. Smith - That moved it from 4 to 1?

Mr. D'Adamo – Correct.

Ms. Smith - So of the other 4 sites besides this one, is there one that would in fact give you better pressure and flow?

Mr. D'Adamo - The tanks would all be designed at the same height and those sites that connect directly to the 24" line would provide the best pressure and flow. This tank site is as good as any of those three sites in that regard. The difference is certain sites have higher ground elevations, some have lower ground elevations so to get to that 853' grade line, water level, depending on which site you pick, and one tank might be taller than another which could be a cost differential. Some sites were a long way away from a 24" or 16" water line. So the difference then would be you would have to run more pipeline to make sure you have the adequate fire flow and pressure.

Ms. Smith - You showed the diagram at the low pressure areas in Weddington - the big gray circle. Aren't most of those homes in that big gray circle on wells? Did you take that into consideration in showing that diagram?

Mr. D'Adamo - That diagram is based on a running hydraulic model which when you look at hydraulic models it established connection points which we call nodes. Then we get an output from that model at those locations which will give you pressure and flow and in this case pressure. Within the network of the water distribution pipes that the County owns and maintains within that bubble that was the area that had low pressure. It is not addressing whether someone was on wells. The point is those homes that are on the County system within that area would have low pressure.

Ms. Smith - What portion of that area would have homes on the County system? Are we talking ten percent or 50% in that gray area? It is my understanding that 80% of Weddington is on wells.

Mr. D'Adamo - I don't know that for a fact.

Mr. Scott Gregory - I am going to play by the rules. I don't know about the quasi and the questions I am going to ask regarding the four issues that were addressed earlier about endangering the public safety. Mr. Staton has addressed the graveyard. That speaks for itself. Does it meet the requirements? I have had 30 minutes to prepare. You guys have had months. Does it injure the value? It does. Look at the pictures. Town Hall - who wants to look at this? I think I heard you say that the adjoining home owners were reached or contacted for input. Did I hear that?

It was answered yes.

Mr. Gregory - I can tell you that as one of twelve owners - none of us were contacted. As far as the location and character, I do not see that as character in harmony in this area. As far as some of the things I have seen up here as far as the natural buffers, I do not know what the setbacks are but it is pushed all the way to the back or considerably to the back. As an adjoining home owner, I don't see that we were screened. The tank itself was pushed back off of Highway 84. You have shown the pictures from all these other angles. I don't see a one from our property. The tank is elevated. If there is going to be a tank on this end of Town then make it a ground pump, put your jockey pumps in, do what you have to do. That is not aesthetically pleasing. Yes, this property that you showed the two houses on, there is no development there and it will hinder the development with this tank. I see this as being reactive and not proactive. We would not be in this situation if we did not go back many years from the growth.

Mr. Ken Evans - Jordan, what is the minimum lot size for a facility like this?

Town Planner Cook - 40,000 square feet.

Mr. Evans – No, that is R-40. What is the minimum lot size for a facility like this?

Town Planner Cook - It is the same.

Mr. Evans - On one acre?

Town Planner Cook – Yes.

Mr. Evans – In a daycare, they are allowed in R-40 but they have to have so much acreage before they can build it. Does that apply to this?

Town Planner Cook – Yes, the minimum lot size for an Essential Service is 40,000 square feet.

Mr. Evans - He said a minimum lot size for a facility like this is one acre. The setbacks on this are how far from the property lines?

Town Planner Cook - The minimum front setback is 75', the side setbacks are 15'.

Mr. Evans - That is residential. This is for a house.

Town Planner Cook - This is also for a Class II Essential Service. The rear setback is 40'.

Mr. Evans - In the 4.86 acres that you mentioned, does that take into account that some of that land is now right-of-way for the widening of 84 or has that been subtracted?

Mr. D'Adamo - The plan reflects the proposed work that is being done by NCDOT. That is included in that, I believe, but I am going to need to verify that. In terms of the setbacks, we have established a minimum setback of at least the tank height and that is how we laid it out.

Mr. Jerry Fitzgerald – Am I correct in understanding that this is a question session and there will be a presenting session? What I would like to do is take the position of the last questioner, because I have a different computer generated map that I would like to display for record. For time's sake, I would like any other questioner go ahead and I will switch computers if it is okay with Mayor and Council.

Mayor Anderson- Do you need that map for your presentation or for a question?

Mr. Fitzgerald - A question for these gentlemen here.

Mr. Don Titherington – I am in that gray area and I do have 30 psi because I am on well as well. Do you have an overlay of where current County water goes to for Weddington?

Mr. Ed Goscicki - We have an overview of pipelines.

Mr. Titherington - The reason I ask is our neighborhood submitted to the Union County Water Commission about six years ago and did all the engineering studies and we were told we could not get water at the time. I am assuming our neighborhood which is Providence Woods South which is all on well except for the front entrance which is off of Hemby Road, would get water. I believe, Council you made the comment that this is for Weddington. We would get water and because of fire. Would you please clarify that you did make this statement that this would be for the citizens of Weddington and that we could get water?

Attorney Merritt - Yes sir, it is to supply water to those residents within Weddington who get their water from the County. It ensures the current supply. It is not a water allocation issue. This is ensuring the current supply of water and maintaining an adequate pressure for those persons who are receiving water from the County so that they currently have water from the County. This is not and should not be interpreted as a promise or anything to say that there is going to be any amendment to the County's water allocation policies.

Mr. Titherington - Thank you for clarifying that. I think that was a very gray area for most of the people in this room that are on wells. The other comment was around fire safety and I think the folks here thank the fire department very much because they have spent a lot of money for tanker trucks. One of the reasons we did submit for water is we had a tragic fire where we lost a house due to lack of water pressure. The question would be as you look at this allotment, will that take a priority for those folks in Weddington who may not be on water with the County or is it all going to go down to Waxhaw and Marvin to support those areas?

Attorney Fox - If you are going to ask the question but include in your question your comments and facts then that this is going to be evidence that this Council cannot consider unless you are sworn. If it is just a question it is appropriate for you to just ask the question. Attorneys who ask questions are not sworn but to the extent you are providing evidence then you need to be sworn.

Mr. Titherington - Do we get priority in the County system for water for those folks who are not on water?

Mr. Ed Goscicki - I am the Director of Public Works for Union County. This project has nothing to do with water allocation policy. Right now the County is in an extreme water shortage due to the capacity of the treatment plants that we have that serve the County from both Anson and Lancaster County. We are actively working to develop new water supplies in both Anson County and in concert with Lancaster County. Getting additional water supply is what will allow the Board of County Commissioners to then allocate additional water and move away from this limited allocation and allow additional people to connect to the system. That is moving forward on one track where we are trying to get additional contracts in place to find more water and building additional capacity in other areas. What this project does is one deal with an immediate short term problem of a smaller area that right now has limited pressure in the system where there is only about 30 psi or less of pressure in that system as was shown on the map all within the Town of Weddington. More importantly, as we move forward, as more water is made available through our increased allocation when we get more supply and you want to connect to the system, as people connect we would not have pressure to meet those needs without this tank as was shown by the diagram. Without building this tank, even if we get more water on board, we can put more allocation into the system, we couldn't meet the pressure demands in the system without a water tank. If we hook everyone up that wanted hooked up in the Weddington area and met all the water allocation needs, we couldn't meet the pressure needs without this tank. We would have that problem but not being able to meet pressures, not being able to meet fire flows without having an elevated storage tank in this area.

Mr. Fitzgerald - This is purely a question. This is a pictorial reference of where the sites are that were looked at and evaluated for this water tower. Site 1 is down on Old Mill Road, Site 2 is at the corner of Rea Road and Providence Road. This is the subject site we are dealing with here tonight. I don't understand just because we didn't have a willing seller why we would move from the preferential site which is site 2. This is the optimal site right here. This is a pictorial reference of the church where we have another project going on. Here is our subject site tonight. This right here is the optimal site on an 80 acre vacant lot. Is the only criteria for choosing site 4 over site 2, which is the preferential site, is that you have a willing seller? Is that the only criteria?

Mr. D'Adamo - When we did this analysis and presented the information to County staff and then ultimately the Commissioners, the direction that the Commissioners gave to staff was find a willing seller in the sites that met the general criteria irrespective of whether they were ranked 1, 2 3 or 4. That was what was done and property owners were met with. This is the site that had a willing seller. It is my understanding that the County Commissioners did not want to condemn land. Tie breaker – sure.

Mr. Fitzgerald - If a willing seller were a deciding thing in most matters of public service, we wouldn't have any electric lines, water lines or sewer lines because there would not be anybody needing a sewer line or high powered line come across their property and say oh yea we'll do it. You are saying to me the only thing that moved subject site up from preferential site is a willing seller. Is that correct?

Mr. D'Adamo - What I said was there were several sites that were ranked and several of them were considered feasible. The #2 site was ranked higher at the time and the differential was there was a willing seller.

Mr. Fitzgerald - Site 2 is recommended as the optimal storage tank. I am quoting from the Technical Memorandum Site Elevation from HDR Engineering which I think has been submitted into the record. Site 2 is recommended as the optimal storage tank site because it is the least cost alternative. It contains the highest elevation of all sites considered. It can be easily accessed from Providence Road. It can easily connect to the 24" water main along Providence Road. The surrounding area contains little to no development or dwellings. An existing nearby stream can make an excellent receptor of emergency tank draining in case of catastrophic failure. It is near the location proposed in the Master Plan. You are saying to me the only reason we are going with this is we don't have a willing seller?

Mr. D'Adamo - That is the reason we are at site 4.

Mr. Fitzgerald - I am a Professional Commercial Real Estate Broker. I have done over...

Attorney Merritt – If he wants to argue and go into this, I want to have the opportunity to cross examine at this point. He is not questioning. He is testifying at this point.

Councilmember Werner Thomisser- I am looking at the narrative for the Conditional Use Permit which was given to us. In your narrative, for this Conditional Use Permit, you stated the need for a proposed water storage tank was identified in the 2005 Water Master Plan for Union County. That was then and this is now. We all know the housing and construction collapse of 2008 and 2009. Between 2005 and 2007 when this study was done, the number of new residential connections increased by 52%. Why is there a pressing need for this water tower in 2010 given the fact that Union County is approaching its debt ceiling of \$700 million and growth is at a virtual stand still?

Mr. D'Adamo - We know today based on current conditions and current development that we have pressure problems in certain areas that are served in that area. Some folks at higher elevations where County staff have actually had to go out and put pressure data loggers due to complaints. Not even considering future growth, which would exacerbate the problem, we have problems today.

