

**TOWN OF WEDDINGTON  
CONTINUED TOWN COUNCIL MEETING  
THURSDAY, JANUARY 14, 2010 - 7:00 P.M.  
MINUTES**

The Town Council of the Town of Weddington, North Carolina, met in a Continued Session at the Weddington Town Hall, 1924 Weddington Road, Weddington, NC 28104 on January 14, 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: Bill Price, Walter Staton, Pete D'Adamo, Ed Goscicki, Keith Merritt, Gregg Wyant, Carol Wyant, Jerry Fitzgerald, Kent Hayes, Ellen Wilkinson, Ken Evans, Ann Guerin, Barbara Harrison, Pat Harrison, Brian King, Michael Carver, Terry L. Moore, Grant Harper, Beverly Carver, L.A. Smith and Anthony Burman.

**Item No. 1. Reopen the Meeting.** Mayor Nancy D. Anderson reopened the meeting that was continued from January 11, 2010. Mayor Anderson led in a Moment of Silence for Sarah Lowe who passed away today. Ms. Lowe served on several of the Town's Boards prior to her illness.

**Item No. 2. Public Comment.**

Ms. Barbara Harrison – In December you elected to amend your budget to allow an additional \$58,000 for the Providence VFD. I do not object to giving money to the Fire Department. What I object to is the inequity that people who are serviced by Wesley Chapel deal with. I do not pay \$50.00 a year for my fire service. I pay a lot more, so does everyone else in the Wesley Chapel District. Starting in Fiscal Year 2008 you gave Providence \$109,000, Fiscal Year 2009 you gave \$151,000 and so far this year you are up to \$239,000 with six months left in your fiscal year. Why could you not wait one month and find out what is going on with the Fire Commission Study and why do you not have someone to work with the Fire Commissioners on this matter? I would suggest Councilmember Werner Thomisser because I know he is very adamant about the fire company. Why not give the same amount to Wesley Chapel?

Ms. L.A. Smith – I just want to state that I am extremely disappointed by the action taken by Council last month to abandon the Town Core project. Many residents have put in many hours on this process and just as we were about to cross the finish line you decided to pull the plug. You did not look at what the project produced and you made sure that no one else got to see it either. Some of you said that Town residents do not want any more commercial. If you had taken the time you would have seen this was not about commercial. It was about making Weddington something other than a Charlotte suburb with a four-lane highway running through it and more than a pass through from Waxhaw to Charlotte. It was about green space and walking trails and a library. It was about community. It was about planning for the future and enhancing our property values. You have been elected to represent all Weddington residents not just those that support your own position or personal views. So you should listen to all residents rather than writing them off with a backroom deal to close down the project. I urge you to reconsider and let the process run its course. You have absolutely nothing to lose and if all residents are allowed to participate we may all just have something to gain.

Mr. Walter Staton – In 2007, 605 residents of Weddington responded to our survey and 72% said that they did not want any more commercial here in Weddington. In 2006, 955 responded to our survey and 69% said that they did not want any more townhomes, 60% said no patio homes here in Weddington, and 74% wanted no more commercial here in our unique rural Town of Weddington. That is a substantial difference of Weddington residents as opposed to less than 40 people responding to the Downtown Core Meeting in September at the Weddington Swim and Racquet Club. Less than 40 people at those meetings but 955 responded that they did not want any more commercial here in Weddington. The Weddington Council voted the wishes of the good citizens of Weddington. In closing I do not see how this can be brought up again. The citizens of Weddington have already spoken on this subject and the Weddington Town Council has already voted on this subject.

**Item No. 3. Consideration of Public Hearing.**

**A. Consideration of Conditional Use Permit for a 156' Elevated Water Storage Tank Proposed to be Located at 1929 Weddington Road – Parcel #06-150-074.** Mayor Anderson – On Monday we heard several hours of sworn testimony. We are here tonight to consider that testimony and to consider the application presented to us by Union County. In order to make a decision on this Conditional Use Permit we must go through the Findings of Fact and deliberate on each one of those. My suggestion is that we discuss each one separately, vote on each one separately, and at the end we will need a motion to either approve or deny the application based on what we said. I will warn the audience that we have not had any communications among ourselves about this. We will go through the evidence as best we can.

Attorney Anthony Fox – I do recommend given the detailed nature of the evidence that was presented perhaps the best way is to consider each of the Findings of Fact and through your deliberations you will point to the evidence that supports or does not support a finding. I would ask that if you get to a point where there is a vote to deny one of the earlier Findings of Fact that you still continue to exercise through each one because the court will be interested in knowing the basis the decision was denied if that was the Council's decision. I want to put before you as a matter of record that I did receive, as the applicant had been requested to provide, information regarding the purchase price of the site for which the Conditional Use Permit application is being requested. I would advise that the Council not consider that information. As you may recall the public hearing was closed at the conclusion and prior to the recessing of the minutes and for purposes of the integrity of the record I would suggest that I do not provide that information to you. In my opinion, the four factors that you are evaluating are matters that can be decided without that additional information and there is a questionable relevancy of that information to the ultimate determination that you are asked to make.

