

Regular Session, November 19, 2012, 7:00 p.m.  
Catawba County Board of Commissioners

**Appointments**

Catawba County Youth Council 667 11/19/12

**Board of Commissioners**

2013 Meeting Schedule 681 11/19/12

**Finance**

Resolution authorizing the refinancing of a portion of the County's installment payment obligations 668 11/19/12

**Legal**

Amending Solid Waste Ordinance 671 11/19/12

**Ordinance**

Amendment to UDO – Economic Development Overlay (ED-O) 658 11/19/12

Amendment to UDO – Nonconforming Uses 661 11/19/12

Amendment to UDO – Setbacks within the Rural Preservation-Overlay (RP-O) 663 11/19/12

Amending Solid Waste Ordinance 671 11/19/12

**Presentation**

Mission of Mercy Dental Clinic 658 11/19/12

**Public Hearings**

Amendment to UDO – Economic Development Overlay (ED-O) 658 11/19/12

Amendment to UDO – Nonconforming Uses 661 11/19/12

Amendment to UDO – Setbacks within the Rural Preservation-Overlay (RP-O) 663 11/19/12

Individual Development Account (IDA) First-Time Homebuyer Program and Emergency Housing Repair Program 666 11/19/12

**Planning**

Amendment to UDO – Economic Development Overlay (ED-O) 658 11/19/12

Amendment to UDO – Nonconforming Uses 661 11/19/12

Amendment to UDO – Setbacks within the Rural Preservation-Overlay (RP-O) 663 11/19/12

Individual Development Account (IDA) First-Time Homebuyer Program and Emergency Housing Repair Program 666 11/19/12

**Resolutions**

Individual Development Account (IDA) First-Time Homebuyer Program and Emergency Housing Repair Program 666 11/19/12

Resolution authorizing the refinancing of a portion of the County's installment payment Obligations 668 11/19/12

2013 Meeting Schedule 681 11/19/12

**Solid Waste**

Amending Solid Waste Ordinance 671 11/19/12

The Catawba County Board of Commissioners met in regular session on Monday, November 19, 2012 at 7:00 p.m. in the Robert E. Hibbitts Meeting Room of the 1924 Courthouse, 30 North College Avenue, Newton, North Carolina.

Present were Chair Katherine W. Barnes and Commissioners Dan A. Hunsucker, Barbara G. Beatty and Randy Isenhower.

Vice-Chair Lynn M. Lail was present for the meeting through teleconferencing and had copies of all materials pertaining to the meeting.

Also present were County Manager J. Thomas Lundy, Assistant County Managers Dewey Harris and Mary Furtado, County Attorney Debra Bechtel, Assistant County Attorney Jodi Stewart and County Clerk Barbara Morris.

1. Chair Katherine W. Barnes called the meeting to order 7:00 p.m.
2. Commissioner Randy Isenhower led the Pledge of Allegiance to the Flag.
3. Commissioner Barbara Beatty offered the invocation.
4. Commissioner Dan Hunsucker made a motion to approve the minutes of the Board's Regular Meeting of November 5, 2012. The motion carried unanimously.
5. Recognition of Special Guests: Chair Barnes welcomed all present.
6. Public Comments for Items Not on the Agenda: None.
7. Presentations:  
Drs. Litaker and Hamilton reported on the success of the Mission of Mercy Free Adult Dental Clinic, which took place on July 27 and 28 and provided dental care to over 600 area residents who are without adequate dental care. Commissioner Beatty thanked these dentists for their efforts and other Board members joined in these thanks.
8. Public Hearings:  
Planner Chris Timberlake presented a request for the Board to conduct a public hearing to receive citizen comments and approve amendments to Section 44-436(b)(1) of the Catawba County Unified Development Ordinance (UDO), which reduces the Economic Development-Overlay (ED-O) to match the 321 Eco-Tech Development Plan boundaries adopted on July 11, 2011, and amend the County's Official Zoning Overlay Map. These amendments (a) alleviate redundant development regulations along NC Highway 127, and (b) remove those regulations from residential areas that have a low probability for future nonresidential development. Removal of the overlay will not make it easier for property to be zoned for commercial use.

The ED-O was created on the basis of the 321 Corridor District Plan boundary adopted in 1996. One of the purposes of the ED-O district is to preserve the character of the 321 Corridor through higher standards for nonresidential development. One of the Eco-Tech Development Plan's strategies called for reduction of the ED-O boundaries to match the new plan boundaries. Justification for reducing the original ED-O boundaries is based on the fact that the great majority of area on the east and west side of the 321 Corridor is developed and zoned residential. The ED-O does not affect the use of residential properties. The properties along Highway 127 to the northwest side of the corridor are within a Mixed Use Corridor-Overlay as well as the original ED-O boundaries, which are redundant restrictions. Reducing the ED-O boundaries would not remove the Highway 127 properties from the Mixed Use Corridor-Overlay.

The Planning Board held a public hearing on October 29, 2012, to consider the request. There were several questions from the public regarding the area of the overlay to be removed, how the Economic Development-Overlay affected residential property, and if removing the overlay would make it easier for property to be zoned for commercial use. There was also a concern about manufacturing and noise levels in the Sigmon Dairy Road area. One citizen commented that removing redundant regulations is reasonable. The Planning Board voted 8-0 to recommend that the Board of Commissioners adopt this amendment.

Chair Barnes opened the public hearing, noting it had been duly advertised. No one came forward to speak and Chair Barnes closed the public hearing. Commissioner Isenhower made a motion to approved the proposed amendments. The motion carried unanimously. The following ordinance applies:

**Ordinance No. 2012-15**

**BE IT ORDAINED that the Catawba County Code of Ordinances, Unified Development Ordinance, is hereby amended to read as follows:**

**Sec. 44-436 Economic Development Overlay (ED-O).**

*Purpose: The Economic Development Overlay District (ED-O) is designed to accomplish the following:*

- ◆ *Promote a sensitive conversion of farmland and vacant land to more urban uses.*
- ◆ *Support development that is compatible with and, whenever possible, enhances the visual attractiveness of the land.*
- ◆ *Promote well-planned, economically viable development of all types.*
- ◆ *Protect the environment by providing clean air, clean water and an appropriate mix of natural vegetation and wildlife.*
- ◆ *Encourage orderly and sensitive planned development, especially at the interchanges.*
- ◆ *Avoid uncoordinated, strip development patterns.*
- ◆ *Promote flexibility in individual site design including diversification in the location of structures, parking areas and other components.*
- ◆ *Encourage the efficient use of land to facilitate an economical arrangement of buildings, traffic circulation systems, land uses and utilities.*
- ◆ *Provide for more usable and suitably located recreation facilities and other public and common facilities that would not otherwise be provided under conventional land development procedures.*
- ◆ *Encourage high quality development.*
- ◆ *Ensure that adequate traffic capacity is available to serve proposed projects.*
- ◆ *Create an environment that supports opportunities for alternative residential development that consists of well-planned, affordable housing.*
- ◆ *Encourage cooperation between local governments concerning municipal growth and service extensions.*
- ◆ *Support mixed-use projects that enhance opportunities to work, shop, entertain and recreate on the same or adjacent sites.*
- ◆ *Enhance the economic, tax and employment base for the County.*

(a) *Plan consistency.* This section implements the land use recommendations of the U.S. 321 Corridor District Plan and the following small area plans:

- (1) Mtn. View
- (2) Startown
- (3) Catawba
- (4) St. Stephens/Oxford

(b) *Applicability.* The Economic Development Overlay (ED-O) shall apply to the following areas:

- (1) U.S. Hwy. 321 corridor, as depicted in the 321 Eco-Tech Development Plan adopted July 11, 2011; and
- (2) I-40 industrial corridor consisting of two strips of land with the first concentrated at Exit 138 at the Town of Catawba/Hwy. 10 interchange and the second including tracts of land north of the Conover/Claremont industrial areas. These areas are indicated as “business/light industrial park” and “industrial” in the Catawba and St. Stephens/Oxford small area plans, respectively. This area is referred to as the “I-40 corridor.”

(c) Development standards.

- (1) New residential subdivisions, existing and new single-family, site-built or manufactured homes and duplexes are exempt from the requirements of the ED-O district.

(2) Churches and existing commercial/office institutional/industrial uses or properties are exempt from the provisions of the ED-O district.

(3) With the exception of Subsection c. below, property being developed for nonresidential or multifamily uses:

a. In the Hwy. 321 corridor component of the ED-O must

1. Be rezoned to 321-ED(MX) or (I). Schools; public use facilities and public utility facilities are exempt from rezoning; and

2. Meet the regulations of the 321-Economic Development (321-ED) Special District, Sec. 44-446.

b. In the I-40 corridor component of the ED-O must:

1. Be rezoned to the applicable zoning district. Schools; public use facilities and public utility facilities are exempt from rezoning; and

2. Meet the regulations of the 321-Economic Development (321-ED) Special District, Sec. 44-446.

c. Special uses listed below are allowed within the ED-O and do not require a rezoning, but must comply with the procedures set forth in Sec. 44-328 and standards within Article VI for the specific use.