Mr. Gosicki - Just in terms of the debt that you were referencing, I assume that was general tax revenue. The water and wastewater utility system of the County is not supported by general taxes at all. This is supported through user fees. So it is totally and completely independent from the tax base and is generated through its own resources.

Mayor Anderson – That is also known as the enterprise fund to some people.

Councilmember Thomisser - I do understand that. I am quoting from yesterday's Enquirer-Journal. The County Manager Al Green said growth had slowed dramatically in the last few years. I am very leery of the numbers based on the time period he said. I think it is a completely different world now than it was back in 2005 and 2007 when this Water Master Plan was put together. This is your own County Manager stating it in yesterday's Enquirer-Journal.

Mr. Goscicki - That is absolutely correct. Two to three years ago the utility system was growing at a rate of nearly 12% per year. Right now we are growing at a rate of 1 ½ a year. We are projecting that rate of growth will pick up from 1 ½ to about 3% per year over the next 3 years. It is that level of growth that we use when looking at those projections for our preliminary updates on these plants. We are not anticipating a 5, 10 or 12% growth. We are assuming in our planning that we will have a very nominal growth of 1 ½% this year, 1 ½% next year and maybe 2% the year after that and a gradual uptake as the economy recovers. As was pointed out earlier, right now – today there is a problem. Today we have low pressure areas within the Town of Weddington that we need to fix. With just that nominal growth in another five years we will have a significant area within Weddington that will have pressure problems that we need to address.

Councilmember Robert Gilmartin - It sounds more like a pressure issue than anything. You had mentioned some other options to increase that pressure. You had mentioned pump stations. It would seem to me that this is the lesser of the two evils as far as price point. I don't know if you talked about that quite enough so if you could expand a little bit on that.

Mr. D'Adamo – We are trying to deal with a couple of issues obviously – providing adequate storage and then providing adequate - static pressure. What it is normal during domestic demand and then providing adequate fire flow and leaving a residual pressure to adequately fight fires. The options are an elevated storage tank as being proposed now and how that operates within Union County's System is that a pump station will feed that tower and it will go to its maximum level and it will be allowed to drop as system demand takes water away and pumps will come back on and fill it back up again. The other option I mentioned (because we are not in the mountains so we can't put a ground storage tank on the side of a hill and let that create the pressure) is an underground storage tank somewhere in Weddington where the existing Waxhaw-Marvin pump station pumps to that, fills that up and then a new pump station be located adjacent to the tank and then that feeds additional service areas with fire flow and pressure. Some of the pros and cons obviously for those who are concerned about aesthetics they would prefer ground level tank and a pump station. Yes, a ground level tank and a pump station will cost more and will cost more to operate. The concerns that we had related to a more complex operation, the fact that we have to from the existing pump station pump a certain pressure irrespective of this tank to meet certain customers requirements so that if we use that existing pump station to pump to a new ground level tank a lot of that pressure is wasted. That is not sustainable. We talk about not being sustainable these days. That is a poor practice and yes it is energy that is wasted which costs money too. The other concern is when you start to have a pump trying to fill a tank and then another pump trying to pump from a tank communication becomes more difficult (not impossible). There is also concern of short cycling which can set up what we call velocity waves in pipelines. When you shut water off the flow tends to reverse itself and that causes water hammer or a lot of power to that which can eventually cause infrastructure issues over time. An elevated water storage tank is very reliable and does not need pumps which have to be maintained. It doesn't need emergency power either in the form of a diesel driven pump or diesel generator. It is quieter because there are no moving parts. We weighed all those issues and felt this would be the most reliable way to tackle the problem.

Councilmember Gilmartin questioned the cost difference between a pump station and a water tower.

Mr. D'Adamo - We could be talking with the ground level tank and the pump station \$500,000 to \$700,000 more but that doesn't include looking at the energy annual cost and cost of maintenance.

Mayor Pro Tem Daniel Barry - I am trying to reconcile two different things here. One is the public safety perspective. You testified several times that we need a water tower in Weddington to improve flow for our hydrants of which we just had a comment that this will do nothing for expanding services. Primary focus here is a little bit of low pressure on the other side of Providence Road and flow control for our hydrants but we are not going to expand services.

Mr. Goscicki - I would not characterize it as we are not going to expand the service. This project doesn't do anything to expand the service area. This project is designed to provide better service within the area and when the service area is expanded when we get more capacity this will also serve that expanded service area.

Mayor Pro Tem Barry - What is your expectation on that?

Mr. Goscicki - What is holding us up is getting additional water from the Catawba River Water Treatment Plant. We have the final design for that plan. Expansion is underway right now. The estimated completion date is anywhere from three to five years depending on permitting for getting that expansion complete. We are also talking with Lancaster County in South Carolina about potentially selling us additional water in the interim. Lancaster County is our partner on that treatment plant. We are also talking in the short term about entering into an agreement with them to possibly sell us additional water.

Mayor Pro Tem Barry - What is your protocol for allocation?

Mr. Goscicki - That goes to the Board of County Commissioners. As I testified in front of the Board of County Commissioners the goal is to get out of a Water Allocation Policy. The goal is to have sufficient water supply to meet the needs of those who come to your table and say you want water. Same way if you call Duke Power right now and say I want to hook up. Duke Power doesn't have a power allocation plan. Comcast or Time Warner doesn't have an allocation plan for who is going to get Cable TV. Telephone Company doesn't have an allocation plan. Our goal is to get to the point where we don't have an allocation plan. We have sufficient supplies.

Mayor Pro Tem Barry - Help me understand what the protocol was established to move from site 1, 3 to 2 to 3 in the process of determining this location for this tower. How did you get here tonight?

Mr. D'Adamo - When we started this step which was back in 2007 we established certain criteria that we would consider to look at possible sites. These included a minimum ground elevation as I mentioned and proximity to a major water transmission main. Obviously sufficient acreage - zoning may say one acre but one acre is not enough for a water tank site and then considering other features. Our analysis looked at several sites all of which will work including this site. Then we ranked those sites and as a part of our study it did indicate the number one ranked site but it also talked about considering some of the other top ranked sites as well as this. The next step was the Commissioners went back to staff and said find a willing seller. Of all of those satisfactory sites that were in that report this is the one that had the willing seller. There was not a desire to condemn.

Mayor Anderson - We have the Fire Chief here if you need more questions answered. We can swear him in and get more testimony about that flow that you are concerned about. It is my understanding that even though this property owner was a willing seller we didn't always have a willing buyer. The County went to this site. He said he was willing to sell but they were not willing to pay the price. What changed that, gave us a willing seller and buyer?

Attorney Merritt - I think when a willing buyer came to a willing seller is when they entered into a contract for the sale of the property. There is an option to purchase property and at some point in time they came to an agreement as far as the price for which the County was willing to purchase and the price at which the buyer was willing to sell. I am not sure that it is any more complicated than that.

Councilmember McKee - What is the price of the option?

Attorney Merritt - I am not sure if anyone here knows the actual price of the option that is on the property. I have not seen it.

Attorney Fox – Do you have other witnesses in the case?

Attorney Merritt - Mr. Goscicki has answered questions as they have come up. I'm not going to put him up. He is here to answer questions as they come up. At this point and time, I would say we will reserve the right to call either of these witnesses depending on what the presentations are from other folks in the audience. There may be testimony that we would like to present in response to any issues that come up. At this point and time the presentation is the engineering presentation and we are just trying to answer the questions as best we can.

Councilmember McKee - At least 10 times I have heard willing seller. None of you know the price that you are paying? Who does know?

Attorney Merritt - I don't have the information in front of me but I know there is an option to purchase the property that was willingly entered into. I don't believe there was any coercion involved in the transaction.

Councilmember McKee - You are talking about taxpayers' money to put a water tower in Weddington. I think the taxpayers of Weddington and Union County should know what the cost of the property is. I know from past experience what that owner has turned down. We would like to know what the taxpayers of this county and of Weddington - what is the cost of this water tank? I think it is going to be in excess of \$2 million.

Attorney Merritt - It is public record. I am not trying to hide that information with me tonight. Value is not a criteria under your ordinance or approving a public necessity for this. It is a necessary process and a necessary item to provide water and adequate water supply to the citizens of Union County and in particular this is addressing a problem for folks in Weddington they are currently having. This is not an imaginary problem that we are making up. These are your constituents who do not have currently an adequate water supply pressure that this is trying to address.

Councilmember McKee – Do you have the names of those people?

Attorney Merritt - I do not have the names of them. I do know there have been meetings with folks about where they have had complaints.

Councilmember McKee – You have not brought the record substantiating your claims.

Attorney Merritt - We have a witness who has been sworn who has testified that is evidence sir. You can ask your own Attorney with respect to that.

Councilmember McKee – HDR, you did all this study for them, do you have to have any (inaudible)?



Attorney Merritt – Ms. Mayor and Attorney Fox, I object to the question.

Mayor Anderson – Objection is so noted.

Councilmember McKee – Did you not do a study and present it to the Town Council in September 2007?

It was noted that it was already part of the record.

Councilmember McKee – Why was it not presented on the screen and why was it not expounded on because you are talking about all of the sites and that is what everybody is asking about is the sites?

Attorney Merritt – Because the criteria under your ordinance - is does this site qualify for a Conditional Use Permit pursuant to your ordinance? I believe you can ask your Attorney we have addressed the question of site selection but to be quite candid it is not a criteria under your ordinance for consideration of the Conditional Use Permit. It is whether this site meets the criteria as set forth by your ordinance.

Councilmember McKee – Talking about fire flows and how important it is – at the Town Meeting in the minutes, is Mr. Huneycutt here? Is he still with Union County?

Mr. Goscicki – He is but he is not here tonight.

Councilmember McKee – This is a quote from Mr. Huneycutt: “Fire protection in a distribution system is a luxury and not a requirement.” You kept talking about it being a requirement like everybody’s house is going to burn down if we do not have this water tank.

Mr. D’Adamo - I believe my presentation first focused on pressure and low static pressure and the requirement of the State NCDENR to maintain a 30 psi. The second issue I mentioned was fire flow. Fire flow is established either from the public entities, the minimum requirements, the insurance underwriters, the Fire Marshal. In different jurisdictions it is established different ways. The County has established minimum fire flow requirements that they like to see in their system. Whether I am answering your question or not, we focused on pressure as the main issue but fire flow is an important issue from a public safety standpoint and what we feel is providing essential services.