Mayor Anderson – The use will not materially endanger the public health or safety if located where proposed and developed according to plan.

Councilmember Werner Thomisser – I do not believe that it will endanger the public health or safety. I believe one of the gentlemen from HDR said that they have never had any problem with the safety of placing a water tower near a school so therefore I do not think it will harm the public health or safety.

Councilmember Robert Gilmartin – I do not believe that it will endanger the public safety either. It is set back far enough and as Councilmember Thomisser indicated a professional spoke to the fact that it is the safest form that there is.

Mayor Pro Tem Daniel Barry – I believe that they have met their requirements under this issue.

Councilmember Jerry McKee – I concur.

Mayor Anderson – I think we heard evidence from the Fire Chief who said that public safety would be endangered if we did not have that.

Councilmember Gilmartin moved that the application will not materially endanger the public health or safety if located where proposed and developed according to plan. All were in favor, with votes recorded as follows:

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

Mayor Anderson – The use meets all required conditions and specifications.

Councilmember Thomisser – All of the information submitted indicates that it has been met.

Councilmember Gilmartin – I believe that they have met it as well.

Mayor Anderson – Does anyone disagree with that?

Councilmember Thomisser moved that the use meets all the required conditions and specifications. All were in favor, with votes recorded as follows:

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

Mayor Anderson – The use will not substantially injure the value of an adjoining or abutting piece of property or the use is a public necessity.

Councilmember Thomisser – I believe the use will substantially injure the value of adjoining pieces of property. This was evidenced by Mr. Fitzgerald who holds numerous commercial real estate titles and also the Short Family who owns 57.86 acres of property which adjoins the property near the elevated water tower proposed site.

Mayor Anderson – What are your feelings about whether the use is a public necessity because this is an “or” question?

Councilmember Thomisser – There are 73 subdivisions in Weddington, 60 are on water wells and 13 are on Union County water. I have constituents in 7 of those 13 neighborhoods who have not indicated to me that there are any problems where water pressure is concerned. Two of those neighborhoods indicated that they have too much water pressure and have to have a device which reduces the water pressure. There was no statistical evidence presented that identified this as a problem. It is my understanding that fire flow is the amount of water running through a pipe or hose and that there has been no testing on fire hydrants in the Town of Weddington. The only testing on fire flow has been by the Waxhaw Fire Department.

Mayor Anderson – We can only use testimony that was presented at the hearing.

Councilmember Thomisser – Sixty of the 73 subdivisions are on water wells. It was not brought up during the hearing that there isn’t any shortage of water or problem with water pressure. I would also like to include that evidence was presented at the hearing that the rationale for this elevated water tank was based on a 2005 Union County Water Master Plan. The amount of water hookups were over 50% and

that the County Manager as recent as Sunday indicated that there is no growth at all in Weddington. The Director of Public Works did indicate that he thought it was 1%. That is minimal growth.

Mayor Anderson – So we are going to be using the Director of Public Works testimony at the hearing and not what we read in the paper on Sunday.

Councilmember Thomisser – That is true. We are talking about a water tower. I could not find any evidence to indicate that there is a problem with water pressure in those subdivisions in Weddington nor was there any evidence presented as far as statistical evidence relating to fire flow.

Councilmember Gilmartin – I believe that the applicant's analysis and information satisfactorily convince that the use will not substantially injure the value of an adjoining or abutting piece of property. I believe that they satisfied that requirement. I believe that it is a public necessity.

Mayor Anderson – You said that it would not substantially damage the value. Did you hear testimony that it would actually improve the value?

Councilmember Gilmartin – No.

Mayor Pro Tem Barry – I do believe it will substantially injure the value of abutting property but I also believe that it is a public necessity.

Mayor Anderson – If it damages the value of this adjoining property is that unique to this property or do you feel like no matter where it is put it is going to damage?

Mayor Pro Tem Barry – I feel that it does not matter where it is going to go. I do not think that anybody wants to have a water tower in their back yard but everyone wants water to come out of the sink when they turn on the tap. There are members of this community that do not have that and are on public utility and it is government's responsibility to keep the water on.

Councilmember McKee – I believe the use will substantially injure the value of adjoining or abutting pieces of property. To me that is a no brainer. There is a large 50 acre parcel near the proposed site and if those people are ever going to develop their property into residential on the back piece of property part of their view would be a water tower. As far as public necessity goes, most everything in Weddington is on wells. If I was going to build a house today obviously I would not need public water. I can dig a well. The only public utility I would need would be power and maybe cable to watch TV. I do not need water and I do not need sewer because I can supply those myself so it is not a public necessity.

Mayor Anderson – Town Planner Cook entered into the record our Land Use Plan. I would like for you to read a section on Page 35 or 37 to the Council.