1. Airstrip;
2. Boardinghouse, rooming house and bed and breakfast;
3. Campgrounds;
4. Cemetery, human public;
5. Cemetery, pet;
6. Circus, carnival or fair;
7. Commercial nurseries/landscaping businesses;
8. Ham radio antenna;
9. Hospice house-residential facility;
10. Kennel;
11. Membership organizations;
12. Public service facilities;
13. Public use facilities;
14. Radio frequency test facility;
15. Recreational fish lake or pond;
16. Roadside stand, commercial; and
17. Telecommunications tower.

(Ord. No. 2008-17, 10/20/08)

This 19<sup>th</sup> day of November, 2012

b. Planning, Parks and Development Director Jacky Eubanks presented a request for the Board to conduct a public hearing to receive citizen comments and approve an amendment to Section 44-703(d)(1) of the UDO to eliminate the requirement that all non-conforming manufactured home parks comply with the following standards, to the extent feasible, within five years of the effective date of the UDO, which was February 6, 2007: installation of perimeter and road frontage landscaping and paving of all roads within manufactured homes parks including turnaround areas and speed bumps. This amendment was introduced because the requirements were not consistent with regulations for other types of nonconforming uses.

On March 18, 1996, the County adopted appearance criteria for manufactured homes and development standards (landscaping and paving) for any new manufactured home parks. As a result of the new appearance criteria, 25 manufactured home parks existing at that time became nonconforming. The 1996 standards did not require those existing manufactured home parks to come into compliance over any set period of time. For the next 11 years, manufactured home parks were treated like any other nonconforming use in the zoning ordinance.

When the UDO was adopted, Section 44-703(d)(1) required nonconforming manufactured home parks to make the improvements listed above within five years from the date on which the ordinance went into effect. These requirements differed from the regular treatment of other nonconforming uses. In 2007, when the new regulations went into effect, there were 23 remaining non-conforming parks. Of those 23 parks, 16 have not fully complied with the criteria listed above. All 23 parks are at least 17 years old and several have existed for more than 30 years. Several of the park owners have expressed an interest in closing down their parks over time and are not interested in expanding their facilities. Others have indicated that installing the improvements would create a financial hardship and hasten park closures.

Since the UDO was adopted, no additional manufactured home parks have been developed in the County. Only three conforming manufactured home parks were built between 1996 and 2007. If the current regulations are fully enforced, a significant number of renters, leasees and manufactured home owners would possibly have to relocate, creating a hardship due to the fact there are limited relocation options. Singlewide and doublewide manufactured homes meeting the County's appearance criteria are permitted in any manufactured home park.

Singlewide and doublewide manufactured homes not meeting the appearance criteria are permitted in any of the 23 nonconforming parks, but not in conforming parks (three parks established after March 18, 1996). Of the 23 nonconforming manufactured home parks, two are located in the Doublewide Manufactured Home-Overlay district. The overlay district is the only area where new parks (subject to rezoning, connection to public water, and development standards) can be established. By eliminating the criteria expressed above, nonconforming manufactured home parks would be treated similar to other nonconforming uses, which were "grandfathered" when the UDO was approved.

The current development/appearance standards (perimeter landscaping, public water connectivity, requirement of recreation/open space) for manufactured home parks exceed those of residential subdivisions. Adding further standards didn't seem beneficial as it added increased restrictions to a use that is in decline due to market conditions and the limitation of new location opportunities. The Planning Board held a public hearing on October 29, 2012. One person spoke in favor of the request. He shares ownership of a nonconforming park, and has made landscaping and paving improvements. He felt the amendment continues to provide options for those who reside in manufactured homes. The Planning Board voted 8-0 to recommend that the Board of Commissioners adopt this amendment.

Chair Barnes opened the public hearing, noting it had been duly advertised. No one came forward to speak. Commissioner Isenhower asked what event occurs to cause an existing, grandfathered park to cease to exist. Mr. Eubanks explained that it would cease when the last tenant left. Commissioner Hunsucker made a motion to approve these amendments. The motion carried unanimously. The following ordinance applies:

**Ordinance No. 2012-16**

**BE IT ORDAINED that the Catawba County Code of Ordinances, Unified Development Ordinance, is hereby amended to read as follows:**

**Sec. 44-703. Nonconforming uses.**

(a) *Applicability.* This Section applies to any characteristics of uses that were lawful when established, but that would be prohibited, regulated or restricted by this Article or a subsequent amendment, or no longer conform to any development standards established in this Chapter.

(b) *Change of use.* Any nonconforming use of structures may be changed to a use of equal or less intensity, subject to board of adjustment approval. Any change of use shall comply with Article V except in situations where the board of adjustment deems these improvements impractical due to necessary demolition of existing pavement or the configuration of existing structures. The board of adjustment may wave compliance with Article V for less intensive uses. In permitting a change of use the board of adjustment may also require appropriate conditions and safeguards in accord with this Article.

(c) Subdivisions with pre-existing or existing manufactured housing.

(1) Class A and B (doublewide/multi-section and singlewide) manufactured homes meeting appearance criteria are allowed on the following:

a. Vacant lots never occupied within an existing manufactured home subdivision. An existing manufactured home subdivision must meet all of the following:

**1. Platted and recorded prior to the adoption of this Chapter (February 6, 2007);**

2. Consist of three or more lots;

3. Had at least one manufactured home as of the effective date of this Chapter (February 6, 2007); and

4. Be located in or outside of the doublewide manufactured home overlay (DWMH-O) district.

b. Lots which were previously occupied as of February 28, 2005 within an existing manufactured home subdivision. An existing manufactured home subdivision must meet all of the following:

1. Consist of three or more lots; and

2. Be located in or outside of the doublewide manufactured home overlay (DWMH-O) district.

(2) Class D and E (doublewide/multi-section and singlewide) manufactured homes not meeting the appearance criteria, which were located within Catawba County as of March 18, 1996, are allowed on vacant lots within an existing manufactured home subdivision. An existing manufactured home subdivision must meet all of the following:

a. Approved on or before March 18, 1996;

b. Consist of three or more lots;

c. Had at least one manufactured home as of the date of this Chapter (February 6, 2007); and

d. Be located within the doublewide manufactured home overlay (DWMH-O) district.

(3) Underskirting requirement.

a. Class A and D (doublewide/multi-section) manufactured homes must be underskirted with material manufactured for this purpose in accordance with Sec. 44-432(f)(1) or (2).

b. Class B and E (singlewide) manufactured homes must have the entire perimeter of each home enclosed from the ground to the bottom of the structure with material manufactured for this purpose in accordance with standards set by the state regulations for manufactured/mobile homes. Examples of commonly recognized building materials suitable for use as underpinning include, but are not limited to, the following list: brick masonry, concrete block masonry; natural or synthetic stone masonry; or vinyl. Assemblies, products and materials manufactured expressly for the purpose of underpinning must be installed in accordance with the manufacturers' specifications.

(d) Manufactured home parks.

(1) If the operating permit should be revoked, or if the nonconforming park should cease operation for a period of 90 days, the park cannot reopen until it complies with all the standards of Sec. 44-447 and all other applicable state and local regulations.

(2) Parks operating as existing nonconforming uses are prohibited from expanding the land area of the park or the number of sites within the park.

(3) Class A and B (doublewide/multi-section and singlewide) manufactured homes meeting appearance criteria may be placed in a nonconforming manufactured home park.

(4) Class D and E (doublewide/multi-section and singlewide) manufactured homes not meeting appearance criteria which were located within Catawba County as of March 18, 1996, may be relocated to a

nonconforming manufactured home park approved on or before March 18, 1996, whether inside or outside the DWMH-O.

(5) Underskirting requirement.

a. Class B and E (singlewide) manufactured homes must be underskirted with material manufactured for this purpose in accordance with Sec. 44-703(c)(3)b. above.

b. Class A and D (doublewide/multi-section) manufactured homes must be underskirted with material manufactured for this purpose in accordance with Sec. 44-432(f)(2).

(e) *Replacement of nonconforming singlewide manufactured homes on individual lots.* A nonconforming singlewide manufactured home can be replaced with a Class A or B (doublewide/multi-section or singlewide) manufactured home meeting appearance criteria, a modular or stick-built home meeting building code. A singlewide manufactured home must be underskirted with material manufactured for this purpose in accordance with Sec. 44-703(c)(3)b. above.

(f) *Replacement of nonconforming doublewide/multi-section manufactured homes on individual lots.* A nonconforming doublewide/multi-section manufactured home can be replaced only with a Class A (doublewide/multi-section) manufactured home meeting the appearance criteria as required in Sec. 44-432, a modular or stick-built home meeting building code. A doublewide/multi-section manufactured home must be underskirted with material manufactured for this purpose in accordance with Sec. 44-432(f)(1) or (2).

This 19<sup>th</sup> day of November, 2012.

C. Planner Chris Timberlake presented a request for the Board to conduct a public hearing to receive citizen comments and approve an amendment to Section 44-435(8) of the UDO, which eliminates the following roads and/or portions thereof from the 100-foot front setback requirement within the Rural Preservation-Overlay (RP-O). .