Mr. Goscicki - The key issue that we are trying to meet on this is this minimum 30 psi of pressure to our customers. That is a health issue. If we can’t maintain a steady pressure of 30 psi in our water distribution system, if we get significantly below that, you can actually have water getting into the pipe creating health issues for our customers. That is the primary issue that we are trying to meet. Secondary issue is the fire flow.

Mayor Anderson - I think the Council certainly understands that water is an essential service. We are having trouble understanding how the citizens of Weddington benefit from that because as Mr. Barry said ‘Yes, we will get pressure from the fire hydrants, but we don’t have very many fire hydrants in our Town.’ If we showed a map that we showed before about where the water lines actually are there are very few. Yes, we understand that this water tower will help with the 30 psi and yes it will help when the allocation and the water supply is improved for future development. These people already live here. They are the ones that need water to their neighborhoods. The question that we have is what is the procedure or the process or decision making tree to get water to the people who already live here? Not just for fire protection but for taking showers. How does this benefit those of us who are already here and 80% of us are on well?

Mr. Goscicki - I think there are two different issues here. One, how does it benefit existing customers of the utility system? I can't tell you right now; I do not have the numbers in front of me, as to whether it is 50% of the population within Weddington is on the County water system or is it 30% or is it 70%? I don't know that number. I am looking to buy a house and I am looking in Weddington and every property I have looked at so far is on County water. There is a lot of Weddington that is on County water system. Most of the new developments within the last five years are on County water that I have visited. The first and foremost is the existing customers on the system that we are trying to protect. We are trying to make sure that we are meeting a 30 psi minimum pressure at all times to our customers. If we get much below that, we start getting down to 20 psi, we literally have to contact the Health Department to issue boil water notices because we are getting into a dangerous situation. Our first goal is to protect the health and safety of our existing customers on the system by putting this tank on and making sure that our entire system meets that minimum 30 psi. We are also looking to the future. We are looking to the fact that this County continues to grow. It is growing much slower now than it did five years ago but we are still growing. We brought on 1000 new customers county wide last year. We are still growing as a County. As we grow as a County even if we don't grow in Weddington as much, we grow in other areas. We are still going to be siphoning water off to meet that growth within the County. To meet the pressure needs in Weddington as the system grows and water starts moving in different areas, we are going to need this tank here to meet the needs of the customers in Weddington. We need to have a tank to meet the current needs. We have a smaller area right now that we are concerned with. As the system grows and as additional demand is placed on the system, we are going to have most of Weddington fall to that situation.

Attorney Fox - Do you agree or disagree that the current system in the current Union County water system that is in the Town of Weddington, whether that system does or does not have fire hydrant service in the Town of Weddington?

Mr. Goscicki - There are fire hydrants on our system in Weddington. All of our new development that has been put in the last several years has fire hydrants every 500 hundred feet.

Mayor Anderson - One of the points that the applicant keeps making is that we need this for the fire hydrants because we need to be able to fight fires. As the Fire Chief of this station and primary responder to a lot of Weddington I am quite certain that you have a clear picture in your mind which neighborhoods you have to relay and which ones you don't. Please help the Council understand what our fire hydrant situation is here in Weddington and emphasis on the existing residents who may not be customers.

Chief Dave Banick - As far as what neighborhoods do and do not have fire hydrants – most of Willow Oaks is not covered by fire hydrants. A large portion of Providence Woods and Providence Woods South are not covered by fire hydrants. Steeplechase off Weddington Church Road is not covered by fire hydrants. There are hundreds of homes in that area. We carry 1,200 feet of 5" on the trucks so we can lay them from the hydrants. Once you get 1200 feet past the hydrants, we have to bring our tanker truck and we have to ask for our neighboring mutual aid fire departments for their tanker trucks which takes time because first we have to get to the scene and see what you need and then you have them dispatched and they have to go to their station. They have to respond to whatever their response time is going to be from their station to Weddington.

Mayor Anderson - In your area, you are telling us the existence of fire hydrants is inadequate?

Chief Banick – Yes, along the main corridors of Providence Road, Weddington Road and some of Hemby Road there is adequate fire protection but once you get off into the neighborhoods it is really not there.

Attorney Merritt - Are there fire hydrants in Weddington?

Chief Banick – Yes, there are.

Attorney Merritt - Are you concerned about having adequate pressure in the fire hydrants?

Chief Banick – Yes.

Attorney Merritt - That is a very important consideration for someone who fights fires. If there is low pressure then what happens if there is not adequate pressure in the situation where you hook up to a fire hydrant and you don't have adequate pressure?

Chief Banick - If there is not enough pressure in a fire hydrant, we lay our hand lines off the pumpers. Basically you will start to decapitate the pump which means our guys fighting the fire don't have adequate flow at the nozzle when they are inside the houses. Having adequate pressure from the hydrant to the truck in the lay how ever many feet that is - is essential.

Attorney Merritt - You are in favor of having adequate pressure to fire hydrants within Weddington correct?

Chief Banick – Yes.

Attorney Merritt - You would be concerned if there was not adequate fire hydrant pressure?

Chief Banick – Yes.

Attorney Merritt - In fact, do you understand that an above ground storage tank would help keep the pressures at the fire hydrants with a pressure that you would like to see fight fires?

Chief Banick – Yes I do.

Attorney Merritt - What pressure do you like to see out of your hydrants in order to assure an adequate fire flow?

Chief Banick - If we had to lay all 1200' of our 5" we need to generate 96 lbs. of pressure at the truck to move one drop of water out of the end of that line. If we have to generate 96 lbs. of pressure at the truck we need at least 35-40 lbs. of pressure off the hydrant in order to get enough water into the pump to push that 96 lbs. That is just to get water to the end of the line. That is not fighting fire – that is just moving the water that 1200'.

Attorney Merritt - To fight the fire you need a pressure above 35 psi.

Chief Banick - To adequately supply the pump – yes.

Attorney Merritt - When you see the map and it says there are already areas within Weddington that are having problems having 30 psi, those areas are already a problem with respect to having adequate pressure for hydrants that I don't know if there are any located within that area or not – if they are located there, then there is not adequate pressure from your standpoint to fight a fire – correct?

Chief Banick – No, there would not be adequate pressure.

Councilmember Thomisser - I am referring to the narrative for the Conditional Use Permit. It is about this water pressure business okay? Increase static and dynamic water pressure in the Marvin/Weddington area

and in particular in those areas situated at higher elevations, water pressure is sometimes marginal. In May of last year out of the Town Hall there are 73 subdivisions in Weddington currently. Sixty of those subdivisions are on water wells. Approximately 18% have fire hydrants and those residents have water. My best guess is it is about 13 subdivisions. I am interested to know which of these subdivisions have low water pressure. I live a mile from this fire station at the intersection of Hemby Road and Providence Road and the builder that built my house and every house in that subdivision has had to put water pressure reducing valves on the houses. There is too much water pressure. In the last seven years we have had three leaks from the street to my house and one of those was a defective pipe which was nicked during construction. The other two were due to high water pressure. I also have constituents that live in Shaver Farms on Evans Manor Drive and they too have too much water pressure. In Lake Forest Preserve, constituents tell me the water pressure is fine and also constituents in Weddington Heights. I am trying to determine where in Weddington that is currently on County water and has fire hydrants is there low water pressure? I have not been able to find it.

Mr. Matt Schultz - We don't have identified the particular subdivisions and their pressures. The map shows the location of where those low pressures are currently. I am not sure of the subdivision names that are in this area but this is the area that has been identified that under certain conditions the pressures are at or below 30 psi during current peak demand conditions. There has been some testimony given that there are residents that have testified that yes they do have pressures below this level. The other part of the question was about high pressures. Part of the issue with the high pressures is currently the closest tank that serves the Weddington area is up in Stallings. In order to push water into the Stallings area to fill that tank water has to come from the County's existing Waxhaw Marvin pump station which is located down in this area. In order to force enough water up there, the pressures have to be high enough to do that. That was another reason for wanting a storage tank in this general location. That would stabilize pressures. Instead of having your high peaks and your real low pressures, the elevated storage tank would keep pressures fairly stable. That would have the potential of decreasing those high pressures as well as increasing the low pressures in keeping a smaller bandwidth there in those ranges.

Mayor Pro Tem Barry - Aren't the water lines like a grid system and they are all interconnected? Really you have a weak spot in the system. Hopefully Indian Trail and Stallings water is also coming in so you are holding the same level of pressure. All of the water that is coming up is coming down from Waxhaw and forcing it up through Weddington.

Mr. Schultz – That is right.

Councilmember McKee – Why were all the pictures taken with leaves on the trees?

Mr. Goscicki - We have been in the process for a while now. We went to the Planning Board two months ago. We put the presentation together a month prior to that. We took pictures with leaves on the trees.

Mayor Anderson – The testimony is that we do not have visuals of what it would look like without the leaves.

Mr. Goscicki – That is correct.

Mr. Scott Gregory – If owner #2 had been approached for renegotiation?

Attorney Merritt – I cannot answer your question directly. What I can state is the County entered into an option to purchase this piece of property and certainly the County does not want to be considered in breach of its agreement that it is currently entered into to purchase the property. I would doubt that they have gone back to renegotiate because there is a contract that is currently in place.

Ms. Melissa Emerine – You said that you do not desire to condemn? Can you condemn Parcel #2?

Attorney Merritt- The reality is that the County probably has the authority to condemn property pretty much anywhere that it would like to put this. The reality is that most of if not all of these sites are within Weddington so in order to actually build the structure we have to go through this process. No matter which site is picked we have to get a Conditional Use for the property. No matter whose site is picked, they are all within a stone's throw from the current location. It is not like if you pick one of the other sites it is going to be ten miles down the road. You are going to be seeing these towers from pretty much any of the sites that were selected. Because of their engineering benefits, the County could condemn but we would still have to go through this process before this Council and the Town to get the permits required to build the actual structure. We would just be here arguing about another site if it is not this one. I know you are upset about this particular location but if there is another location that is picked many of you will probably going to be back here arguing about the same location or a different group of people arguing about it. All you are doing is saying it is basically not in my backyard type issue. Someone is going to be opposed to a site that is out there. It is not like these sites are a long way from each other. The reasons that they were selected were for engineering reasons and that is the reality.

Mayor Anderson – I need to ask for the record since we do not have pictures of the site with the leaves off of the trees are you saying that the tower would be much more visible and not as good of screening since these are deciduous trees and not evergreens and it would be more visible from the Short property?