Councilmember McKee – I object. It does not say anything about the Land Use Plan in Number 3.

Mayor Anderson – I am using it as evidence. I am just going to give you some information.

Anthony Fox – This is in the evidence. Mayor, you may want to read yourself as opposed to staff reading it. The Mayor is at the point where she is discussing what her record shows the evidence is with regards to the third Finding of Fact and when you do that you can point to any part of the evidence that was submitted to support your position.

Mayor Anderson – We have talked about what the moderator or Mayor’s role is in these public hearings in allowing everyone to speak. Unfortunately, since I could be the tie-breaker tonight I am also allowed to participate in deliberations. Under Land Use Plan Public Facilities and Services it says that in order to maintain the high quality of life for the residents of residential areas that the Town needs to ensure that public facilities and infrastructure are available to serve them in a convenient and functional manner. Infrastructure includes adequate means for access and mobility, water and sewer and storm water systems. Of course Weddington does not do this for themselves, and we partner with, rely upon and depend upon Union County. Our Land Use Plan requires us to work with them.

Councilmember Thomisser – I want to clarify as Councilmember McKee said we are talking about an elevated water tower. We are not talking about water. An elevated water tower as I understand it, relates to fire flow and there was no evidence presented where there was a need for a water tower to increase fire flow. There was no evidence presented, I think I asked the question, which neighborhoods that do have Union County water where there was low water pressure. I do not believe the experts answered that question. I have constituents in several of those neighborhoods and they have indicated too much water pressure or they are perfectly happy with it. Councilmember McKee indicated that 82% of the subdivisions in Weddington are on water wells and there was no evidence presented that there was a need for water and everyone that has a well is perfectly happy.

Attorney Fox – To the extent you are relying upon evidence from constituents, only those people you recognized as constituents during the public hearing who may have spoken to that issue are appropriate to be considered. If they are constituents that are not sworn and did not present evidence then that should not be relied upon.

Councilmember Thomisser – I understand that but the experts could not identify in any one of those subdivisions where it was a problem with low water pressure.

Councilmember McKee – There was one person who testified that he had low water pressure.

It was advised that there were two.

Councilmember McKee – We have a population of 10,000.

Councilmember Thomisser – What I am referring to is Public Works was unable to identify any low water pressure in any of those neighborhoods that have County water.

Mayor Anderson – As I recall, the testimony was that they could not call the subdivisions by name but we were shown twice a map that showed a large gray circle and a smaller grey circle in the corner of the map where Rose Hill is located and parts of Tilley Morris Road. You are correct that the County was not familiar with the subdivisions by name but they did show us a map of the area. I recall the Fire Chief saying that they needed 30 to 35 PSI to fill his pumper truck and then they boost that up to 90 PSI and he needed 30 PSI to fill the tank fast enough to do that.

Councilmember McKee – Also remember the meeting here in September 2007 where Mr. Huneycutt said that fire flow was a luxury and not a necessity.

Councilmember McKee moved to not approve Union County’s request for a Conditional Use Permit for a 156-foot 1.5 million gallon elevated water storage tank located at 1929 Weddington Road (Parcel # 06-150-074) as it relates to Finding of Fact number 3.

The vote is as follows:

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

The Mayor voted against the motion. She stated, "It does substantially injure the use and the value but it is a public necessity."

The Mayor breaks the tie to the negative; therefore, the motion is denied.

Mayor Pro Tem Barry moved to accept Finding of Fact Number 3 under the terms that it is a public necessity but recognizing the fact that it will substantially injure the value of adjoining property.

The vote is as follows:

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

The Mayor breaks the tie in the affirmative and the motion carries.

Mayor Anderson – 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 the ordinance and the Weddington Land Development Plan. We heard a lot of testimony from two folks who directly quoted the Land Use Plan. I would also as a reminder advise you that the Land Use Plan was admitted into evidence. This is talking about municipal facilities and services. There was a lot spoken about historical potential for the cemetery and the sanctuary of the church. I wanted to point out this paragraph. The Town of Weddington owns a historical house in the town center at the corner of 84 and Weddington-Matthews Road. It goes on to say what we do at the Town Hall and what it is for. The point that I am making is that this is a historical property not just potential for historic property. That may not have been clear but it is in print and you may use that in your deliberations. According to the testimony at the hearing the cemetery has been designated as potential historic - that means it meets all the qualifications of a historical piece of property and should the property owners like to they may apply for it. The church could make changes to the Old Sanctuary that would disqualify it. You can disqualify a structure by modifying it so that it would no longer qualify but for a historical cemetery I cannot think of something that would ever disqualify it. So the testimony you heard was that it has been identified as a potential historical site.

Councilmember Thomisser – You would treat that the same way as historic.

Attorney Fox – It is a potentially historic site. The Town Hall is a registered historic site. The cemetery does not have the same designation. It has the potential to achieve the same designation.

Mayor Anderson – It is a *local* historic designation.