- Startown Road (SR 1005) north of Settlemyre Bridge Road (SR 1165) to the County's planning jurisdiction and south of NC Highway 10 to U.S. Highway 321;
- Sigmon Dairy Road (SR 2013);
- Rome Jones Road (SR 2012);
- Hickory-Lincolnton Highway (SR 1008) north of Blackburn Bridge Road (SR 2021) to NC Highway 10;
- Sherrills Ford Road (SR 1848) from its intersection with Murray's Mill Road (SR 1003) to Slanting Bridge Road (SR 1844);
- Island Point Road (SR 1838) from its intersection with Sherrills Ford Road (SR 1848) to its terminus; and
- Beatty Road (SR 1842) from its intersection with Sherrills Ford Road (SR 1848) to its terminus.

This amendment reduced the front setback standard to the general setback along these seven roads, which are considerably developed, in zoning districts which provide for high density development and are served by public water.

One of the purposes of the RP-O was to protect the rural character and scenic viewshed corridors by requiring new construction to be setback 100 feet from the right-of-way. The front setback of the underlying zoning district would still apply.

Justification for removing the seven roads or road segments from the RP-O 100-foot setback requirement was based on 1) a significant pattern of development, shown by an average of 40% of the lots having structures within the 100-foot setback, compromising the rural character and scenic viewsheds; 2) all the roads recommended to be removed from the RP-O 100-foot setback, except for Sigmon Dairy Road, have water utilities installed to accommodate higher density; and 3) all roads recommended to be removed from the RP-O 100-foot setback are zoned R-20 (with a minimum lot size of 20,000 square feet, 1/2 acre) or R-30 (with a minimum lot size of 30,000 square feet, 1/3 acre) which promotes and encourages high and medium density development.

The Sherrills Ford Small Area Plan was the first to recommend preserving the rural corridor with setback buffers. Each of the additional six small area plans adopted a similar recommendation. No organized group outside the individual Small Area Plan Steering Committees promoted this strategy or participated in the drafting of language that eventually was included in the UDO.

The Planning Board held a public hearing on October 29, 2012, to consider this request. Three people spoke in favor of removing the overlay from the proposed roads to eliminate restrictions which could interfere with their ability to expand existing structures or build new structures. One of the three requested that the Board consider removal of the overlay from Highway 16 in addition to the seven proposed roads. Five people spoke in favor of keeping the overlay in place, with stated reasons including protecting rural character and that the setback offers additional buffer between existing development and roadway expansion. The Planning Board voted 6-2 to recommend that the Board of Commissioners amend the Official Zoning Overlay Map and Section 44-465(8) eliminating roads and portions thereof from the 100-foot front setback requirement within the Rural Preservation-Overlay, as submitted by staff. The Planning Board's motion also included extending the elimination of the RP-O along NC 16 South and Blackburn Bridge Road.

Individual notices were mailed to all property owners potentially impacted by rezoning requests, as required by North Carolina General Statutes as well as the UDO. The original notification to property owners for this public hearing did not include notice to those owners who would be affected by removal of NC 16 South and Blackburn Bridge Road. Staff requested that the Board of Commissioners consider the seven roads originally advertised and notified, based on Planning and Legal staff's concern about property owners along NC Highway 16 and Blackburn Bridge Road not receiving appropriate notice of the proposed amendment as well as uncertainty surrounding the impact of future widening of Highway 16 South from Tower Road to Claremont Road. Final design of the roadway by the North Carolina Department of Transportation is anticipated to be completed in the spring of 2013. Right-of-way acquisition is scheduled to begin in May 2013 and construction will begin in August 2015. Once the final design for Highway 16 South has been approved, staff will be in a better position to determine impacts of the RP-O 100 foot setbacks on future development. At that time, staff would revisit the issue of removing Highway 16 South and Blackburn Bridge Road from the RP-O.

Chair Barnes opened the public hearing, noting it had been duly advertised. No one came forward to speak and Chair Barnes closed the public hearing. Chair Barnes asked if Assistant County Attorney Jodie Stewart had anything to add since she was present at the Planning Board Meeting. Ms. Stewart said Mr. Timberlake had covered the subject well. Commissioner Isenhower asked what had initiated the proposed change and Mr. Timberlake indicate the Planning Department had a number of requests since the UDO was adopted for homeowners to add to homes and the setbacks were restrictive. Commissioner Isenhower made a motion to approve these amendments and the motion carried unanimously. Commissioner Isenhower suggested the other two roads in question be looked at at some later time for such an amendment. The following ordinance applies:

**Ordinance No. 2012-17**

**BE IT ORDAINED that the Catawba County Code of Ordinances, Unified Development Ordinance, is hereby amended to read as follows:**

**Sec. 44-435. Rural Preservation Overlay (RP-O).**

*Purpose: The purpose of the Rural Preservation Overlay is to balance residential development with the rural qualities of a corridor. Specifically, the goals of the rural preservation overlay are to:*

*Preserve scenic vistas;*

*Limit the number of driveways along the corridor;*

*Provide a rural visual corridor with homes setback from the roadway;*

*Protect resource areas along the corridor through a cluster subdivision design; and*

*Preserve rural character for potential scenic byway roadways*

- (a) *Plan consistency.* This section implements the land use recommendations of the Startown Small Area Plan.
- (b) *Setback requirement.*

(1) All structures within a new residential subdivision (family, minor and major) and new non-residential development must be located outside a 100-foot setback abutting one of the streets set out in (8) below.

(2) In lieu of the 100-foot setback, one of the following must be provided for new residential subdivisions located in the RP-O:

a. If 500 feet of road frontage is available, a 50-foot setback containing a 30-foot wide berm with accompanying landscaping along all existing external road frontage; or

b. If 500 feet of road frontage is available, a 50-foot setback containing a 30-foot wide landscaped strip containing a solid landscaped screen along all existing external road frontage. The landscaped strip would contain a combination of trees, shrubs and ground cover (grass, mulch, etc.), either in a straight line or off-set, to cover a 30-foot wide area.

(3) For existing vacant lots of record fronting one of the streets set out in (8) below, the 100-foot setback requirement for principal structures, must be met if land area is available that can accommodate the house, septic system and well or non-residential structure(s). If the required setback cannot be achieved, then the average setback of the surrounding housing units or non-residential development should be utilized in order to obtain uniformity; however, in no case can the minimum front yard setback be less than 30 feet or the minimum setback for the corresponding non-residential district. Existing vacant lots of record on internal subdivision roads within the RP-O must meet a minimum 30-foot front setback. Appeals to the setback requirement can be made to the Board of Adjustment in accordance with Sec. 44-202.

(4) Additions to non-conforming principal structures within the RP-O are permitted provided they do not extend beyond the front building line.

(5) Non-enclosed additions (decks, porches, patios, etc.) to principal structures are allowed to extend into the front setback based on the average setback of the surrounding principal structures within 1,320 feet (1/4 mile) measured along both sides and directions of the street frontage.

(6) In no case can the minimum front setback be less than 30 feet.

(7) For existing lots of record which have a permitted principal structure, accessory structures are permitted provided they do not extend beyond the front building line of the principal structure.

(8) The setback provisions of this Section apply to both sides of the following roads:

a. Blackburn Bridge Road (SR 2021);

b. NC Hwy. 16 South from the planning jurisdiction of the City of Newton to and including the intersection of NC Hwy. 16 South Bypass and existing NC Hwy. 16 South at Tower Road (SR1895); and

c. Intersection of NC Hwy. 16 South Bypass and existing NC Hwy. 16 South at Tower Road (SR 1895) along the bypass to the Lincoln County Line.

(Ord. No 2009-12, 11/16/09; Ord. No. 2012-04, 2/20/2012)

This 19<sup>th</sup> day of November, 2012

d. Planning, Parks and Development Director Jacky Eubanks presented a request for the Board to conduct a second public hearing to receive citizen comments and approve the application to the North Carolina Division of Community Assistance for Catalyst Grant funds for the 2012 cycle for the Individual Development Account (IDA) Unifour First-Time Homebuyer Program and Emergency Housing Repair Program, along with all corresponding documents, and adopted an Authorizing Resolution and Certification, a Sub-recipient Agreement between Catawba County and the Western Piedmont Council of Governments (WPCOG) allowing the WPCOG to conduct classes for participants receiving grant funds, and a Distribution Plan for the Emergency Housing Repair Program.

Catawba County is applying for a \$225,000 Catalyst grant through the North Carolina Department of Commerce, Division of Community Assistance for the 2012 cycle, which will consist of two components. This grant allows a local government to apply for different components. The two that have been selected are: Individual Development Account (IDA) Unifour First-Time Homebuyer Program Grant and the Emergency Repair Housing Program. The first component of this grant is the IDA program, for \$70,000, in which the County will be the lead entity for the next three years for this program. These funds will be used for down payment assistance (\$1,000 per person) for 30 clients who are to be low to moderate income persons and will be selected for the IDA class and approved to purchase a home. These clients will also use the Unifour Consortium First-Time Homebuyer Assistance Program Funds of \$5,000 for an existing home, and \$7,500 for a newly constructed home in the Greater Hickory Metro area, to purchase their home.