Mr. Goscicki – I would say let us put the photos back up and let you draw your own conclusions. I would not draw conclusions one way or another for what would be more visible. These were renderings done in an attempt to show the community the best view in terms of what this would look like. We took six different locations from around the site, from public vantage points, to give the public our best guess of what this would look like. We did not try to hide anything. We went out there to key vantage points on street corners, shopping centers and tried to take pictures from there.

Mayor Anderson – Are you aware that the adjoining property exactly to the west of it, the Weddington United Methodist property is a potential historic site? It has been identified by Union County Historical Commission as being a historical site? Were you aware of that when you did the site selection?

Mr. D'Adamo – No.

Mayor Anderson – He said that he did not know that the Church was an eligible historic site.

Mayor Pro Tem Barry – I think you said earlier based on starting elevation and the end is going to be the same if you go to a lower piece of property the tower would be taller.

Mr. D'Adamo – Yes.

Mr. Brian King – Can you explain to everybody in terms of construction the foundation that is required to support this tower and what kind of construction is needed being that it is in close proximity to a grave yard?

Mr. Steve Meier – I am with Tank Industry Consultants. I also Chair the AWWA Committee that writes the standards for the design and construction of steel water tanks. The type of foundation on this would probably be a ring wall type foundation given the geotechnical information that is available about the site. That means that it will be a massive concrete foundation but it is self contained within the site. Certainly when you look at the size of the site that you have for this tank, it will probably be in the order of about 15

to 18 feet deep. It will probably be 7 to 8 feet thick deep at the bottom stem and it will project out from the tank probably 20 to 30 feet would be my best guess. The seismic loads are relatively moderate in this area and even designing for the AWWA and AFCE7 wind loads for a tower of this size you would not expect it to be a rather massive type foundation. It will be very manageable and all self-contained within the site itself. So there will not be a large foundation or excavation for this tank.

Mr. Staton – Back in 2007 there was a for sale sign at the corner of Highway 16 and Rea Road. That is Mr. Pittenger's property there. I was down at the Government Center when all this was discussed because that was choice #1 as I understood it to put the water tank. At that meeting at the Government Center before the Union County Commissioners, Mr. Pittenger's attorney stood up and made a comment. Could this be a reason why you have changed your mind?

Attorney Merritt- I am not sure what comment Mr. Pittenger's attorney may have made because I was not at the meeting so if you could enlighten me as to that that may be helpful.

Mr. Staton – But you was with HDR at that time. Am I correct?

Attorney Merritt – No sir, I am an attorney. I am not an engineer. I had nothing to do with this in 2007.

Mr. Staton – There are five people here from the Union County group that could tell me and the good citizens of Weddington and Union County what is the price that the tax payers are going to have to pay for this piece of property? If you do not know, call someone and let us know tonight. Otherwise, I do not know why you are wasting our time.

Attorney Merritt – I do not believe that anyone up here is aware of the price. There is an option to purchase that is in existence. I do not believe there is anyone I can call at 9:20 this evening to find out that information but I will be glad to convey it to you tomorrow and let you know. I am sorry I do not know that information. It is not a secret. I do not have that information right now. It is a public document.

Mayor Anderson – I personally have a lot more questions regarding the ground tanks and why those are not an option. Would Council permit me to ask some of those questions now and then we will recess and/or decide to continue this hearing?

The Council advised that they wanted to hear everything tonight.

Councilmember Thomisser – I am looking at Exhibit 3 which discusses the various sites and in Exhibit 3 it says that the site that we are discussing tonight is the most expensive of all of the sites. When this report was put together by HDR Engineering it was estimated at a \$100,000 per acre which is a grand total of \$550,000. I do not know what the agreement is to purchase this property but at the time when this report, Exhibit 3, was put together that was the most expensive site. My question is does elevation have anything to do with the water tower? I believe this gentleman said earlier that if the elevation is high that means the water tower can be lower. Is that correct?

Mr. D'Adamo – Because the way this system is designed and operated we have to meet that 853 foot mean sea level grade line so if the ground level is higher then the tank still goes to 853 but the tank itself construction would be shorter.

Councilmember Thomisser – Again, looking at Exhibit 3 the site that we are discussing this evening has the lowest elevation of all of the sites being considered. It says that it is 700 feet elevation versus the number 1 site which was 720 feet, the number 2 site was 730 feet and the number three site was 720 feet.

Mr. D'Adamo – When we did our study we established a minimum elevation to start evaluating sites. Site 4 did meet that minimum elevation. In terms of other factors that impact costs some sites are closer to a 24 inch water main than others. If you look at the table that was part of that actually site 3 considering all of those factors was more expensive than site 4 because of the issue of having to run a much longer water line.

Mayor Anderson – I have a lot of questions regarding the height of the tank. I understand hydraulics. My question to you sir on Sims Road and Rehobeth Road there are what I call ground level tanks. This is in Union County. It is on a pretty high site and I am wondering why we cannot have ground level tanks at this site. I understand that it is more expensive and you have to have pumps pumping in and to lower the pressure to get it in and then upgrade the pressure to get it out. At least three of the people on this Council sat through 20 hours of testimony. We are pretty familiar with pumps and how that works. We went through a marathon hearing. I feel like those engineering issues could be overcome. It might be more expensive. I believe that is why we have the interest in the price of the plat is because every time you spend money on one thing you do not have enough money to spend on another. We are going to ask for some upgrades and we are trying to determine the price and the best value for the tax payers from Weddington and Union County. The question is can it be done? Can it be engineered so that we can have ground level tanks? I am going to pass around the pictures of the tanks from the Sims Road site.

Mr. Goscicki – I will leave it to my engineers to discuss these ground storage tanks. I am not familiar with those and where they are in the system. I have been on board about six months and am still learning some of the details. Could a ground storage tank be utilized here instead of an elevated storage tank? I think the testimony that we have already given is yes anything can be engineered so we could engineer a ground storage tank in lieu of an elevated storage tank. The downside to the ground storage tank that was discussed already and the engineer from HDR will elaborate on this a little more for you, the downsides are system reliability and costs. The concern on the costs again not only you are building a tank you are now building an additional pump station so you have an additional system reliability. You need to be concerned with that. With that you have a series of controls you have to deal with. We are also concerned about noise pollution and additional activity at the site. This site would be staffed on a routine basis. It would be checked periodically. There are no moving parts as we said earlier. You have a tank, you are filling it, draining it and keep it full within a very narrow band of ten feet operating depth. A ground storage tank we would have an onsite pump station, we would have an onsite diesel generator to back that up. The diesel generator would have to be run at least once a week as part of routine maintenance on that. You would have pumps running on a continuing basis on and off to maintain pressure in the system. We looked at it from system reliability and also from the noise aesthetics and the cost issues and stayed with the elevated storage tank.

Mr. Schultz – Part of your question was regarding the storage tanks off of Sims Road. These storage tanks really serve two main purposes for the County system. The primary purpose is to store large volumes of water. There is six million gallons of storage capacity in those two ground storage tanks which is located just south of Waxhaw and the primary purpose is to store those large volumes of water coming from the Lancaster Water Treatment Plant so there is a large transmission pipeline. There are two pipelines: one a 24 inch and another 42 inch that carry and convey water from the Lancaster Water Treatment Plant and carry large volumes of water up into Union County. They are stored in those facilities and from those facilities water is distributed throughout the County. The primary purpose is for that large storage within Union County. The secondary purpose of those tanks is that they do provide all of those transmission mains. There are no customers connected to those because those are all low pressure systems so they would not meet any of the minimum pressure requirements that we have talked about tonight. There is a small section within the Town of Waxhaw that is served from those ground storage tanks. But those ground storage tanks are set at ground elevations above 800' mean sea level. So ground elevation is much higher than what exists in Weddington. By having those higher hills down in that area you are able to

build those tanks and still maintain adequate pressure in Waxhaw which has a lot lower elevation than Weddington so you have a big contrast there in elevations which allows that system to serve a small area of Waxhaw. The primary is not for serving customers but for holding that large storage volume coming from Lancaster, as a reservoir storage.

Mayor Anderson – It could be engineered to serve the purpose and it would be as a reservoir or distribution and to maintain pressure. It could be engineered that way.

Mr. Goscicki – Yes.

Ms. Barbara Harrison – I am not sure which one of you said it. I have a clarifying question. Am I correct that I heard that the cost is paid out of the utilities so if I have city water my water bill and the surcharge is what is paying for all of this?

Mr. Goscicki – That is correct. Only the utility customers pay for the cost of the utility infrastructure, including the land.

Ms. Harrison – So no tax payer money.

Mr. Goscicki – Not a nickel of tax payer money. If you are not a customer of the Union County utility system you are not paying any of the costs of this.

Ms. Harrison – I live in Stratford. There are about five fire hydrants and I have terrible pressure. Do not take a shower at 6:30 in the morning.

Councilmember McKee – (inaudible)

Mr. Gregory – Are there any other properties under contract?

Mayor Anderson – The answer is this is the only property that the County currently has an option on.

The Council took a brief recess.

Mr. Fitzgerald - Madam Mayor, Councilmembers, I am Jerry Fitzgerald and I live at 1410 Willow Oaks Trail here in Weddington. I attend Weddington United Methodist Church and serve on the Board of Trustees. My position here tonight is to represent our Church Board in the opposition of the Conditional Use Permit for the construction of a water tower located at 1929 Weddington Road, PIN No. 06-150-074. The Church Board of Trustees adamantly opposes the permit approval for this site application on the basis of incompatibility with our Town of Weddington Land Use Plan. This proceeding here is a “quasi-judicial” proceeding and you as our Council must consider matters of fact in your decision and our intent is for our presentation to be based on facts. The current Weddington Land Use Plan states that results from a public survey of Town residents, the community as a whole voiced clear and concise dislike of typical suburban strip commercial development. However, the survey also showed a preference for innovative commercial uses that blend in, rather than are differentiated from, adjacent residential areas. Based on that survey, certain land use goals were established in the Future Land Use section including:

Goal 1: To ensure that all new development takes place in a manner that conserves open space and scenic views.

Goal 2: To limit development activities on environmentally sensitive lands. (i.e. a cemetery)

Goal 3: To preserve open space and scenic views, while providing opportunities for low-density development. (p16)



Goal 4: To maintain the Town's strong single family residential character.

Goal 5: To retain a mix of land uses that reinforces Weddington's unique small town character.

It is apparent that the construction of a water tower, of this size, at this aforementioned location, is a direct violation and contradiction of the scope and intent of these land plan goals stated in the Weddington Land Use Plan.