Councilmember Gilmartin – 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 the ordinance. I believe that it indeed would be in harmony. The area is zoned R-40. The benefits and need for public use was described in item 3 that we just passed. The proposed tank zoning would fall under Essential Services Class II.

Councilmember McKee – The location is not in character with the Town of Weddington. You have a historic building here which is across the street and a potential historic cemetery. Weddington goes back

hundreds of years. There is no way that a modern steel grey 156-foot 1.5 million gallon water tank is in harmony with the Town. I do not think it is in harmony. I do not think the Land Use Plan specifically defines water storage. You can store underground. The Land Use Plan is just a guide to help us through the processes. It is not mandatory. It does not meet the criteria.

Mayor Anderson – Would you like to point out the passages in the Land Use Plan that support your finding?

Councilmember McKee – The Land Use Plan is a matter of record so anyone can look it up. I do not know what page.

Councilmember Thomisser – The location and character of the use if developed according to the plan as submitted and approved will not be in harmony with the area in which it is to be located. I would like to quote from the Land Use Plan. On Page 17, under Land Use Policies, Policy #5 states to ensure that the development is consistent with the Town's quality and aesthetic values thereby preserving and enhancing property values. I emphasize the word aesthetics. I do not believe a 1.5 million gallon elevated water storage tank adds to the aesthetic values of the Town. Also, on Page 21 of the same document under Community Design and Image Goals, Number 1 states to maintain and enhance the Town's aesthetic qualities and physical character. Everyone knows that one of Weddington's goals is to maintain its rural character. I find it interesting that the evidence that was submitted at the hearing gave a picture that was taken in the middle of the summer with all the leaves on the trees and someone asked the question why did you not take a picture of the elevated water tank at this time of year when there were no leaves on the trees. If it looked bad in the summer time, it would certainly look worse during this time of the year. Right across the street from this property is a historical building, the Town Hall, which was built in 1895. Adjacent to this water tower is a 100 year old cemetery which has the potential to be an historic site. Therefore I do not believe that it is in harmony with the surrounding area.

Mayor Pro Tem Barry – I go back to what I said at the beginning that no one wants a water tower in their back yard. I looked at this from a number of different angles. I go back to the evidence presented about the other locations in accordance with this and at the end of the day you still have a water tower at the back of someone's yard. Are we better having it in the back yard of the shopping center and behind the church or do we want it in the back yard of a residential neighborhood? Is that any better than being on Cox Road or Old Mill Road? I am not convinced that it is or it is not. I will say as compared to the residential locations my preference would be for it to be located here. I would suggest that given those sets of facts that I would support the location and say that based on the neighborhood and harmony around here as compared to the other locations that they would have to consider it would have to meet that requirement.

Mayor Anderson – You spoke that this was not the only site but in your mind it was of all of the choices the least obtrusive. Would you consider a condition with a redesign? We did see pictures of ground tanks versus water towers and if it were a tank as those located on Sims Road that are more ground level would you consider a change in the design as a possibility?

Attorney Fox – This hearing relates to an application that has been submitted by the applicant. The application is for a water tower of 156 feet. There is nothing else proposed. The only alternatives put before you as part of the application is the shape of the actual water tower, whether it is going to be a fluted or spheroid tower and that a condition of redesign would probably be a significant enough modification to constitute a new application.

Mayor Pro Tem Barry – My understanding of this process is to deliberate on this material based on the facts that are presented and we can vote up or down.

Attorney Fox – You can have conditions but your conditions must be reasonable. They should and ought to relate to improving or achieving compliance or greater compliance with the four factors that you have set out in your ordinance.

Mayor Pro Tem Barry – If the Mayor believes that ground tanks are more aesthetically in harmony with the area in which it is to be built then that would satisfy that requirement.

Attorney Fox – I do not believe it would.

Councilmember McKee – Talking about the other sites, the school site on Reid Dairy Road already has a school there which has ample space to put this water tower. I am not promoting that site either. That is the one site that would do the least damage to any of the properties that are residential. The school has already ruined all of the houses in eye site, as far as the property values it would not affect them anymore.

Mayor Pro Tem Barry – We are not being asked to judge any of the other locations, it is just this site.

Mayor Anderson – You can in your decision-making say that even though it is an essential service this is not the only site. The one that was applied for is not the only site.

Councilmember McKee – I would just comment on the fact that he stated this was the best site. This is not the best site.

Councilmember Thomisser – Mayor Pro Tem Barry indicated that if there is a problem with this site there will be a problem with the other sites. In the hearing the fact came up that there was an alternative to a 156-foot water tower. There were two alternatives. One was 40 foot ground tanks and the other was no water tank at all but some type of underground alternative.

Mayor Anderson – I understand what Mr. Fox is saying that the hearing is about the application but when we look at Finding of Fact #3 and talking about essential services if you believe that the essential service can be achieved some other way and that this is not the one and only solution, that there are other alternatives out there then I believe that does have bearing on your vote and decision. If it was this or nothing else that would make our vote a lot easier. What you have said is it is not all or nothing and there are other alternatives. In fact the applicant provided testimony that they looked at other sites and there were four other ones that were adequate engineering wise and they chose this one because of the ease that they had a willing seller. That was the testimony that was given. You can use that testimony in your evidence.