The second component is an Emergency Housing Repair Grant for \$155,000 which will be used to provide emergency repair housing funds up to \$5,000 for up to 30 homes of very low- and low-income homeowners located in Catawba County. Types of repairs that can be completed are handicap accessibility, roofs, floors, heating systems, etc.

Chair Barnes opened the public hearing, noting it had been duly advertised. No one came forward to speak. Chair Barnes closed the public hearing. Commissioner Beatty made a motion to approve the application. The motion carried unanimously. The following resolution applies:

CATAWBA COUNTY  
AUTHORIZING RESOLUTION AND CERTIFICATION  
2012 COMMUNITY DEVELOPMENT BLOCK GRANT CATALYST  
IDA/EMERGENCY HOUSING REPAIR PROGRAM

WHEREAS, various State and Federal agencies provide for funds to municipalities to meet the needs of local governments in financing the cost of Community Development; and

WHEREAS, the Division of Community Assistance is the State administering agency for the Community Development Block Grant Program (Catalyst) whose funds are to assist low and moderate income residents purchase their first home; and designed to improve the housing conditions of very low-income households with incomes at or below 50% of area median income; and

WHEREAS, the Catawba County Board of Commissioners has solicited and received citizen input regarding the Community Development Block Grant Catalyst Regional Individual Development Account project for up to (30) homeowners and emergency housing repair for up to (30) households as part of the grant; and

NOW, THEREFORE, BE IT RESOLVED BY THE CATAWBA COUNTY BOARD OF COMMISSIONERS:

That Catawba County is applying for \$225,000 in Community Development Block Grant (CDBG) Catalyst program funds to assist (30) homeowners with the IDA program (\$70,000) and (30) homeowners with emergency housing repair program (\$155,000).

That Catawba County will substantially comply with all Federal, State and local laws, rules, regulations and ordinances pertaining to the project and to Federal and State grants pertaining thereto.

That, Katherine W. Barnes, Chair of the Catawba County Board of Commissioners, and successors so titled is hereby authorized to develop, execute and file an application on behalf of the Catawba County to appropriate Federal and State agencies to secure funds for the Community Development Block Grant Project Catalyst Program.

That, Katherine W. Barnes, Chair of the Catawba County Commissioners, and successors so titled is hereby authorized and directed to furnish such information as the appropriate governmental agencies may request in connection with such applications for the project; to make the assurances and certifications as contained above; and to execute such other documents as may be required in connection with the construction of the project.

That this resolution shall take effect immediately upon its adoption.

Adopted this, the 19th day of November, 2012 at Newton, Catawba County, North Carolina by \_\_\_\_\_ vote of the Board of Commissioners upon a motion by \_\_\_\_\_.

\_\_\_\_\_  
Clerk to the Board of Commissioners

\_\_\_\_\_  
Katherine W. Barnes  
Chair

9. Appointments:  
Upon the recommendation of Chair Barnes, the Board unanimously approved the following appointments and reappointments to the Catawba County Youth Council:

**Reappointments:**

Andrew Beard (Bandys HS)  
Darby Monsam (Bandys HS)  
Sophia Sharp (4-H Rep)  
Ashley Bright-Smith (Maiden HS)  
Isaiah Henderson (Maiden HS)  
Mia Gore (Fred T. Foard HS)  
Kaitlin Winn (Fred T. Foard HS/Lenoir Rhyne Scholars)  
Jeffrey Young (Boy Scout Rep)  
Meghan Greene (St. Stephens HS)  
Anna Taylor (St. Stephens HS)  
Thomas Hill (Challenger High)  
Alexander Purut (Discovery HS/Lenoir Rhyne Scholars)  
Sarahi Robles (Newton-Conover HS)  
Taylor Thompson (Newton-Conover HS)  
Anne Orgain (Hickory High)  
Shaquille Smith (Hickory Career Art Magnet)

**Appointments**

Roxie Stafford (Home School)  
Yissett Mercedes (Hickory Career Art Magnet)  
Leigha Williamson (Bandys HS)  
Brooke Randall (Bandys HS)  
Chipper Drum (Newton-Conover HS)  
Zachary Duncan (Newton-Conover HS)  
Candace Silva (Newton-Conover HS)  
John Battiston (Hickory Christian)  
Jordan Howard (Hickory Christian)  
Stephen Bechtel (Discovery HS)  
Kasey Boger (Fred T. Foard)  
Luigi Lopez (Fred T. Foard)

10. Departmental Reports:  
A. Finance:  
Finance Director Rodney Miller presented a request for the Board to adopt a resolution authorizing the refinancing of a portion of the County's installment payment obligations, up to \$11.5 million. Local governments in North Carolina are allowed to refinance existing debt to take advantage of lower interest rates subject to certain restrictions. One of those restrictions is that the North Carolina Local Government Commission (LGC), a division of the State Treasurer's Office, approves the transaction. The LGC requires a Net Present Value savings of at least 3% in order to begin the refunding process.

With interest rates remaining at historic lows, staff has determined that the County's 2005 Certificates Of Participation (COPs) transaction may be refinanced at current interest rates to achieve approximately 7.9% net present value savings, amounting to more than \$850,000 in savings over the next thirteen years. That amount will fluctuate slightly as interest rates change between now and the sale date, which is expected for mid-December. Catawba County last refinanced its 2004 COPs in 2011, resulting in interest savings of more than \$2 million over seventeen years. Commissioner Isehower asked if this was the first time this debt had been refinanced and was it at a fixed rate. Mr. Miller firmed both these items. Commissioner Hunsucker made a motion to adopt the authorizing resolution. The motion carried unanimously. The following resolution applies:

Resolution 2012-12

**RESOLUTION OF THE COUNTY OF CATAWBA, NORTH CAROLINA APPROVING AN AMENDMENT TO AN INSTALLMENT FINANCING AGREEMENT TO PROVIDE FOR THE REFINANCING OF EXISTING COUNTY OBLIGATIONS**

*WHEREAS*, the County of Catawba, North Carolina (the "*County*") is a political subdivision validly existing under the Constitution, statutes and laws of the State (the "*State*");

*WHEREAS*, the County has the power, pursuant to the General Statutes of North Carolina, to (1) purchase real and personal property, (2) enter into installment purchase contracts to finance the purchase or improvement of real and personal property used, or to be used, for public purposes, and (3) grant a security interest in some or all of the property purchased or improved to secure repayment of the purchase price;

*WHEREAS*, the County has previously entered into an Installment Financing Agreement dated as of May 1, 2005 (the "*2005 Agreement*") with the Catawba County Public Facilities Financing Corporation (the "*Corporation*") in order to pay the capital costs to (1) construct an addition to the County's Justice Center to house jail cells and related facilities and (2) renovate and expand C.H. Tuttle Middle School for the Catawba County Board of Education (collectively, the "*Projects*") and provided a security interest in the County's Justice Center and the site on which it is located through a Deed of Trust dated as of May 1, 2005 (the "*2005 Deed of Trust*"), from the County to the deed of trust trustee named therein; and

*WHEREAS*, the Board of Commissioners of the County of Catawba, North Carolina (the "*Board of Commissioners*"), determines that it is in the best interest of the County to enter into an amendment to the 2005 Agreement (the "*First Amendment*" and collectively with the 2005 Agreement, the "*Agreement*") with the Corporation to refinance a portion of its installment payment obligations under the 2005 Agreement;

*WHEREAS*, the Corporation will execute and deliver a Refunding Certificate of Participation, Series 2012, Evidencing the Proportionate and Undivided Interest in the Right to receive Installment Payments Pursuant to the 2005 Agreement (the "*2012 Certificate*") to provide the funds to refinance a portion of the County's installment payment obligations under the 2005 Agreement;

*WHEREAS*, PNC Bank, National Association has agreed to purchase the 2012 Certificate pursuant to a Purchase Agreement dated December 12, 2012 (the "*Purchase Agreement*") among the County, the Corporation and the Bank;

*WHEREAS*, the County has previously determined and hereby determines that the acquisition of the Projects was essential to the County's proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the Projects provide an essential use and permit the County to carry out public functions that it is authorized by law to perform; and that entering into the Agreement and Deed of Trust was necessary and expedient for the County by virtue of the findings presented herein;

*WHEREAS*, the County hereby determines that the First Amendment allows the County to refinance the Projects at a favorable interest rate currently available in the financial marketplace and on terms advantageous to the County;

*WHEREAS*, the County hereby determines that the cost of the refinancing of the Projects exceeds the amount that can be prudently raised from currently available appropriations, unappropriated fund balances and non-voted bonds that could be issued by the County in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State;

*WHEREAS*, although the cost of refinancing of the Projects pursuant to the Agreement is expected to exceed the cost of refinancing the Projects pursuant to a bond financing for the same undertaking, the County hereby determines that the cost of refinancing the Projects pursuant to the Agreement and the obligations of the County thereunder are preferable to a general obligation bond financing or revenue bond financing for several reasons, including but not limited to the following: (1) the cost of a special election necessary to approve a general obligation bond financing, as required by the laws of the State, would result in the expenditure of significant funds; (2) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of refinancing the Projects; and (3) insufficient revenues are produced by the Projects so as to permit a revenue bond financing;