Policy 11 in the Land Use Policies section states: Ensure that land uses abutting residential development are compatible with the scale, intensity and overall character of existing and planned neighborhoods.

Goal 1 in the Community Design and Image Goals section states: We are to maintain and enhance the Town's aesthetic qualities and physical character.

Policy 5 in the Community Design and Image Policy section states: Give the highest priority for beautification efforts and corridor design to major thoroughfares and key entryways.

It is equally apparent that there is no way a water tower of this magnitude in this location can be compatible and comply with these sections of the Weddington Land Use Plan.

Strategy 9 of the Implementation Program section states: Require Conditional Use Permits (CUP) for all commercial development to ensure that it is compatible with the community character. There is virtually no way an industrial grade water tower of this scope and presence, can comply with strategy 9 at this site, No Way.

The Weddington Land Use Plan's intent is to make development vision a reality by focusing on creating a place that feels, not just looks, like a community and functions like a community. This involves the development of places designed, constructed and maintained to stimulate and please the senses, to encourage community use and to promote civic and personal pride. Again, there is no way to fulfill this vision by the approval of the request to construct this tower at this site. Additionally the Technical Memorandum submitted by HDR Engineering, Inc., the engineering company for this project, must be considered. Based on their feasibility study, this site ranks fourth in order of preference for this facility. There are three other sites that are deemed more desirable for this tower, and when you review and analyze the data by this firm, it is obvious there are much better sites to consider with minimal constituent conflict. The standards for your decision are based on the Town of Weddington's "Conditional Use Permit Findings of Fact" Checklist which provides a list of its five mandatory requirements for approval of a Conditional Use Permit. In consideration of time, I will only quote requirement four: "The location and character of the use, if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and will be in general conformity with this Ordinance and the Weddington Land Development Plan." A structure of 156' in height, such as this tower, would be the equivalent height of a 12 -14 story office building. Would this be in harmony with the area? There is no way this site complies with our land use ordinance and Madam Mayor, Council, there is no conceivable way this project can comply with requirement four at this site. I would again mention that I am a Weddington resident and I do serve on the Board of Trustees of the Weddington Methodist Church. I also offer a professional perspective on this presentation as I am a Commercial Real Estate Broker and I specialize in site procurement for builders and developers. I hold the highest professional designations recognized in the field of commercial real estate. I have consummated over 40 land development sales here in Union County including seven school sites for the Union County Board of Education, one of which we can stand outside this building and see from here. From a professional standpoint, based on data submitted by HDR Engineering, there are much better sites to consider than this one. Site 2 which is the preferential site is recommended as the optimal storage tank site because:

- It is the least cost alternative
- It contains the highest elevation of all sites considered

- It can be easily accessed from Providence Road
- It can easily connect to the 24 inch water main along Providence Road
- The surrounding area contains little to no development or dwellings or potential constituent conflict
- An existing nearby stream can make an excellent receptor of emergency tank draining
- It is near the location proposed in the Master Plan

Just because we have a willing seller does not justify selection of an inferior site. The needs of the many outweigh the preferences of the few. I feel the willing seller premise is a weak argument. If we needed willing sellers for all public utilities, there would be no roads, power transmission lines, or water and sewer lines to service the general public. I would venture to say in a condemnation proceeding, and these gentlemen decide to go with a premium site, we could probably line up three times this many people to back you guys in a condemnation hearing. I hope that in reaching your decision, you will consider there are alternative sites for this facility which is needed. I would ask that you please respect the desire of our community to keep it an atmosphere of quaint, small town Weddington, and please, honor our Church cemetery with your decision, knowing the construction of this tower roughly 100' away would destroy the sanctity and reverence of our historical sacred site. Thank you so much for your attention.

Attorney Merritt – You stated that you are also a Commercial Real Estate Agent.

Mr. Fitzgerald – Yes sir, I am a broker.

Attorney Merritt – Are you familiar with the use of the property directly across the street from the subject property? What the zoning of that is?

Mr. Fitzgerald – Based on condemnation, public uses, zoning is irrelevant.

Attorney Merritt – Zoning is relevant with respect to the Town's land use planning. Correct? That is how the Town has zoned particular properties and gives the intent to how it sees the property being used? The property is across the street.

Mr. Fitzgerald – I am not prepared to identify the zoning of the property across the street. We are not talking about that property. We are talking about the property that we propose a water tower on.

Attorney Merritt – Well if that is the case then we do not have to worry about the adjacent properties, correct?

Mr. Fitzgerald – Which adjacent properties, counsel?

Attorney Merritt – Any, you just said that it did not matter how the adjacent properties were used. We were talking about the particular property, correct.

Mayor Anderson – This really is not a court so let's not try to be argumentative.

Attorney Merritt – I am just trying to get him to clarify his remarks.

Mr. Fitzgerald – You are trying to establish the fact that you can choose an inferior site just because you do not have a willing seller on the preferential site.

Attorney Merritt – Let me hand you the Town of Weddington Zoning Map which I believe has been included within the packet that has been presented. If you look, the subject site is in blue. Can you tell me the zoning of the property immediately across the street from the property?

Mr. Fitzgerald – The zoning is B-1.

Attorney Merritt- That is business, correct?

Mr. Fitzgerald – Yes it is.

Attorney Merritt presented Applicant's Exhibit 1.

Attorney Merritt – Can you take a look at this Exhibit and tell me what that piece of property is?

Mr. Fitzgerald – It appears to be the Church cemetery.

Attorney Merritt – It is the Church property as well. It shows the buildings that are on that property, correct?

Mr. Fitzgerald – It does.

Attorney Merritt – There are buildings on that property that are being used as a commercial site.

Mr. Fitzgerald – That is incorrect. It is being used as a church.

Attorney Merritt- It is being used as an institutional site, correct?

Mr. Fitzgerald – Correction, it is being used as a church. It is a place of worship.

Attorney Merritt – For purposes of the zoning, there are no houses that are located on that. They are being used for church purposes.

Mr. Fitzgerald – It is being used for church purposes.

Attorney Merritt – Not being used as residential, correct?

Mr. Fitzgerald – It is not.

Mayor Anderson – We only put places of worship on R-40 so we do not distinguish institutional and those types of zoning categories.

Attorney Merritt – I was just trying to point out that it is not being used as a residence. It is being used as a church purpose. There are no houses, no residential structures.

Mr. Fitzgerald – What is the point you are making?

Attorney Merritt – Did you have a conversation with Mr. Goscicki before we started the hearing this evening?

Mr. Fitzgerald – I met Mr. Goscicki for the first time this evening.

Attorney Merritt – And in fact when you talked with him this evening you asked him that if this particular project did not go through that you would be willing to represent the County in finding another location for this tower, correct?

Mr. Fitzgerald – I told Mr. Goscicki that my experience as the land broker and procurement broker for Union County Public Schools could be useful with his search for the premium site.

Attorney Merritt- So you would like to see this particular site not pass for your own personal benefit, correct?

Mr. Fitzgerald – I did not know Mr. Goscicki from Peter Pan. My intent tonight was to represent my church to be sure that this Council denies this Special Use Permit at this site. Based on my experience in over 40 land sales here in Union County, I simply made the point to Mr. Goscicki that I have the experience and the establishment to help him should this not pass or be denied.

Attorney Merritt – The church property also contains a cemetery.

Mr. Fitzgerald – It does.

Attorney Merritt – Based upon your experience, what does the presence of a cemetery on a piece of property do to the valuation of the property?

Mr. Fitzgerald – Many times it has nothing to do with the valuation as much as the desirability.

Attorney Merritt – Could the cemetery property be sold and used for another purpose?

Mr. Fitzgerald – It is highly unlikely.

Attorney Merritt – In your experience are you familiar with the costs of condemning a particular parcel of property?

Mr. Fitzgerald – I am.

Attorney Merritt – And generally what does having to condemn a parcel of property do to the purchase price ultimately paid?

Mr. Fitzgerald – The cost of condemnation is irrelevant when the needs of the many are not held accountable to the preference of the few.

Attorney Merritt – Let me ask the question in a different way. If you have a piece of property and the owner of the property is not willing to sell that property to you. You do not have a willing seller and as a condemning authority you have to condemn the property, does that generally increase the costs to the condemning authority of acquiring that piece of property?

Mr. Fitzgerald – I have been through condemnation proceedings before and it all depends on exactly how far the unwilling seller wants to take it. It can be a situation where okay you are going to condemn me, I have lost or you get ones that think they can fight it and they really cannot.

Attorney Merritt – So from the County's perspective so if they have someone that is willing to sell them a piece of property and someone who is saying that they do not want to sell it and saying go through that condemnation process, expend those legal fees to condemn my property, is it reasonable for the

condemning authority to take the deal with the person who is willing sell the property as opposing to condemning it?

Mr. Fitzgerald – You have missed the whole point of my presentation tonight. This is site fourth preference. There are three other sites of preference ahead of it that have to do with elevation, location, connectivity to the 24 inch water line. The premium site is on an 80 acre vacant parcel of land that has been for sale for five years. It is on the edge of Weddington. It would not interfere with the Land Use Plan. It would not interfere with the proposed Town core plan and it would have minimal constituent objection.

Attorney Fox – I do not think this person can testify...(inaudible).

Attorney Merritt – He presented himself as an expert in land acquisition and I believe that he can answer questions with respect to his familiarity with condemnation that he said that he had. I will ask in this way, you are acquiring a piece of property and you go to your representing condemning authority – Union County Schools and you have someone that is willing to sell you the piece of property and someone who is saying no you are going to have to condemn it. Is that a consideration that you take into account with respect to determining which piece of property to acquire?

Mr. Fitzgerald – It would all depend on if I had alternate sites or not. Based on my experience with the Union County Schools the criteria was a distance from a specific intersection. I identified certain properties. None in the beginning were willing sellers. Of all the seven that I did in the beginning none were for sale, none were on the market and none went to eminent domain. In this case, where we have a very limited amount of sites that we can use based on the engineering criteria, these folks that are experts, we do not have an abundance of sites.

Attorney Merritt – In your experience in acquiring property for schools and you might have identified three to five sites which all meet your criteria and you may rank them 1 through 5 – the most desirable to the fifth most desirable. They all may meet your criteria. Has that happened to you before?

Mr. Fitzgerald – Absolutely.

Attorney Merritt – Have you always acquired your number one piece of property?

Mr. Fitzgerald – Number 1 or # 2.

Attorney Merritt – You don't always acquire your #1 property?

Mr. Fitzgerald – But generally do not go any further or any deeper than #2.