Councilmember Thomisser – There was an alternative to have no site and have it underground. Why are you considering all of the other sites when there is an alternative to no site?

Mayor Pro Tem Barry – I do not recall underground ever being put into evidence. I remember some pumps and there were some engineering issues with those pumps getting out of cycle where they work against each other. I think the most significant to me was the question that I asked regarding elevation. It did not matter if you put it in a ditch or a mountain, the top of that tower was going to be at 856 feet. If you are sitting coming down Providence Road, coming up Providence Road, coming down Highway 84 whichever site is picked you were going to see it. You are not going to hide the water tower so then the question is whether you look at ground tanks. At the end of the day the County came to us and said in my opinion this is what our engineers have said. My question is what can we do to the mushroom cloud or the flying saucer to enhance it or minimize the destructive nature of it being put on that piece of property. We can vote the whole thing down or we can approve it with conditions. I think our Attorney has said



that we need to be careful about the number of conditions that we place on it. Sooner or later we are going to have a water tower in Weddington. Everybody needs to come to terms with that. No one wants it in their back yard and this is the first place that they have approached us about placing it and the County has an opportunity with a willing seller to put it there. We have to take that into consideration. I do not like it any better than anyone else.

Councilmember McKee – I do not think the conversation is about the other sites. I think we are getting off base.

Attorney Fox – You are deliberating with regards to Finding of Fact #4. You are correct that finding does relate to the location and character of the use and if developed according to the plan as submitted will be in harmony with the area for which it is to be located. It is a harmony and conformity standard in that it must be in conformity with the Town's Zoning Ordinance and its Land Development Plan. That is the specific finding that is before you.

Mayor Anderson – If this site is denied based on Finding of Fact #4 because it is not in harmony with the surrounding areas, can the applicant come back with a different design for this same site?

Attorney Fox – If there is a denial of this application you do have an ordinance provision that prohibits the reapplication for a similar use that is not substantially different than the prior application and that period of time is a 12-month period. The question would be if this is denied and there was a new application whether or not the application would be construed to be substantially different. For instance if the new application contained a ground storage tank then the question would be whether or not an application on the same site for a ground storage tank is substantially different than the application that was submitted within a short period of time for 156-foot water tower. That is why you pay your Town Planner the big bucks. He would make that determination for you.

Mayor Anderson – Do we have any more discussion on this particular finding?

Councilmember McKee – I would like to make a motion that the location and character of the use if developed according to the plan as submitted and approved will not be in harmony with the area in which it is to be located and will not be in general conformity with the ordinance and the Weddington Land Development Plan. The vote is as follows:

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

The Mayor voted in the affirmative that it will not be in harmony with the area it is to be located and so the motion carries to the affirmative.

Mayor Pro Tem Barry – Can we place conditions in the overall motion that would have satisfied any one of the three of them to change their vote on the last option?

It was advised that the vote has already been taken.

Mayor Anderson – As I recall in the past you have asked us to be very specific with our evidence in the motion. Is that required this time?

Attorney Fox – You have done a lot of it in your actual breaking down of each of the Findings of Fact. If someone would make a motion, I may suggest some amendments to the motion.

Councilmember McKee moved to not approve Union County's request for a Conditional Use Permit for a 156-foot 1.5 million gallon elevated water storage tank located at 1929 Weddington Road (Parcel Number 06-150-074) based on Finding of Fact #4 as stated.

Attorney Fox – I think that you may want to add to that is based on the failure to satisfy Finding of Fact #4. In particular you may want to add the references to the Land Development Ordinance.

Mayor Anderson – It is not in harmony with the area in which is to be located because according to the following items from our Land Use Plan:

- Goal #1: To maintain and enhance the Town's aesthetic qualities and physical character.
- Policy #5: To ensure that development is consistent with the Town's quality and aesthetic values, thereby preserving and enhancing property values.
- General Municipal Facilities and Services. The Town of Weddington owns a historic house in the town center (at the corner of NC 84 and Weddington-Matthews Road). The house contains a public meeting room, storage space and office space for the Town staff and the three police officers who work in Weddington. There are five part-time Town employees: the Clerk/Town Administrator, a Zoning Administrator, Finance Director, Tax Collector and a receptionist. The Town has a mayor-council form of government. The Town is presently looking at the possibility of developing a new town hall facility with the possibility of having a branch of the Union County Public Library located with it.

Mayor Anderson – It was proposed to be located directly across from the historical Town Hall and adjacent to the potential historic cemetery site of Weddington United Methodist Church.

Attorney Fox – You may also want to add because of the evidence that you heard and there may be other additional evidence in the record to support the motion as well. I do not want you to be foreclosed from that as well.