*WHEREAS*, the County hereby determines that the estimated cost of refinancing the Projects pursuant to the Agreement reasonably compares with an estimate of similar costs under a bond financing for the same undertaking as a result of the findings delineated in the above preambles;

*WHEREAS*, the County does not anticipate a future property tax increase to pay installment payments falling due under the Agreement;

*WHEREAS*, no deficiency judgment may be rendered against the County in any action for its breach of the Agreement, and the taxing power of the County is not and may not be pledged in any way directly or indirectly or contingently to secure any moneys due under the Agreement;

*WHEREAS*, the County is not in default under any of its debt service obligations;

*WHEREAS*, the County's budget process and Annual Budget Ordinance are in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the County has conformed with generally accepted accounting principles as applied to governmental units in preparing its Annual Budget ordinance;

*WHEREAS*, past audit reports of the County indicate that its debt management and contract obligation payment policies have been carried out in strict compliance with the law, and the County has not been censured by the North Carolina Local Government Commission (the "LGC"), external auditors or any other regulatory agencies in connection with such debt management and contract obligation payment policies;

*WHEREAS*, a public hearing on the 2005 Agreement and the Projects after publication of a notice with respect to such public hearing was held by the Board on February 21, 2005; and

*WHEREAS*, there have been described to the Board of Commissioners forms of the First Amendment, the Purchase Agreement and an Escrow Agreement to be dated as of December 1, 2012 (the "*Escrow Agreement*," and together with the First Amendment, the "*Instruments*") between the County and U.S. Bank National Association, as escrow agent, copies of which have been made available to the Board of Commissioners, which the Board of Commissioners proposes to approve, enter into and deliver to effectuate the proposed refinancing;

*WHEREAS*, it appears that the Instruments are in appropriate form and are appropriate instruments for the purposes intended;

*WHEREAS*, the County has filed an application to the LGC for approval of the First Amendment; and

*WHEREAS*, Parker Poe Adams & Bernstein LLP will serve as bond counsel and Stephens Inc. will serve as structuring agent (collectively, the "*Financing Team*") to the County;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF CATAWBA, NORTH CAROLINA, AS FOLLOWS:**

**Section 1. Ratification of Prior Actions.** That all actions of the County, the Chairman of the Board of Commissioners (the "*Chairman*"), the Clerk to the Board of Commissioners (the "*Clerk*"), the County Manager, the County Finance Director, the County Attorney and their respective designees, whether previously or hereinafter taken, in effectuating the proposed financing are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the First Amendment.

**Section 2. Authorization to Execute the First Amendment.** That the County approves the refinancing of a portion of its installment payment obligations under the 2005 Agreement in accordance with the terms of the First Amendment, which will be a valid, legal and binding obligation of the County in accordance with its terms. The form and content of the First Amendment shall be and the same hereby are in all respects authorized, approved and confirmed, and the Chairman, the Clerk and the County Manager and their respective designees, individually or collectively, shall be and they hereby are authorized, empowered and directed to execute and deliver the First Amendment, including necessary counterparts, in substantially the form and content presented to the Board of Commissioners, but with such changes, modifications, additions or deletions therein as to them seems necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the County's approval of any and all changes, modifications, additions or deletions therein from the form and content of the First Amendment presented to the Board of Commissioners, and that from and after the execution and delivery of the First Amendment, the Chairman, the Clerk, the County Manager and the County Finance Director, individually or collectively, are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the First Amendment as executed, including the on-going administration thereof.

**Section 3. Authorization to Execute the Escrow Agreement and Purchase Agreement.** That the form and content of the Escrow Agreement and the Purchase Agreement shall be and the same hereby are in all respects authorized, approved and confirmed, and the Chairman, the Clerk and the County Manager and their respective designees, individually or collectively, shall be and they hereby are authorized, empowered and directed to execute and deliver the Escrow Agreement and the Purchase Agreement, including necessary counterparts, in substantially the form and content presented to the Board of Commissioners, but with such changes, modifications, additions or deletions therein as to them seems necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the County's approval of any and all changes, modifications, additions or deletions therein from the form and content of the Escrow Agreement and the Purchase Agreement presented to the Board of Commissioners, and that from and after the execution and delivery of the Escrow Agreement and the Purchase Agreement, the Chairman, the Clerk, the County Manager and the County Finance Director, individually or collectively, are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Escrow Agreement and the Purchase Agreement as executed, including the on-going administration thereof.

**Section 4. County Representative.** That the Chairman, the County Manager and Finance Director, individually or collectively, are hereby designated as the County's Representative to act on behalf of the County in connection with the transaction contemplated by the First Amendment, and the Chairman, the County Manager and Finance Director, individually or collectively, are authorized to proceed with the refunding in accordance with the First Amendment and to seek opinions as a matter of law from the County Attorney, which County Attorney is authorized to furnish on behalf of the County, and opinions of law from such other attorneys for all documents contemplated hereby as required by law. The Chairman, the Clerk, the County Manager and the Finance Director of the County or their respective designees, individually or collectively, are hereby authorized, empowered and directed to do any and all other acts and to execute any and all other documents, which they, in their discretion, deem necessary and appropriate to consummate the transactions contemplated by the First Amendment or as they deem necessary or appropriate to implement and carry out the intent and purposes of this Resolution.

**Section 5. Financing Team.** The Financing Team is hereby approved.

**Section 6. Severability.** That if any section, phrase or provision of this Resolution is for any reason declared to be invalid, such declaration does not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

**Section 7. Repealer.** That all motions, orders, resolutions and parts thereof, in conflict herewith are hereby repealed.

**Section 8. Effective Date.** That this Resolution is effective on the date of its adoption.

**B. Legal:**

Assistant County Attorney Jodie Stewart presented a request for the Board to approve amendments to Chapter 32, Solid Waste Management, of the Catawba County Code of Ordinances. Chapter 32 of the Catawba County Code of Ordinances was adopted in 1995. This Chapter contains provisions for granting licenses to garbage collection and disposal companies; regulating the storage and accumulation of solid waste; and regulating the operation of landfills. Because of changes to State law, as well as daily enforcement of this Chapter, staff recommended the following: amend the definition of solid waste to include mobile homes or other dwellings in a state of decay and remove other definitions because they no longer apply to this Chapter; update sections pertaining to the license for the collection and disposal of solid waste to reflect current practices; remove sections that are covered by other sections of the Code, are regulated by the N.C. Division of Environmental and Natural Resources or fall under provisions of the North Carolina General Statutes, and update sections to reflect requirements under State law. Commissioner Isenhower made a motion to approve these amendments. The motion carried unanimously. The following ordinance applies:

**Ordinance No. 2012 –18**

**BE IT ORDAINED** that the Catawba County Code of Ordinance, Chapter 32, Solid Waste Management, is hereby amended in its entirety to read as follows:

**CHAPTER 32 SOLID WASTE MANAGEMENT**

**ARTICLE I. - IN GENERAL**

Sec. 32-1. - Definitions.

Sec. 32-2. - Exclusive collection.

Sec. 32-3. - Licenses.

Sec. 32-4. - Fees.

Sec. 32-5. - Collection and transportation of solid waste.

Sec. 32-6. - Storage, accumulation and disposal of garbage and solid waste.

Sec. 32-7. - Bond, insurance; license fee; transferability of license; jurisdiction of chapter.

Sec. 32-8. - Violations and penalties.

Sec. 32-9. - Reservation of rights.

Secs. 32-10 - 32-35. - Reserved.

**Sec. 32-1. - Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Beneficial fill* means fill material consisting only of inert debris limited to concrete, brick, concrete block, used pavement asphalt, uncontaminated soil, rock, and gravel. The fill activity involves no excavation, and the purpose of the fill is to improve land use potential. Construction and demolition debris and land-clearing debris are not beneficial fill material.

*Cell* means compacted solid waste completely enveloped by a compacted cover material.

*Construction and/or demolition debris* means solid waste resulting solely from construction, remodeling, repair or demolition operations on buildings or other structures, but does not include inert, land-clearing or yard trash debris. Roofing shingles are considered construction or demolition debris.

*Demolition debris* means solid waste resulting solely from demolition of buildings or other structures, but does not include inert, land-clearing or yard trash debris. Roofing shingles are considered demolition debris.

*Disposal* means discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

*Division* means the director of the division of solid waste management or the director's authorized representative.

*Division of solid waste management* means the state department of environment, health, and natural resources, solid waste management division, solid waste section.

*Domesticated animal* means any of various animals, such as cats, dogs, cows, hogs, horses, sheep, etc., domesticated by man to live and breed in a tame condition.

*Garbage* means solid wastes, including vegetable matter, animal offal, carcasses of animals, and recognizable industrial byproducts, but excluding human body waste and animal manure. Used milk cartons or other discarded food containers are included in this definition.

*Hazardous waste* means a solid waste or combination of solid wastes which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may:

- (1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

*Health director* means the county health director or his duly authorized representative.