Attorney Merritt – If all of them meet the criteria, why not? In this case you have four sites that clearly meet the criteria, number 1 was not a willing seller, #2 was not, #3 was not and #4 was. Does the fact that the County wants to go to site #4 violate any property acquisition rules that you are aware of?

Mr. Fitzgerald – My position as a Real Estate Broker, it is my job to give them the choices and their job to choose.

Attorney Merritt – Okay. I am sorry – we had six sites, not four.

Councilmember Thomisser – The Mayor a short time ago talked about the historical nature of the church, can you elaborate on that?

Mr. Fitzgerald – The historical position that we are taking is that of our cemetery that qualifies as a historical site. I would think that our Town Councilmembers would recognize that the Weddington Methodist Church which is over 100 years old with a cemetery that is well over 100 years old would weigh very heavily on your decision to disturb that historical sanctity if you would by the construction of an industrial sized water tower within a 100 feet of this site. Our expert witness with the tank company so eloquently said that the foundation of that there is no way that would disturb the cemetery. I find that difficult to believe because there has got to be at least 1000 yards of concrete going into the base of that thing. So to put in a 1000 yards of concrete, I may be wrong on that, it is going to hold up a 1.5 million gallons of water.

Mayor Anderson – Do not testify about things that you are not an expert in.

Mr. Fitzgerald – It is going to disturb our cemetery.

Mayor Anderson – I wanted the record to show that Mr. Fitzgerald does represent UCPS in land acquisition and he has been through condemnation processes before and he does understand the process but it was for a different essential service if you will.

Mr. Fitzgerald – For the record my credentials are: I hold the CCIM Designation (Certified Commercial Investment Member) recognized by the National Association of Realtors. These gentlemen probably recognize the significance of that. I am also ALC (Accredited Land Consultant.)

Mr. Paul DeMontesquiou – Madam Mayor and Council, it is an honor to be here. My background training experience is that I am a trial lawyer from the great state of California. I continue to try cases there. I have tried many real estate matters. I am a licensed real estate broker in North and South Carolina handling many real estate transactions on a daily basis. I am a builder and a developer, equity holder with Carolina Green Builders. I bring a few comments based upon my background, training and experience. I would like to state that this is not an issue about the amount of water or the water pressure. We are not here to discuss that. We all want clean air, safe streets and water pressure in our fire hydrants. That is not what this is about. So if anybody thinks this is an issue tonight about water pressure, we can get you the water pressure that you need. This does not have to be the answer in this location. I want to address the comment of counsel with the highest of due respect, Counsel says that it costs money to bring a condemnation proceeding, yes it does. But if we can in fact acquire other property at a reasonable price condemnation is not that expensive. It is better to take care of the needs, the health, the safety, the welfare and the dignity of a community even if it costs a few dollars. Let me go on record saying I come from Los Angeles, California. I come from a community of tremendous blight. When I moved to this community, I had very much in mind spirituality and faith. As everybody that knows me knows, I am a passionate warrior as a Christian – loving all people. I brought my family to this community for two primary reasons: to have a better, more spiritual existence to raise my three young daughters and to have a cleaner better looking community that was not blighted by construction. I am telling you right now that I go to that Church all the time, I drive by that Church, my daughter goes to Girl Scouts right next door to this area, my family has gone to that graveyard to pray. The ambience and the spirituality are taken away with that repugnant thing where it is. Nobody wants that in that place. We do want your water. We do want your water hydrants to be filled with pressure. But I am telling you right now, everybody that I have spoken to about this says we do not want this there. It is a question of where do we put this. As a real estate broker I find it repugnant that a gentleman stands up and says I am adjoining there and all twelve people that I have talked to not one single door has been knocked on to ask what do you think about this. I would think that if somebody is going to propose that they would go door to door and ask people what do you think. What if the Weddington United Methodist Church said that we do not want that there? That is a good group of people. I know a lot of people in that church. They are caring people. They are people that want

development but we do not want to look across the street on Sunday and see that. I do not want to see my daughters going and saying a prayer in that gravesite to their grandparents and look at that because it takes away. You stood up and evoked Almighty God to begin this, Madam Mayor. You said a prayer at the beginning. I think everybody in this room is proud of our faith. If you are proud of whatever your faith is raise your hand right now. This is a faith issue. Do you understand this? That people come here for a better life, a better place to see, and better place to pray and that water tower is going to detract and I find it repugnant. Thank you.

Ms. L.A. Smith – I thank you for the opportunity and I urge you to give serious question and consideration to the application for a number of reasons. In March 2007 Union County Public Works first presented Town Council with a synopsis of its search for a parcel for a water tower in our vicinity. In that document the department presented five possible sites for the water tower. The site in question tonight known as site #4 was ranked four out of the five. At that time based on economics and site attributes. Instead the County felt that site #2, the 81 acre parcel on Providence Road, was the best location. But now site #4 across from Town Hall has risen to the top of the list even though it is the most expensive property, very expensive, I believe, and construction costs will be greater because the water tower will have to be higher given the site's elevation. According to the County's own report, the site search was guided by a number of factors including quoting here, 'surrounding environment – the County desires to locate the new tank where the tank's impact on the surrounding aesthetics is minimized.' Now that seems to have gone out the window. The placement of the water tower across from the Town Hall will have a tremendous negative impact on the aesthetics of our downtown. Further the water tower would not be in conformity with the Town of Weddington's Land Use Plan as I see it. Page 12 of that Land Use Plan states, 'that the existing commercial center should transition to become a more pedestrian-friendly town center.' A water tower will not enhance our existing shopping center. Businesses there are already concerned with the dwindling customer base because of the impact of some very big road projects. Planting an overbearing water tower across from the shopping center would be simply piling on another obstacle to the center's ability to survive and thrive. Page 16 of the Land Use Plan, Goal 1 states the following - To ensure that all new development takes place in a manner that conserves open space and scenic views. Goal 3: To preserve open space and scenic views. The construction of this water tower is in direct conflict with those goals. Page 17, Policy 5 - Ensure that development is consistent with the Town's quality and aesthetic values thereby preserving and enhancing property values. The water tower will have the opposite effect detracting and reducing the values of surrounding properties. Ask any realtor about the effect a water tower has on the ability to sell a property. Common sense tells you that it will definitely have a negative impact on market value. The Findings of Fact that you will consider tonight reference a public necessity. Since this is a Weddington ordinance the public necessity must also be for Weddington. This tower is not a necessity for the Town of Weddington. The overwhelming majority of homes here are served by wells. The water tower would benefit primarily residents outside of our Town. Further the County states that the tank will provide increased fire flow capability but according to minutes from the September 2007 Council Meeting, Assistant Public Works Director Scott Huneycutt presented the primary consideration as being the stress and strain on existing pumps. Mr. Huneycutt stated, 'fire protection in a distribution system is a luxury and not a requirement. It is a side benefit to the distribution system.' He went on to say that hydrants need to have at least 20 psi. There has been no evidence submitted thus far that our hydrants are below this and as of 6:30 tonight when I spoke to our Fire Chief he was confident that our existing fire hydrants have the minimum 20 psi. Also during that same Council Meeting in 2007, Mr. Huneycutt after reviewing all five sites with the Council listed off the County's options. Number 1 option was to scrap the site evaluation study and look for other sites. Option #2 was to start with the condemnation process on the #1 site and option #3 was to do nothing. No where does Mr. Huneycutt state that reverting to the least desirable location at the most expense to the County is an option. The County also states in its application that the project is required to provide adequate water supply to the existing customer base. That customer base is not Weddington. Again 80% or more in our Town are served by wells. All of these facts and factors along with others that you hear and will hear tonight must lead you to the conclusion that this water

tower does not belong in the Town Center and because of our own ordinances and guidelines cannot be located in the Town Center.

Mayor Anderson – Mr. Gregory I am going to call on you to provide testimony. I know that you had questions before but I want to make sure that we get all of your information in. If you need a map to show where your property is we can throw one up there.

Mr. Gregory – We have a couple different partnerships. Right here is Mama Short's. We have a second piece of property right here that abuts the current site selection. The third and last would be here. It is approximately 65 acres. The family and spouses own all of that. Even with different partnerships and LLC and properties none of us had received a notice or knock on the door.

Mayor Anderson – The Clerk can provide notification. We need to get this in the record of where generally we send to who is paying the taxes gets it.

Town Clerk McCollum – Notice was sent to Thomas Franklin Short (505 Partridge Lane - Matthews), Megan Marie Short (900 Woodland Forest Drive – Waxhaw) and Short Holdings (505 Partridge Lane).

Mayor Anderson – I need another map to show exactly where the water tower is going to be located in relationship to the Short Property. Can someone tell me how many feet that will be?

Mr. D'Adamo – Our setback was to maintain the tank height to the property lines here and then obviously much greater setback from the road. That is about 150 feet from the center line of the tank.

Mayor Anderson – Scott, is this land currently being farmed or under forestry program?

Mr. Gregory – Both – farmed and forestry.

Mayor Anderson – If you can speak to the anticipation of the family is that someday it would be developed as R-40?

Mr. Gregory – That is correct.

Mayor Anderson – Do you think this has a negative impact on the value of this property?

Mr. Gregory – Most definitely.

Mayor Anderson – I would like to call back our real estate person up and ask him the same. Based on your experience how would this impact the value of this undeveloped property?

Mr. Fitzgerald – It is very difficult to ascertain the exact effect of a public utility like this on the value of a property. With that said, the value is one thing, the desirability is another. So, it will adversely affect it one way or another in regard to price or in regard to desirability – one way or the other.

Mayor Anderson – So curbside appeal would not be good.

Mr. Fitzgerald – It is going to affect it one way or the other in desirability or value.

Mayor Anderson – Does property that has water to it, is that more desirable or undesirable?



Mr. Fitzgerald – If you use Weddington as an example with 80% of our subdivisions on wells, 20% on public water I would have to say no. There are people that come into Weddington that invest a million dollars in a house on a well.

Attorney Merritt – Those effects on the property would be the same for the adjacent properties for wherever this water tower would be located?

Mr. Fitzgerald – Wherever.

Mayor Anderson – It is a universal issue.

Attorney Merritt – It is not just this property. Any of the other sites based upon his testimony he is saying that there would be an effect on the property no matter where. It is not unique to this particular site.

Councilmember McKee – If the site at the school on Reid Dairy Road is selected, what would that do to the value of the adjacent property? You have the school there that was acquired through condemnation. The value of the properties have already depreciated already - so a water tower there, would it affect the property values any more?