The vote on Councilmember McKee's motion is as follows:

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

The Mayor breaks the tie in the affirmative and the motion carries; therefore the application was denied.

The Council took a brief recess.

#### **Item No. 4. Old Business.**

**A. Consideration of Resolution to Adopt Legislative Positions for the 2010 Short Session of the North Carolina General Assembly.** Town Administrator/Clerk Amy McCollum reviewed the proposed Resolution with the Town Council. She stated, "The Mayors-Commissioners Issues Conference, in conjunction with the Managers and Clerks of Union County are asking that Union County and the municipalities adopt the proposed list of legislative positions for the 2010 Short Session of the North Carolina General Assembly. This group attempted to compile a list that would reflect issues of importance that were mutually agreeable to all Union County local governments. The group recognized

that this could be an effective tool for communicating our wishes to the Union County Legislative Delegation.”

The following items were discussed:

- Discussion of the State withholding funding from municipalities
- Extra-territorial jurisdiction
- The use of a toll road for the Monroe Bypass
- Discussion of proposed future requirements for municipalities to maintain roads
- Councilmember McKee gave a brief update that the Union County Governance Committee was proposing seven County Commissioners (four through Districts and three At Large). This issue may be on the ballot for 2010.

Mayor Pro Tem Barry moved to approve R-2010-04:

**TOWN OF WEDDINGTON  
RESOLUTION TO ADOPT LEGISLATIVE POSITIONS FOR THE 2010 SHORT SESSION OF  
THE NORTH CAROLINA GENERAL ASSEMBLY  
R-2010-04**

**THAT WHEREAS**, the clerks, managers, and other staff of Union County, North Carolina and Union County Municipalities met and developed a list of legislative positions for Union County local governments for the 2010 Short Session of the North Carolina General Assembly, and

**WHEREAS**, after discussion with county and municipal elected officials, the list of legislative positions include the following:

**WHEREAS**, the list included the proposed legislative positions:

- Collective Bargaining – Oppose any efforts to allow collective bargaining for public sector employees, to include payment of union dues by payroll deduction.
- Transportation Infrastructure Funding – Protect all state collected locally shared revenues collected for transportation purposes. Oppose adding additional requirements or responsibilities to municipalities and counties for transportation funding and maintenance.
- Mental Health – Continue to protect state resources for the provision of Mental Health, Developmental Disability, and Substance Abuse Services, particularly for local crisis services, that are available to all State citizens.
- State Budget – Recognize that Municipalities and Counties are under the same budget pressures that face the State Budget, and to oppose any actions to reduce state collected locally shared revenues for local governments.
- Diverse Funding for Local Governments – Authorize Local Governments to utilize various methods of funding in addition to the property tax, and to protect authorized sources of revenue. Specifically protect local revenues from ABC sales, and protect local privilege license tax revenues.
- Monroe Bypass Funding – Protect funding sources and appropriations for the planned Monroe Bypass Project.

- Annexation – Support municipal authority to annex, recognizing that some changes to municipal annexation authority are warranted.
- Moratoriums – Oppose legislation that would make it more difficult for local governments to enact moratoriums.
- Union County Commission Governance – Ask State elected leaders to respect the local process established by the Union County Commissioners to determine the composition, terms, and governance style of the Union County Board of Commissioners.

**NOW, THEREFORE, BE IT RESOLVED** that the Town of Weddington hereby adopts this list as our legislative positions for the 2010 Short Session of the North Carolina General Assembly.

**BE IT FURTHER RESOLVED** that a copy of this Resolution be forwarded to the other municipal governments in Union County, to the Clerk to the Board of Union County, to Governor Beverly Perdue, and to the members of the Union County Legislative Delegation.

Adopted this 14<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

**B. Discussion of Weddington Corners Shopping Center Transportation Improvement Plan.** Mayor Anderson stated, “I am the MUMPO representative and deal with NCDOT on behalf of the Town. I needed to talk with the Town Council about this after the motion carried to dismantle the Downtown Core Committee that left us with some items that we needed to take care of. I believe that it was stated that we as a Council would make those decisions dealing with the ingress and egress into the current shopping center. I have told Barry Moose that I would try to have something to him within the next two to three weeks. We have fought for a very long time to have a seat at the table in planning our roads. We spent a lot of time and money on our own transportation plan with the coordination of three other municipalities. Unless we collectively as a group decide something to present to DOT then they are going to bring the bulldozers in and do what they want. I believe that we do want to have a voice at the table. We are not going to discuss location tonight. I would like to have another councilmember draft something up with me and then I would present to the entire council. Town Planner Cook would be our staff person on that.”

Councilmember Thomisser – Mayor, as a member of MUMPO, I believe that you need to be involved.

Mayor Pro Tem Barry - I will do if no one else volunteers.

Attorney Fox – I do not know where this is going to end up but if it ends up as an amendment to the Conditional Use Permit for the shopping center, it will come back to you for approval so that could be problematic.