*Inert debris* means solid waste which consists solely of material that is virtually inert, such as brick, concrete, used pavement asphalt, rock, and clean soil, but does not include construction and demolition debris.

*Junk dealer* means any person who is licensed to operate a junkyard as specified in County Code Chapter 44 regulating junkyards and junk dealers.

*Land-clearing debris* means solid waste which is generated solely from land-clearing activities, such as stumps, trees, limbs, brush, grass and other naturally occurring vegetative material.

*Leachate* means any liquid, including any suspended components in liquid that has percolated through or drained from solid waste.

*Open burning* means any fire where the products of combustion are emitted directly into the outdoor atmosphere and are not directed through a stack or chimney, incinerator, or other similar devices.

*Open dump* means a solid waste disposal site that does not have a license and/or does not comply with the rules set forth in NCGS 130A-294, the state solid waste management program, or in this chapter; a consolidation of solid waste from one or more sources at an illegal disposal site which may have unsanitary conditions and little or no cover.

*Person* means any individual, firm, governmental unit, organization, partnership, corporation, company or other legal entity.

*Premises* means each single residential dwelling unit housed in a building used for residential purposes, or manufactured home, or a structure used for residential purposes on any property. The term "premises" also means each unit contained in any structure serving a separate owner, tenant, lessee, or used for any purpose other than residential.

*Sanitary landfill* means a method of disposing of solid waste on land in a sanitary manner without creating nuisances or hazards to public health or safety by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of compacted earth at the conclusion of each day's operation or at such more frequent intervals as may be necessary.

*Solid waste* means any hazardous or nonhazardous garbage, refuse; sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility; domestic sewage and sludge generated in a sanitary sewage collection, treatment and disposal systems; mobile homes or other dwellings in a state of decay, destruction, or extreme disrepair which appear to have been abandoned for residential purposes, including mobile homes that have been stripped or partially dismantled; and other material that is either discarded or being accumulated, stored or treated prior to being discarded or has served its original intended use and is generally discarded, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, institutional, commercial, and agricultural operations, and from community activities. The term does not include the following:

- (1) Fowl and animal fecal waste;
- (2) Solid or dissolved material in:
  - a. Domestic sewage and sludge generated in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluent to the surface waters.
  - b. Irrigation return flows means water which was artificially supplied for irrigation of land and has returned to a former place or state by reversed flow or negative pressure. Such water may contain chemicals or contaminants.
  - c. Wastewater discharges and the sludge generated by the treatment which are point sources subject to licenses granted under Section 402 of the Federal Water Pollution Control Act, as amended, and permits granted under NCGS 143-215.1 by the environmental management commission; except that any sludge that meets the criteria for hazardous waste under the Federal Resource Conservation and Recovery Act (PL 94-580), as amended, shall also be a solid waste for the purposes of this chapter.
- (3) Oils and other liquid hydrocarbons controlled under NCGS 143-215.75—143-215.104; except that any such oils or other liquid hydrocarbons that meet the criteria for hazardous waste under the Federal Resource Conservation and Recovery Act (PL 94-580), as amended, shall also be a solid waste for the purposes of this chapter;
- (4) Any radioactive material as defined by the North Carolina Radiation Protection Act, NCGS 104E-1—104E-23; or
- (5) Mining refuse covered by the North Carolina Mining Act, NCGS 74-46—74-68, and regulated by the state mining commission, as defined under NCGS 143B-190; except that any specific mining waste that meets the criteria for hazardous waste under the Federal Resource Conservation and Recovery Act (PL 94-580), as amended, shall also be a solid waste for the purposes of this chapter.

*Spoiled food* means any food which has been removed from sale by the United States Department of Agriculture, the state department of agriculture, the Food and Drug Administration, or any other regulatory agency having jurisdiction in determining that food is unfit for consumption.

*State* means the North Carolina Department of Environment and Natural Resources (NCDENR) or any other department that may be responsible for the enforcement of solid waste.

*White goods* means inoperative and discarded refrigerators, ranges, water heaters, freezers, ovens, dishwashers, and other similar domestic or commercial large appliances.

*Yard trash* means solid waste resulting from landscaping and yard maintenance such as brush, grass, tree limbs, and similar vegetative material.

*Yard waste* includes both yard trash and land-clearing debris, as defined in NCGS 130A-290, including stumps, limbs, leaves, grass, and untreated wood.

(Code 1995, § 505.01)

**Cross reference**— *Definitions generally, § 1-2.*

**Sec. 32-2. - Exclusive collection licenses.**

For the purpose of providing for proper collection, transportation, and disposal of solid waste within the county, the board of commissioners may create specific geographic areas where exclusive collection licenses may be granted.

(Code 1995, § 505.02)

**Sec. 32-3. – Licenses.**

(a) Pursuant to NCGS 153A-46 and 153A-136, the board of commissioners may grant a license to any person to engage in the collection and disposal of solid waste. The board may grant a license under this chapter for the exclusive right to collect, transport, and dispose of solid waste for compensation within the entire county or within specified areas of the county and may prohibit unauthorized persons from engaging in the same service within the area where the exclusive right has been granted. The license shall be displayed at the licensee's place of business.

(b) All applicants for a license to collect, transport, store, and dispose of solid waste and recyclable materials and own and operate a materials recovery facility shall file written application with the county manager on or before one year prior to the expiration of the existing franchise contract and shall furnish the following information:

- (1) The name and address of the applicant and the nature of the business entity with full disclosure of all ownership interests.
- (2) A list of the equipment possessed, available, or to be obtained by the applicant.
- (3) The number of employees the applicant expects to use in the operation of the business.
- (4) Previous experience of the applicant in solid waste collection, transport, disposal, and materials facility recovery management.
- (5) A balance sheet or equivalent financial statement prepared by a certified public accountant or other person satisfactory to the board of commissioners as of the close of the applicant's last business year, showing the net worth of the business. All such financial data submitted in compliance with the requirements of this subsection shall be confidential and shall not be regarded as public information.
- (6) Plan routes and areas of the county the applicant expects to serve.
- (7) The schedule of fees the applicant plans to charge.
- (8) Any other information the board of commissioners may request.

(c) If a license is withdrawn, surrendered, or a change is otherwise indicated by the parties or the operation of law, the board of commissioners reserves the right to review information, take application, and take the appropriate action on any other time schedule as is appropriate.

(d) The board of commissioners prefers a single franchise to provide all of the services stated in this section, including but not limited to collection, transportation, storage, and disposal of solid waste as well as management of a materials recovery facility, but reserves the right to enter into more than one franchise agreement with each element of the solid waste service, including but not limited to collection, transportation, storage, and disposal of solid waste as well as management of a materials recovery facility.

(e) Existing contracts shall be subject to a yearly review with the information designated in subsection (b) of this section being presented to the county manager upon his request at any time during the fiscal year when a franchise contract is in operation.

(f) The county manager may bring before the board of commissioners applications for licenses and/or a review of existing contracts to collect, transport, and dispose of solid waste and own and operate a materials

recovery facility at least six months prior to the expiration of an existing franchise agreement. The board of commissioners shall award an exclusive license for the collection of solid waste in each of the areas. The term of the license shall not exceed 30 years from the effective date and is renewable.

(g) The board of commissioners reserves the right to receive applications for licenses and the right to create additional areas out of any one or more of the areas previously designated. Applications must be filed with the county manager at least 90 days prior to the board meeting at which the application will be reviewed.

(h) The county manager may temporarily suspend any license granted if the licensee fails or is unable to properly perform the duties covered by the license and contract. The licensee may request in writing to the county manager a hearing before the board of commissioners in order that the licensee may justify why such license should not be revoked. Such requests shall be received by the county manager no later than ten calendar days following notice of license suspension. After hearing the appeal, the board of commissioners shall revoke or reinstate the license.

(i) If a license has been revoked pursuant to Section 32-3(h) or surrendered by the licensee, the county manager shall receive applications for the area involved. The board of commissioners may grant a license to an applicant at the expiration of the appeal process in Section 32-3(h). The license shall commence on the date of the meeting and end the subsequent June 30.

(j) The licensee shall serve every person who contracts with it for solid waste collection in such a manner that the licensee does not cause the person to be in violation of this chapter. The licensee shall not discriminate against any person for contract purposes in violation of the Civil Rights Act, as amended, on the basis of race, color, creed, religion, national origin, physical impairment, or sex.

(k) Before the county issues a license pursuant to this chapter, the county manager shall determine that all facilities, equipment, and proposed operating methods the applicant plans to use in the solid waste collection business are in compliance with this chapter and applicable regulations of the State.

(l) It shall be unlawful for any person to engage in the business of collecting, transporting, and disposing of solid waste, outside of any municipality, but within any of the areas in the county set out in this section, except under the authority in full force and effect given by a license as provided for in this section.

*(Code 1995, § 505.03)*

**Sec. 32-4. - Fees.**

(a) All residential, commercial, industrial, and special haul service rates imposed pursuant to this chapter shall be approved by the board of commissioners.