Mr. Fitzgerald – I have seen it go both ways. I have seen the property become less desirable with the school and I have seen it become more desirable with the school.

Councilmember McKee – I am talking about right there on the school property.

Mr. Fitzgerald – You are talking about the elementary school right adjacent to the 80 acre vacant site that we have established as the preferential site #1?

Mayor Anderson – Talking about Rea View.

Mr. Fitzgerald – If we do not go with the preferential site #1 it makes sense to go on that site because there are no land costs. The County owns it anyway. Two hundred yards from here the County owns a 35 acre site for a proposed school and it is less than 200 feet from one of the sites that they looked at. Again, I did not look at the elevation, the proximity to the 24 inch line but I do know that it is within 200 feet of site #5. There are two school sites that could be viable candidates that the County already owns.

Councilmember Thomisser – Would there be a safety issue relative to locating it near a school?

Mr. Meier – Tank safety is not an issue. There are several examples where tanks have been located at schools. Welded steel tanks started in 1939 and they are extremely rare that we have any kind of tank failure. Elevated tanks have been a stellar performance over the years whether they are pedestal tanks or legged tanks. In fact after you have tornados and hurricanes generally that is what is left standing. If tanks are brought down in those kinds of circumstances it is usually the debris from the houses and the cars that have knocked them down or something like that. Safety adjacent to a school or any other public building or even a high occupancy building is not an issue.

Mayor Anderson – Jerry, in your professional opinion, I do not know if you saw the pictures of the tanks on Sims Road.

Mr. Fitzgerald – I did not. I did not see those.

Mayor Anderson – They are ground tanks and completely hidden by trees that are much smaller than trees that we have on sight. In your opinion, speaking from the Church's point of view and from your professional opinion, if we had ground tanks there as opposed to a tower would that be a satisfactory compromise? Those were taken at Rehobeth Road and Sims Road. They are cleared in the fields. I was able to step back in a yard and take them. I am not sure how tall they are.

It was answered that they are approximately 40 feet tall.

Mayor Anderson – If they were completely hidden by undisturbed vegetation would the Church have a different point of view on that?

Mr. Fitzgerald – Responding to that question – I would have to quote our Town of Weddington Conditional Use Permit Findings of Fact #4. Those tanks would still be the size of a four to five story office building. The location and character of the use if developed to the plan as submitted and approved will be in harmony with the area in which it is to be located. The 156' or these here they do not conform with the intent of the scope of our Land Use Plan. This is basically the Town core. Would you not agree?

Mayor Anderson – I would agree.

Mr. Fitzgerald – It is right on the fringe of the Town core. We have spent a lot of time looking at different options for developing a quaint homey Town core and it does not matter if it is four stories high or 12 stories high it is still an infringement of the aforementioned violation of requirement #4.

Mr. Walker Davidson – When we look at the points that have to be met in the Conditional Use Permit, Number 3 says the use will not substantially injure the value of an adjoining or abutting piece of property. We have had testimony that this will do that. However, that can be overridden where it says, "or the use is a public necessity." Now public necessity – to me public means all citizens of Weddington – all of them and not a subset. Necessity has been defined as improved residential water pressure and improved fire safety. Those are the two points that we have heard. I do not see – if there are homes that are not going to benefit by getting improved fire safety out of this - I do not think this meets public necessity. I have a document that Jordan gave me which is the Citizens Guide to Conditional Use Permit Hearings. It talks about conditions. The Board can impose additional unique project specific conditions on special/conditional use permits. However, it is very important to note that the Board does not have the authority to impose any conditions that it wants. Each condition must be related to bringing the project into compliance with the standards for decision already in the zoning ordinance. The proposal that I would make is that the Town Council put a condition on this that says water will be allocated to improve the fire safety for all citizens of Weddington.

Mr. Robert Gunst – I am a relatively new member to your community. I love it here. It is a nice place if I could only take a shower. That is one minor problem. I have had several conversations with Union County Water when we moved here in May especially related to the fact that the water pressure was quite low. I started taking water pressure readings around the middle of May in conjunction to try to coordinate to help them to pinpoint exactly what was happening at what times. I have heard a lot of comments about water pressure and the desirability to have the tower in some location or having lower level towers or pumping stations. In my opinion the issue is whatever you need to put to get people that are on public water adequate water is certainly fine with me. You could put it in my backyard but it is only a ½ acre. I really would not care. I have heard some bottom line pressure statements made of 30 psi being a state requirement. One testimony it was mentioned that 20 psi was acceptable by Scott Huneycutt. That was something that I have never heard from him. I do not know what is acceptable other than I can tell you that on May 26 at 11:22 a.m. I had 22 psi. On June 8 at 3:27 p.m., I had 18 psi. At four or five other occasions, it was well below 30 psi. June 25 and July 12 were 10 psi and August 20 it was so low it was

unreadable and the scale starts at 10 psi. That is certainly unacceptable. I can understand that a lot of people here are concerned about where it is going to be. Having a water tower is not the most desirable thing. We really do need to have water pressure. Decide where you want to have it but put it somewhere. I live in Rosehill.

Mr. Fitzgerald – This gentleman just made an observation in Rosehill. That is a Mecklenburg project. That is Mecklenburg water – is it not?

It was advised that it was Union County water.

Attorney Merritt – Based on your experience what is the effect on property value for properties where there is not adequate water pressure to operate the faucets and toilets within a house?

Mr. Fitzgerald – You do exactly what 80% of the people here in Weddington have done – you punch a deeper well and you turn the pressure up a little higher.

Attorney Merritt – I am speaking of a house that is on a County water supply.

Mr. Fitzgerald – You have to ask a Residential Broker – I do not sell houses.

Mr. Demontesquiou – When you have decreased water pressure it does decrease the value of the property. The question is irrelevant. We know that Union County wants to provide better pressure. This is not going to do it. That is the issue.

Mr. D'Adamo – I tried to listen to some of the comments and wanted to offer either clarifications or some follow up. The study that we did in 2007 was referenced many times. We actually identified eight sites. We eliminated two sites for a lot of reasons some of which that it was too far away from infrastructure. We did not put a cost to that but if we would have I am sure it would have been more expensive as well. Of the six sites remaining, let's say that 4 was not the most expensive site. It was the fourth out of six. Just for clarification. The issue of pressure came up and obviously I was not there when Scott Huneycutt made his comments. The two pressures to think about so that we are clear, the 30 psi is the static residual required by the State in many cases for fire flow. They are required whatever fire flow is needed with a 20 psi residual to hydrants. That could have been what he was referring to. I do not know because I was not there. The issues about this particular site and the issue of character and location and I cannot get in your hearts and minds and those of you that are affiliated with your church. That is pretty personal and I understand that. But the reality is that all of the sites that were looked at in Weddington the rest were R-40, the rest were not adjacent to business or commercial. One of the things that we looked at in evaluating this site is because it was adjacent to business it was a better fit from a character standpoint than picking one of the other residential sites surrounded by residences. We heard from somebody here that is surrounding this site and their concern about being located there when they could develop their R-40 at some point in time. That was certainly a consideration. From that point forward, we tried to locate the tank on the site to keep in mind the issues of the adjacent residences and tried to maximize the existing screening and supplementing that with the overall design. The issue has come up a lot about some do recognize that there is a pressure problem. The reality is Union County has a responsibility to serve its existing customers and it has a responsibility to meet the requirements from the State in terms of minimum pressure as Public Works Director Ed Gosicki mentioned. We are concerned with pressures going too low because he may have taken an 18 psi reading but if you put a data logger on a water main measured every fraction of a second you could see it go even lower. If pressures go too low, there are a lot of things in the ground surrounding that pipe and keeps people from getting sick and what gets people sick in third world countries is that they do not have adequate pressure and contamination surrounding that pipe can get into the joints of that pipe and the next thing you know you are driving contamination. That is our

concern. It is their responsibility to serve their customers. I understand that there is a concern regarding future customers and having fire flow. That is why this is an important project. Finally as an operating utility they want to meet that requirement; they want to be able to operate the facility as conservatively as possible and as few issues as possible. Putting in an elevated water storage tank is the simplest way to solve the problem and it is an issue where there are less things that can go wrong and it is more foolproof. They are in the public health business and that is very important.

Councilmember McKee – inaudible...

Mr. D'Adamo – It is not in my brain because I did not do the negotiations. Mr. Merritt was not the attorney that was involved with those negotiations. Mr. Goscicki was not the Public Works Director when it happened. It is not a secret and we said that we would supply that information. I suspect you are correct but I suspect that sentiment is also correct about the other properties that were in that report also.

Mayor Pro Tem Barry – Are you representing the Board of Trustees for Weddington Methodist Church?

Mr. Fitzgerald – Yes sir, I am on the Board of Trustees.

Mayor Pro Tem Barry – Has anybody on behalf of the Church approached the King Family about purchasing that property?

Mr. Fitzgerald – To my knowledge and to quote fact – no.

Mayor Pro Tem Barry – The Board of Trustees has not instructed somebody to acquire that property?

Mr. Fitzgerald – I can assure you that at this point in time the Trustees have assigned no one to talk to the King's property on the premise of acquiring that property.

Mayor Pro Tem Barry – Within the last 24 months?

Mr. Fitzgerald – I can only speak for the last year because I have served on the board for a year – the answer is no.

Mr. Brian King – I am the Chairman of Trustees for Weddington United Methodist Church and I have served on the Board for three years and we have not in any way contacted them to purchase that property.

Mayor Anderson – I would like to qualify one comment that we made earlier about the historical designation. Mr. Merritt, you were asking me what our policy was. This piece of property has been identified by the Union County Historical Commission as the potential for historic designation. The Town of Weddington does not force property owners to obtain that but we do keep it open in case they want to some time in the future. We have several properties in the Town.

Mr. D'Adamo – Just a clarification, the comment that came up in terms of the underground impact to the cemetery. The tanks, depending on which style, the base is 60 to 80 feet in diameter so from the center that is 40 feet out. As Mr. Meier testified the foundation design may extend another 20 feet. Our setback is 150+ feet from the property line and at least that far from the cemetery. The foundation excavation would not extend over into the cemetery.