Mayor Anderson - This will be our recommendation to NCDOT then they will come to us. We need to have some consensus and input.

There was discussion regarding the location of a boundary road for the Weddington Activity Center and the access road at the back of the shopping center.

Mayor Anderson - We were hoping the land use and the transportation plan would go together. We have put aside the Land Use Plan but we do need to have some dialogue with NCDOT about how the Town would like to see this access.

Attorney Fox expressed concerns that the Council not participate with this process because it may be a conflict in the future.

Mayor Anderson expressed her frustration with the Council possibly not being able to help plan the best ingress and egress from the shopping center and questioned how the Town Council was involved with the proposed Downtown Core Plan that could have required an amendment to the shopping center Conditional Use Permit and asked Attorney Fox to help the Council find a way to make it work.

Attorney Fox - Your staff has the ability to participate in the process of working on the location of the road even if it is affecting a Conditional Use Permit process. My preference would be that no one on this board serve on the committee because you are going to vote on the matter. I do not think you want to give up your voting ability.

Mayor Pro Tem Barry - Do you want to ask anyone like L.A. Smith or Tommy Price to work on this with staff?

Attorney Fox - The farthest we can get away with the Town Council not having input on the design then we are better off. We are a small town and we cannot create a sterile environment. We have to at least go as far as possible to protect the integrity of the process so when you are sitting here you are not voting on something that you designed. One option may be to have a member of council on a committee with the Town Planner to develop this process. That committee member needs to be prepared to disclose at the Conditional Use Permit hearing their participation and then I would think that the applicant would not object to that person participating in the hearing.

Councilmember McKee – Mayor Anderson work with Mr. Cook to come up with a plan and if there comes a point where you have to back out then you will have to. You have spent a lot of time and effort. You should be involved in the process.

Mayor Anderson - I would be happy to but I do not think that I have a lot of confidence to accurately reflect your views because I believe that they are different than mine.

#### **Item No. 5. New Business.**

**A. Consideration of Amendment to the Town Council Rules of Procedure – Rule 8. Public Address to the Council.** The Town Council received a copy of Rule #8 from the Town Council Rules of Procedure:

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

Any individual or group who wishes to address the council may do so at the time designated for public comment at each regularly scheduled meeting.

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

**COMMENT:** The council may decide as a matter of general policy to set aside part of each meeting for individuals or groups to address the council.

Mayor Pro Tem Barry - We had at our last Town Council Meeting a request to consider increasing our public comment period from two minutes to three minutes. I move that we increase the Public Comment Period from two minutes to three minutes and reflect that change in our Rules of Procedures.

Councilmember Thomisser - The Union County Board of Commissioners allows three minutes and I have been addressing the Town Council here in the past and it is very difficult to express your entire thoughts in two minutes.

All were in favor, with votes recorded as follows:

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

**B. Discussion and Consideration of Recognition of Downtown Development Committee.**

Councilmember Thomisser moved that Weddington Town Council under Mayor Anderson's signature send each member of the Downtown Development Committee a letter of appreciation for their effort and time spent as committee members on the Downtown Core Plan.

Mayor Anderson - I think that is considerate and something that should have already been done but I will for the record state your actions have spoken louder than your words. I do appreciate the retroactive acknowledgment of the committee that put in so many hours. We begged for public input and we asked a lot from our citizens and asked them to be engaged and it seemed disrespectful to them to end the way we did. I felt that we short circuited the process. Since this is your item, I would ask that you participate with Ms. McCollum on that.

The vote on Councilmember Thomisser's motion is as follows:

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

Town Administrator McCollum clarified for the record that it was earlier stated by the Mayor that the Downtown Committee had been dismantled which was not reflected in the motion made in December.

**Item No. 6. Update from Town Planner.** The Town Council received the following update from Town Planner Cook:

- The applicant for the Helms Property Conditional Zoning Rezoning and Land Use Amendment are currently working on finalizing water and sewer plans with Union County Public Works. This proposed rezoning and land use plan request will be on a Planning Board agenda when the water and sewer is finalized. The applicant has completed the two required Public Involvement Meetings.
- The Planning Board and Town Staff have determined that the LARTP Text Amendments should be considered for approval only after the LARTP Thoroughfare Plan is added to MUMPO's Comprehensive Transportation Plan (CTP) or Long Range Transportation Plan (LRTP). The LARTP was presented to the TCC on January 7<sup>th</sup> and will be presented to the Union County Board of Commissioners in March. The LARTP Thoroughfare Plan will then be presented to the TCC again for their endorsement. After the TCC has endorsed the LARTP, it will be added to the CTP and then added to LRTP next year.

- The Carolina Thread Trail Kick-Off meeting was held on December 10, 2009 to discuss the project overview, planning process, goals and expectation and next steps. At the next Carolina Thread Trail meeting the Steering Committee reviewed the RFP's from ten consulting firms. The consulting firm is paid for by grant money that Union County has already applied for. The selected consulting firm will develop a Thread Trail Master Plan.
- The Minor Subdivision Plat to create two lots from one 5.957 acre parcel located at 245 Weddington Road was approved at the December 21<sup>st</sup> Planning Board meeting.