(b) The licensee shall be responsible for the collection of all fees for its services to be rendered to the citizens and customers within its assigned area.

(c) The licensee shall collect and the customer shall pay a monthly fee, approved by the board of commissioners, for roadside collection and disposal of solid waste and for collection of materials separated for recycling from the customer's premises at least once a week.

(d) The licensee shall provide special haul services to all persons within the county, at a rate approved by the board of commissioners.

(e) For additional services and for commercial customers, the customer and the licensee may enter into an agreement satisfactory to them as to fees and the services to be rendered. If a licensee and customer are unable to agree upon the special services to be rendered and the remuneration to be paid therefor, the board of commissioners will, upon application of either the licensee or the customer or both of them, mediate the dispute at a hearing of the matter at its next regular meeting subsequent to the expiration of not less than ten days after the applicant for a hearing has given the other party involved written notice of his intent to present the matter to the board or as soon after the expiration of the ten days as is convenient.

(f) Any change in any collection rates, whether it be residential, commercial, or special hauling, must be justified to the board of commissioners and approved by the board.

(g) The licensee shall serve all customers in the unincorporated areas of the County and within any territories if applicable, who request service. Services may be discontinued if a customer becomes in arrears in fees due the licensee for two months; however, the licensee shall resume services for the customer who becomes in arrears in fees upon receipt by the licensee of all fees in arrears, together with a fee in advance for the then-present month and for each subsequent month. New customers may be billed one month in advance of service.

*(Code 1995, § 505.04)*

**Sec. 32-5. - Collection and transportation of solid waste.**

(a) The licensee shall be responsible for the satisfactory collection and transportation of all solid waste to a Catawba County operated disposal site or facility.

(b) Vehicles or solid waste containers used by the licensee for the collection and transportation of garbage or refuse containing garbage shall be covered, leak-proof, durable and of easily cleanable construction. These shall be cleaned as often as necessary but not less than twice a year to prevent a nuisance or insect breeding and shall be maintained in good repair. The licensee shall have adequate solid waste containers and vehicle cleaning facilities. The licensee shall close all lids on solid waste containers after the containers are emptied and shall plug all drains in solid waste containers where required by local and state regulations. Vehicles shall display, in three-inch letters, the name and address of the hauler and the cubic yardage of the vehicles.

(c) Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak or spill and shall be adequately secured and/or covered to prevent spillage. Should spillage occur, the material shall be recovered immediately by the solid waste hauler and returned to the vehicle or container and the area properly cleaned.

(d) The licensee shall maintain in its employment a sufficient number of employees to adequately serve the area assigned to it and shall own and control sufficient equipment and machinery to perform the duties and services of collecting, transporting and disposing of the solid waste in the county.

(e) The licensee shall be responsible for actively campaigning for new customers by using all available sources and for working toward the goal of 100 percent collection in its designated area.

*(Code 1995, § 505.05)*

**Sec. 32-6. - Storage, accumulation and disposal of garbage and solid waste.**

(a) No owner, occupant, tenant, or lessee of any property shall deposit, store, or license to accumulate any garbage or solid waste upon such property that is not stored or disposed of in the following manner:

(1) It shall be unlawful for any person to store any garbage in any container that is not durable, rust-resistant, nonabsorbent, watertight, rodent-proof, and easily cleanable with a close-fitting, fly-tight cover in place with adequate handles or bails to facilitate handling, not to exceed a 35-gallon capacity, or other types of containers conforming to the intent of this chapter. It shall also be unlawful for any person to store garbage of a perishable or offensive nature for more than one week in any type of container.

(2) Solid waste or garbage shall not be deposited, stored, or licensed to accumulate on any property in such a manner that it will provide food or harborage for rodents and vermin or will create a fire or safety hazard.

(3) It shall be unlawful for any occupant of any dwelling or dwelling unit to place or leave outside of any building longer than 72 hours any dilapidated furniture, icebox, refrigerator, stove or other appliance,

machinery, equipment, building material, or other item which is either in a wholly or partially rusted, wrecked, junked, dismantled or inoperative condition, or which in the opinion of the health director constitutes a potential public health problem. This section shall not apply to a licensed junk dealer.

(4) It shall be unlawful for any person to leave outside of any building or dwelling, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind in which a child could get into. An acceptable alternative is to crate, strap, or lock the discarded container to such an extent that it is impossible for a child to obtain access.

(5) No person shall throw, dump, deposit or cause to be thrown, dumped, or deposited solid waste on property owned by the person, another person, or on any public highway, street or road; upon public parks or recreation areas; or upon any other public property except property specifically designated for that use.

(6) It shall be unlawful for any person to dispose of garbage or solid waste at any place other than in a manner approved by law. Acceptable means of solid waste disposal includes the following:

- a. Contracting with a county-licensed, franchised solid waste disposal service.
- b. Hauling garbage and solid waste to a public sanitary landfill site or designated county-owned solid waste convenience centers (residential waste only).
- c. Burning solid waste in an incinerator that has all required local, state, and federal air pollution control licenses.
- d. By any other method, including reclamation and recycling processes, that has been approved by the State.

(7) Where there are five or more premises located in a residential building or manufactured home park, it shall be the responsibility of the owner or person in charge of each building or manufactured home park to contract with the licensed, franchised solid waste disposal service and to pay for the regular collection of all garbage from each premises. It is the responsibility of the owner or person managing rental property to see that the residents dispose of their garbage in a lawful manner.

(b) Any landfill located in the county shall be operated according to rules and regulations providing standards for solid waste disposal adopted by the State, North Carolina Administrative Code (NCAC), Title 15A, Chapter 13, Solid Waste Management. The operational requirements for a sanitary landfill as outlined in the NCAC Title 15A, Chapter 13, Solid Waste Management, or as amended, are made a part of this chapter by reference.

(c) The sanitary landfill of the county may be used for the disposal of solid wastes by any person who is a resident of the county during regular hours of operation of the landfill. Solid wastes shall be disposed of at the landfill in the manner and according to the procedures required by the landfill superintendent. The following wastes may not be disposed of in the landfill:

- (1) Radioactive wastes.
- (2) Hazardous wastes.
- (3) Infectious wastes.
- (4) Wet sludge which has no presence of any free liquids in a representative sample of waste as determined by USEPA METHOD 9095B, PAINT FILTER LIQUIDS TEST and in compliance with 40 CFR 264.314 and 265.314.
- (5) Any solid waste that creates a difficult operational problem at the landfill.
- (6) Burning material.
- (7) Dead animals in large quantities.
- (8) Lead-acid batteries.
- (9) Used oil.
- (10) Yard trash, except in a container marked and designated for landfills qualified to accept such waste as described by the appropriate regulations promulgated by state waste management or other appropriate governmental entities.
- (11) White goods.
- (12) Antifreeze.
- (13) Beverage cans.

- (14) Liquid wastes.
- (15) Tires.
- (16) Construction and demolition wastes.
- (17) Infectious, hazardous, and radioactive wastes, which shall be disposed of according to written procedures approved by the State.
- (18) Motor vehicle oil filters.
- (19) Recyclable rigid plastic containers.
- (20) Wooden pallets.
- (21) Oyster Shells.
- (22) Discarded computer equipment.
- (23) Discarded televisions.
- (24) Any other material prohibited by state or federal law.

(d) A person operating or having operated an open dump for disposal of solid waste or a person who owns land on which such an open dump is or has been operating shall immediately close the site in accordance with the State, which is as follows:

(1) Implement effective vector control, including baiting for at least two weeks after closing, to prevent vector migration to adjacent properties.

(2) If the site is deemed suitable by the State, compact and cover existing solid waste in place with two feet or more of suitable compacted earth; a condition of closing the site by compacting and covering the waste in place shall be recordation of the waste disposal location by the property owner with the register of deeds in the county where the land lies. Copies of the recordation procedure may be obtained from and inspected at the State.

(3) If the site is deemed unsuitable by the State, remove and place solid waste in an approved disposal site or facility.

(4) Implement erosion control measures by grading and seeding.

(5) Prevent unauthorized entry to the site by means of gates, chains, berms, fences, and other security measures approved by the State and post signs indicating closure for a period designated by the State.

All persons failing to comply with this subsection (d) shall be guilty of a misdemeanor and punished in accordance with County Code Section 1-14 with each day that the violation continues to exist being considered a separate and distinct offense until the dumping site has been corrected as required.

(e) All persons using sanitary landfills or solid waste containers operated by the county shall abide by the rules and regulations governing their use, and a violation of such rules and regulations shall constitute a violation of this chapter and violators may be punished in accordance with County Code Section 1-14 in the discretion of the court with each day a violation continues to exist being considered a separate and distinct offense.

(f) No building shall be erected on any land where there has been or is currently any garbage or solid waste deposited until tests are made of the property showing there is no danger in the future of settling or explosion due to methane gas being formed from the solid waste that has been deposited.

(g) Any person collecting and transporting solid waste generated on his own property for disposal at an approved disposal site shall comply with County Code Section 32-5(c) concerning vehicles and containers.

(h) There shall be no open burning of solid waste or garbage by any person.