Attorney Merritt – I did want to at least take a moment to address the information that has been provided within the context of the criteria that we have to meet in order for the Council to approve the Conditional Use Permit. The first is that the use will not materially endanger the public health or safety if located

where proposed and developed according to plan. There has not been any testimony tonight that we do not meet that criteria as stated by your Planning Board and by your staff. We do meet all of those criteria and no one has challenged that tonight. I think it is clear that we meet Finding of Fact #1. Finding of Fact #2 is that the use meets all required conditions and specifications. Again this is with respect to setbacks and other issues. Again I do not think there has been any dispute that the project as proposed complies with all of the requirements of the ordinance and that the application meets criteria #2. Criteria #3 is that the use will not substantially injure the value of an adjoining or abutting piece of property or the use is a public necessity. I think it is clear that there has been testimony here tonight from at least two residents who have stated that they are currently being affected by low pressures at their residences and there is a present and current need for this water tower project and the use is a public necessity. You may recall that I asked that question of your staff earlier this evening and they agreed that the water tower project did constitute a public necessity. Again, the testimony has been to provide to meet the existing and future domestic water demands, to increase the static and dynamic pressure and to provide increased fire flow. The 4<sup>th</sup> criteria is that the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and will be in general conformity with this ordinance and the Weddington Land Development Plan. This is an area that your staff and Planning Board have confirmed that they believe that we are in compliance with that and this particular project is in harmony with the surrounding land use. If you recall, I asked about the zoning across the street from the property. This is a site that is immediately adjacent to property that is zoned B-1 or B-2. The use of the property by the church immediately next door is not as residential, it is being used for their church purposes. At some point it may be a utility building and offices and such. It is clearly not a residential use. Of the sites that are available to put this, this is the site that is not completely surrounded by residential. It is next to the commercial and next to property that is not being used as residential. There is residential on the lower side of it but it is not completely surrounded. Again as noted in the report, the site is located near a commercial district to the south of the intersection of Weddington Road/NC 84, Weddington-Matthews Road, and the information in your packet also goes through the information about how far this particular tower is set back from the road, the buffering that has been done, the fact that the site is primarily wooded. We do believe that this proposed site is in harmony with the area in which it is located and is in general conformity with the ordinance and the Weddington Land Development Plan. We believe that we meet the criteria that are set forth by your ordinance for the issuance of the Conditional Use Permit. We would ask that you grant the permit and allow this to go forward. We are not here talking about a shopping center. We are not here talking about putting up another strip mall somewhere. We are talking about supplying clean water to the residents of Weddington. This is a very important issue. We believe that we have met the criteria and we would ask that you approve the Conditional Use Permit.

Councilmember McKee – inaudible.

Attorney Merritt – The finding is actually an “or” question. We either have to show that it will not substantially injure the value of an adjoining or abutting piece of property or we have to show that the use is a public necessity. I think we have clearly shown that the use is a public necessity and if we can show that it is a public necessity the effect on the value of adjoining properties is not relevant to your granting or denying the Conditional Use Permit because we have met that criteria within your ordinance of showing that the use is a public necessity. I will point out at the beginning of this hearing I believe that the Mayor indicated that one of the reasons why everyone should be able to talk in this is that everyone in the community is affected by water and by the tower. Well I would submit with respect to the property values you can look at the property values of adjoining or abutting pieces of property. I would submit to you that you should also look at the property values of those properties where if there is not adequate water pressure what happens to the property value there? You had a gentleman state that it would decrease those property values. If you are going to look at the community as a whole, yes you may have some property values that are affected if the tower goes in but again we do not have to meet that criteria. But you are also going to have property values that are affected if the water tower does not go in and they do not have

adequate pressure to flush a toilet on the second floor of their house. Property value can be looked at in many different ways but again because we comply and we can meet that this use is a public necessity, you can approve the Conditional Use Permit on that criteria because we meet that criteria.

Mr. Fitzgerald – I totally disagree on the interpretation of the Town of Weddington’s Conditional Use Permit Findings of Fact Checklist which provides a list of five mandatory requirements for approval of the Conditional Use Permit. There is no conceivable way, we differ on the interpretation of requirement #4. I do not care if the Planning Board did okay it. There is no conceivable way the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and will be in general conformity to this ordinance and the Weddington Land Development Plan. This is a water tower that is the same height as a 14 story office building. This is not as homey as the Gaffney peach. This will look like a permanent sculpture of a mushroom cloud in the middle of Weddington. Do you want to come down to Weddington-Matthews Road to that stop light and see that thing? Do we want to see it?

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

**Item No. 4. Consent Agenda.**

**A. Acceptance of Certificate of Sufficiency – Voluntary Annexation Request from Cecil and Carolyn Turner and Michael David Turner for Property Located on Potter Road.** Mayor Pro Tem Barry moved to accept the Certificate of Sufficiency for the voluntary annexation request from Cecil and Carolyn Turner and Michael David Turner for property located on Potter Road. All were in favor, with votes recorded as follows:

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

**CERTIFICATE OF SUFFICIENCY**  
**DAVID MICHAEL TURNER**  
**6827 POTTER ROAD**  
**07-135-065E**

**CECIL E. TURNER AND CAROLYN Y. TURNER**  
**6833 POTTER ROAD**  
**07-135-065C, 07-150-001D, 07-135-065F**

To the Town Council of the Town of Weddington, North Carolina:

I, Amy S. McCollum, Town Clerk, do hereby certify that I have investigated the petitions attached hereto and have found as a fact that said petitions are signed by all owners of real property lying in the area described therein, in accordance with G.S. 160A-31.

In witness whereof, I have hereunto set my hand and affixed the seal of the Town of Weddington, this 11<sup>th</sup> day of January, 2010.

The Town Council also received copies of the petitions.

**B. Consideration of Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-31 – Voluntary Annexation Request from Cecil and Carolyn Turner and Michael David Turner for Property Located on Potter Road (Public Hearing to be held February 8, 2010 at**

**7:00 p.m. at the Weddington Town Hall, 1924 Weddington Road, Weddington, NC 28104).** Mayor Pro Tem Barry moved to approve Resolution R-2010-02 fixing the date of the public hearing on question of annexation pursuant to G.S. 160A-31 for Cecil and Carolyn Turner and Michael David Turner to be held February 8, 2010 at 7:00 p.m. at the Weddington Town Hall.

**TOWN OF WEDDINGTON  
RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION  
OF ANNEXATION PURSUANT TO G.S. 160A-31  
R-2010-02**

**WHEREAS**, a petition requesting annexation of the area described herein has been received; and

**WHEREAS**, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

**WHEREAS**, certification by the Town Clerk as to the sufficiency of the petition has been made;

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Weddington, North Carolina that:

Section 1. A public hearing on the question of annexation of the area described herein will be held at the Weddington Town Hall at 7:00 p.m. on February 8, 2010.

Section 2. The area proposed for annexation is described as follows:

**DAVID MICHAEL TURNER  
6827 POTTER ROAD  
07-135-065E**

**CECIL E. TURNER AND CAROLYN Y. TURNER  
6833 POTTER ROAD  
07-135-065C, 07-150-001D, 07-135-065F**

Section 3. Notice of the public hearing shall be published in The Enquirer-Journal, a newspaper having general circulation in the Town of Weddington, at least ten (10) days prior to the date of the public hearing.

Adopted this 11<sup>th</sup> day of January, 2010.

All were in favor, with votes recorded as follows:

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

**C. Consideration of Resolution Requesting the Addition of Potters Cove and Jean Place in the Potters Creek Subdivision to the North Carolina Department of Transportation State Maintained Secondary Road System.** The Town Council received the following letter from Mr. Calvin Treadaway from NCDOT dated November 2, 2009:

We have been petitioned to add Potters Creek and Jean Place in the Potters Creek Subdivision to the State Maintained Road System. This road can be recommended for addition upon receipt of a resolution from

the Town of Weddington approving the addition. Therefore, our office requests your assistance in obtaining a resolution (SR-2). Please provide an approved Form SR-2 if this request is acceptable to the Town.

Mayor Pro Tem Barry moved to approve Resolution R-2010-03 requesting that Potters Cove and Jean Place in the Potters Creek Subdivision be added to the NCDOT State Maintained Secondary Road System.

**NORTH CAROLINA STATE DEPARTMENT OF TRANSPORTATION  
REQUEST FOR ADDITION TO STATE MAINTAINED SECONDARY ROAD SYSTEM  
TOWN OF WEDDINGTON, NORTH CAROLINA  
R-2010-03**

**North Carolina  
County of Union**

**Road Description: Potters Cove and Jean Place in the Potters Creek Subdivision in the Town of Weddington, North Carolina**

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

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

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

Adopted this 11<sup>th</sup> day of January, 2010.

All were in favor, with votes recorded as follows:

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

**D. Consideration of Application for Renewal of Temporary Sales Office - Bromley Subdivision.** The Town Council received the following memo from Town Planner Cook:

PDN, LLC requests an extension for a temporary sales office located on Lot 1 in the Bromley Subdivision. The address of Lot 1 is 1049 Bromley Drive, Weddington, NC 28104.

**General Information**

- A renewal for the temporary sales office is required per *Section 58-13 (4)* of the *Town of Weddington Zoning Ordinance*.
- The applicant is required to apply for a renewal every year (12 months).
- The first permit was approved by Town Staff in December 2007 for a one year period. In December 2008 Town Staff gave a one year extension.
- Every extension after the initial two years must be approved by the Town Council.



- *Section 58-13 (4) of the Town of Weddington Zoning Ordinance* states that three or more lots must be remaining to grant the extension. The Bromley Subdivision currently has 106 lots remaining, therefore complying with the *Town of Weddington Zoning Ordinance*.

Staff has reviewed the application and submitted documents and finds the Sales Office Renewal Permit Application is in compliance with the *Town of Weddington Zoning Ordinance*.

The Town Council received the following:

- A copy of the Application for Temporary Placement of Mobile Home, Construction Trailer or Temporary Building
- A Plot Plan of the Sales Office
- A copy of Section 58-13. Temporary Structures and Uses from the Weddington Code of Ordinances

Mayor Pro Tem Barry moved to renew the temporary sales office for the Bromley Subdivision. All were in favor, with votes recorded as follows:

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

**Item No. 5. Closed Session Pursuant to NCGS 143-318.11 (a) (3) – To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.** Mayor Pro Tem Barry moved to go into Closed Session pursuant to NCGS 143-318.11 (a) (3). All were in favor, with votes recorded as follows:

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

**Item No. 6. Continuation.** Councilmember Gilmartin moved to continue the meeting until Thursday, January 14, 2010 at 7:00 p.m. at the Weddington Town Hall. All were in favor, with votes recorded as follows:

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

The meeting adjourned at 11:30 p.m.

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Nancy D. Anderson, Mayor

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Amy S. McCollum, Town Clerk