**Item No. 7. Update from Town Administrator/Clerk.** The Town Council received the following update from Town Administrator/Clerk Amy McCollum

Staff is working with NCDOT on the following items:

- Installation of 25 MPH speed limit signs in several neighborhoods in Weddington at the request of the Weddington Deputies.
- Inquiry on when the island at Tilley Morris will be replaced.
- A meeting is scheduled for January 19 with Scott Buzzard and myself to meet with Rick Baucom and John Underwood regarding the cost to the Town of adding sleeves under the sidewalks on Providence Road and Highway 84 for future street lighting.

Staff is working with Councilmember Jerry McKee on several Town Hall maintenance issues.

We are trying to finalize the details of the 2010 Council Retreat. At this time the retreat will either be held in February or March at the Firethorne Country Club. Please start submitting agenda items that you would like discussed at this retreat. *Mayor Anderson and Mayor Pro Tem Barry agreed to work with the Clerk on this item.*

The Town Hall will be closed on Monday, January 18, 2010 in observance of Martin Luther King, Jr. Day.

I will be attending a conference on January 19 through 22 in Chapel Hill as part of my continuing education through the School of Government. One of the topics includes discussion on the new Ethics Legislation and Ethics Code. Tonya Goodson will be attending January 20 for the New Clerk's School.

**Item No. 8. Public Safety Report.**

Mayor Anderson advised that the Council had received an invitation to the Awards Ceremony Banquet for the Providence VFD. She stated, "They are going to be acknowledging Chief Terry Byrum who is retiring from the Wesley Chapel VFD after 33 years of service."

Councilmembers Thomisser and Gilmartin will work with staff on getting an appropriate gift for Chief Byrum.

**Weddington Deputies – 319 Calls**

**Providence VFD**

Monthly Call Responses –

Union County –	Fire: 24	EMS: 16	Total: 40
Mecklenburg County -	Fire: 10	EMS: 0	Total: 10
Monthly Total:	50		

Monthly Training Hours-

Fire- (Total Hrs.): 273

In house: 104

On-Line: 169

EMS- 1

**Run Times:**

6A-12N: 20% 12n-6P: 34%

6P-12M: 34% 12M-6A: 12%

**Run Data:**

Avg. Turnout: 1 min. 30sec.

Avg. Response Time: 3 min. 24 sec.

Avg. On Scene Time: 16 min. 10 sec.

Avg. Members On Scene: 4.6 members

Providence VFD responded to the following significant events:

12/12/09 - 3750 Matthews-Weddington Road - MVA

12/17/09 - 4727 Homestead Place- Structure Fire

The Town Council also received the Income and Expense Budget Performance and Balance Sheet for the Providence VFD as of December 2009.

**Wesley Chapel VFD – 100 Calls**

**Item No. 9. Transportation Report.** Mayor Anderson reported that the Town did get the funding approved by the Department of Transportation for the light at Hemby and Beulah Church Roads. She stated, “We do not know when construction will start. If you will recall, the LARTP called for a traffic circle at the Tilley Morris Road intersection. I have asked our Town Planner to contact the adjoining property owners about donating the right-of-way which would move us way up on the list.”

**Item No. 10. Update from Finance Officer and Tax Collector.**

**A. Finance Officer’s Report.** The Town Council received the Revenue and Expenditure Statement and the Balance Sheet for 12/1/09 to 12/31/09.

**B. Tax Collector’s Report.** Monthly Report – December 2009

Adjust Under \$5.00	\$1.97
Interest Charges	\$106.13
Overpayment	\$(183.55)
Releases	\$(944.67)
Pay Interest & Penalties	\$(155.80)
Balance Adjustments*	\$181.53
Refunds	\$2,670.95
Taxes Collected:	
2009	\$(116,778.82)
2008	\$(663.06)
2007	\$(347.47)
2006	\$(23.27)
2005	\$(13.64)
As of December 31, 2009; the following taxes remain Outstanding:	
2001	\$9.18



2002	\$89.53
2003	\$210.27
2004	\$290.19
2005	\$343.54
2006	\$290.22
2007	\$1,648.07
2008	\$11,895.81
2009	\$148,366.90
Total Outstanding:	\$163,143.71

\* CSI distributing errors \$175.60 & \$5.93

The Town Council also received the Unpaid Balance Report by Receipt Number.

**Item No. 11. Council Comments.** There were no Council Comments.

**Item No. 12. Adjournment.** Mayor Pro Tem Barry moved to adjourn the January 14, 2010 Continued Town Council Meeting. All were in favor, with votes recorded as follows:

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

The meeting adjourned at 9:09 p.m.

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Nancy D. Anderson, Mayor

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Amy S. McCollum, Town Clerk