(i) Use of solid waste containers shall be in accordance with the following:

(1) Solid waste convenience centers are maintained at numerous sites throughout the county for the convenience of county residents on land owned or leased by the county. Solid wastes may be deposited in the solid waste convenience centers only in accordance with this chapter.

(2) All solid waste shall be deposited inside the solid waste convenience centers. No solid waste may be left at the solid waste disposal site outside the convenience center.

(3) Commercial, industrial, and institutional solid wastes may not be deposited in the county-owned solid waste convenience centers.

(4) The following wastes may not be deposited in solid waste containers:

- a. Radioactive wastes.
- b. Hazardous waste.
- c. Infectious wastes.
- d. Wet sludge which has no presence of any free liquids in a representative sample of waste as determined by USEPA METHOD 9095B, PAINT FILTER LIQUIDS TEST and in compliance with 40 CFR 264.314 and 265.314.
- e. Any solid waste that creates a difficult operational problem at the landfill.
- f. Burning material.
- g. Dead animals in large quantities.
- h. Lead-acid batteries.
- i. Used oil.
- j. Yard trash, except in a container marked and designated for landfills qualified to accept such waste as described by the appropriate regulations promulgated by state waste management or other appropriate governmental entities.
- k. White goods.
- l. Antifreeze.
- m. Beverage cans.
- n. Liquid wastes.
- o. Tires.
- p. Construction and demolition wastes.
- q. Infectious, hazardous, and radioactive wastes, which shall be disposed of according to written procedures approved by the State.
- r. Motor vehicle oil filters.
- s. Recyclable rigid plastic containers
- t. Wooden pallets
- u. Oyster Shells
- v. Discarded computer equipment
- w. Discarded televisions
- x. Any other material prohibited by state or federal law.

No person may remove any item from a solid waste container, climb on or into a container, damage, or willfully set fire to or attempt to set fire to contents of a container.

(j) Disposal of waste tires. The uncontrolled storage and/or disposal of waste tires presents a health and safety hazard. Tires are not suitable for burial in a sanitary landfill nor for burning in a municipal solid waste incinerator. All waste tires in the county must be delivered to a county landfill or other collection point designated by the landfill superintendent and deposited there to be transported to a tire disposal facility where they can be disposed of in an environmentally acceptable way. This subsection is not intended to prevent any individual, company, or other entity from developing an environmentally acceptable method for tire disposal. Any such proposal for an alternate disposal method shall be submitted to the department of utilities and engineering for review and final approval by the board of commissioners.

(k) Disposal of dead animals. It shall be the duty of the owner or person in charge of any domesticated animal which dies of any cause and the owner, lessee, or person in charge of any land upon which any domesticated animal dies to bury the animal to a depth of at least three feet beneath the surface of the ground within 24 hours after knowledge of the death of the domesticated animal or to otherwise dispose of the animal in a manner approved by the state veterinarian. It shall be a violation of NCGS 106-403 to bury any dead domesticated animal closer than 300 feet to any flowing stream or public body of water. Dead animals may be disposed of at the county landfill for a fee as prescribed by the board of commissioners,

Monday through Friday between the hours of 8:00 a.m. and 4:00 p.m. The state department of transportation (DOT) has jurisdiction over the disposal of any dead animal located on or within the state department of transportation's right-of-way. All costs incurred by a municipality or county in the removal of a dead domesticated animal shall be recoverable from the owner of such animal or from the owner, lessee, or person in charge of the land upon which the animal was illegally disposed and upon admission of ownership or conviction. The term "domesticated animal" as used in this subsection shall include poultry.

(Code 1995, § 505.06)

**Sec. 32-7. - Bond, insurance; license fee; transferability of license; jurisdiction of chapter.**

(a) The applicant, upon being awarded the right to collect and dispose of solid waste by the board of commissioners as provided for in this chapter, shall secure and present to the county manager a good and sufficient liability insurance policy covering and insuring the payment of such damages as may be done by the licensee to the premises or property upon which it may enter for the purpose of collecting or disposing of solid waste in an amount, not less than the amount the county carries upon itself, insuring the licensee and its employees from personal injury and property damages that may be occasioned by occupational hazards. Such policy shall contain a hold harmless clause indemnifying the county against claims made against the licensee.

(b) The licensee shall pay to the county annually a sum to be determined by the board of commissioners for the issuance of each license.

(c) No license existing or granted under this chapter shall be sold, assigned, pledged or transferred, nor shall control thereof be changed by stock transfer or otherwise or any rights leased, nor shall any merger or combination affecting the license be made through acquisition or control by stock purchase or otherwise, except after application for and written approval, which shall be given if justified by the facts then existing.

(d) Any and every license issued shall be subject to this chapter and as it may be amended from time to time, except any amendment that may be made from time to time affecting the duration of a license existing at the time of the enactment of the amendment. Any license transferred or assigned without the express written authority of the board of commissioners shall be void and of no effect, and any collection is in violation of this chapter.

(Code 1995, § 505.07)

**Sec. 32-8. - Violations and penalties.**

(a) *Criminal penalty.* Any person violating this chapter shall be guilty of a misdemeanor punishable in accordance with County Code Section 1-14.

(b) *Civil penalty.* Any person who is found in violation of this chapter shall be subject to a civil penalty of not more than \$500.00 as provided by NCGS 153A-123. Each day's violation shall be treated as a separate offense.

(c) *Equitable remedies.* This chapter may be enforced by equitable remedies in accordance with NCGS 153A-123 or 153A-140.

(Code 1995, § 505.08)

**Sec. 32-9. - Reservation of rights.**

The board of commissioners expressly reserves the right to require the source separation of materials from solid waste prior to collection of the solid waste for disposal and require participation in a recycling program which has been approved by the board of commissioners.

(Code 1995, § 505.09)

**Secs. 32-10—32-65. - Reserved.**

This the 19<sup>th</sup> day of November, 2012.

- 11. Other Items of Business:  
 Chair Barnes presented a proposed meeting schedule for 2013. Scheduling a first meeting in January is traditionally difficult because accompanying subcommittee meetings fall during the week between Christmas and New Year so there will only be one meeting in January on Tuesday, January 22, 2013. The first meeting in March falls during the National Association of Counties Legislative Conference so that meeting will be cancelled. The first meeting in July falls during the Fourth of July holiday week so that meeting will be cancelled. Budget hearings with departments are scheduled for Tuesday, May 28, 2013, with a public hearing and wrap-up on the budget to be held on Thursday, May 30, 2013, and budget adoption scheduled for the Board's June 3, 2013 meeting. The Board's annual breakfast meeting with Cooperative Extension Service staff is scheduled for Monday, December 2, 2013 at 8 a.m. Commissioner Beatty made a motion to approved the proposed meeting schedule. The motion carried unanimously. The following resolution applies:

RESOLUTION NO. 2012-  
 ADOPTING 2013 BOARD OF COMMISSIONERS MEETING SCHEDULE

WHEREAS, pursuant to Section 2-47 of the Catawba County Code, the regular meetings of the Catawba County Board of Commissioners shall be held as provided in a resolution adopted by the Board in a regularly scheduled meeting held not less than ten days prior to the first meeting to which the resolution is to apply. The Board will observe the holiday honoring Dr. Martin Luther King, Jr. by meeting on the Tuesday following such holiday.

NOW, THEREFORE, BE IT RESOLVED that the Catawba County Board of Commissioners adopts the following Meeting Schedule for 2013:

- January 22 – Tuesday, 7:00 p.m.
- February 4 – Monday, 9:30 a.m.
- February 18 – Monday, 7:00 p.m.
- March 18 – Monday, 7:00 p.m.
- April 1 – Monday, 9:30 a.m.
- April 15 – Monday, 7:00 p.m.
- May 6 – Monday, 9:30 a.m.
- May 20 – Monday, 7:00 p.m.
- May 28 – Tuesday, 8:00 a.m. – 5:00 p.m. Budget Hearings with Departments
- May 30 – Thursday, 7:00 p.m. Budget Public Hearing and Wrap-Up
- June 3 – Monday, 9:30 a.m. – Budget Adoption
- June 17 – Monday, 7:00 p.m.
- July 15 – Monday, 7:00 p.m.
- August 5 – Monday, 9:30 a.m.
- August 19 – Monday, 7:00 p.m.
- September 3 – Tuesday, 9:30 a.m.
- September 16 – Monday, 7:00 p.m.
- October 7 – Monday, 9:30 a.m.
- October 21 – Monday, 7:00 p.m.
- November 4 – Monday, 9:30 a.m.
- November 18 – Monday, 7:00 p.m.
- December 2 – Monday, 8:00-9:00 annual breakfast w/CES – Regular meeting 9:30 a.m.
- December 16 – Monday, 7:00 p.m.

This the \_\_\_\_\_ day of November, 2012

12. Attorney's Report: None.
13. Manager's Report: None.
14. Adjournment. Commissioner Hunsucker made a motion to adjourn at 8:15 p.m. The motion carried unanimously.

---

Katherine W. Barnes, Chair  
Catawba County Board of Commissioners

---

Barbara E. Morris  
County Clerk