

Minutes  
 Catawba County Board of Commissioners  
 Regular Session, Monday, July 17, 2006, 7:00 p.m.

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The Catawba County Board of Commissioners met in regular session on Monday, July 17, 2006 at 7:00 p.m. in the 1924 Courthouse, Robert E. Hibbitts Meeting Room, 30 North College Avenue, Newton, North Carolina.

Present were Chair Katherine W. Barnes, Vice-Chair Dan Hunsucker and Commissioners Glenn E. Barger, Lynn M. Lail and Barbara G. Beatty.

Also present were County Manager J. Thomas Lundy, Assistant County Manager Joellen Daley, County Attorney Debra Bechtel, Attorney Anne Marie Pease and County Clerk Barbara Morris.

1. Chair Katherine W. Barnes called the meeting to order at 7:00 p.m.
2. Commissioner Glenn E. Barger led the Pledge of Allegiance to the Flag.
3. Commissioner Lynn M. Lail offered the invocation.
4. Commissioner Glenn E. Barger made a motion to approve the minutes from the Budget Hearings with Departments on June 14 and 15, 2006 and the Regular Meeting of June 15, 2006. The motion carried unanimously.
5. Recognition of Special Guests: Chair Barnes welcomed all those present and recognized Commissioner-candidate Clem Geitner and noted that she, Glenn Barger and Lynn Lail were also candidates in the upcoming election.
6. Comments for Items not on the Agenda.  
 Brenda Huggins, a representative of Appalachian Voices, addressed the Board and requested that the Board adopt a resolution in support of the Clean Air Act. Appalachian Voices is a North Carolina-based regional non-profit group which supported the North Carolina Clean Smokestacks Act. As a result of passage of this Act, North Carolina has one of the strongest clean air laws in the nation. Ms. Huggins indicated that proposed rollbacks of existing federal clean air protection laws threaten to undermine the gains made in North Carolina. In the spring of 2005, nearly 80% of the North Carolina General Assembly signed a letter to North Carolina's representatives and senators in the US Congress that confirmed the importance of upholding national clean air laws. The letter asked senators and representatives to oppose any federal legislation that would weaken existing federal pollution standards and North Carolina's Clean Smokestacks Act. Since the threat of rollbacks still exists, concerned residents have been asking their local governments to help by passing resolutions calling on the US Congressional delegation from North Carolina to oppose any changes that would weaken existing clean air legislation. In response to this request, Commissioner Lynn Lail made a motion to adopt the following resolution to North Carolina's Congressional Delegation encouraging support for statewide effort to reduce harmful impacts of air pollution. The motion carried unanimously.

**Resolution to North Carolina's Congressional Delegation  
 Encouraging Support for Statewide Effort to Reduce Harmful Impacts of Air Pollution**

WHEREAS, clean air is vital to the health and well-being of all of North Carolina's citizens, especially our children and senior citizens; and

WHEREAS, the natural beauty of our mountains, coastal and forested landscapes is a source of pride and inspiration to the citizens of North Carolina and millions of other Americans who visit our state every year; and

WHEREAS, the health of our agriculture, forestry and tourism industries as well as our recreational and commercial fisheries are important to the economy of North Carolina; and

WHEREAS, air pollution degrades our scenery, harms our health, compromises our commercial and recreational fisheries, and damages our forests, creeks and farms; and

WHEREAS, in 2002, North Carolina's citizens, business leaders, electric utilities and elected officials established a clear, bipartisan, and nearly unanimous agreement to improve our air quality by passing the Clean Smokestacks Act; and

WHEREAS, this legislation will, by 2013, limit the harmful effects of air pollution from our coal-fired power plants by reducing emissions of nitrogen oxides and sulfur dioxides by roughly 78% and 73% respectively; and

WHEREAS, a large portion of North Carolina's air pollution originates from facilities operated by utilities in neighboring state that are not subject to our Clean Smokestacks Act; and

WHEREAS, bills may soon be considered by Congress that would relax utilities' requirements to reduce pollution that were set forth in the 1990 amendments to the federal Clean Air Act and that would also undermine North Carolina's legal authority to seek reductions in pollution that originates in upwind states; and

WHEREAS, relaxing the pollution standards for other states, particularly upwind states, only harms North Carolina's citizens, businesses and electric utilities and could jeopardize the progress our own state is making toward improving the quality of North Carolina's air; and

WHEREAS, all North Carolinians, included our elected members of Congress, should work together to uphold our Clean Smokestacks Act and reduce air pollution in our state.

NOW, THEREFORE BE IT RESOLVED, that the Board of Commissioners of Catawba County, North Carolina respectfully urges the honorable members of North Carolina's Congressional delegation to support the health, economy and environment of our county and state by working to reduce pollution that originates beyond our state's borders. The Board urges support for national legislation that would reduce pollution as quickly and to a similar extent as is required by our own Clean Smokestacks Act. The delegation is urged to oppose any legislation that would weaken pollution standards for neighboring states, as set forth in the Clean Air Act and its amendments of 1990, or that would undercut or delay North Carolina's authority to seek reductions in the portion of the state's pollution that originates in upwind states.

Adopted this \_\_\_\_ day of July, 2006.

Chair Barnes updated all those present on current developments in regard to air quality. She had been invited to attend a meeting with the EPA and had been able to voice the County's concern about changing the standards before there was actual implementation of the state and federal standards.

7. Presentations:

Chair Barnes joined Deputy Sheriff Coy Reid at the podium to present commendations and the President's Volunteer Service awards for work with the Catawba County Sheriff's Office. Mr. Howison was honored for 2540.5 hours of volunteer service to the Sheriff's Office in the past two years, while Mr. Neuen was honored for 4858 hours of volunteer service to the Sheriff's Office over the past three years.

8. Public Hearings:

Jacky Eubanks, Planning Director, presented a rezoning request to rezone two adjoining parcels from the R-2 Residential district to the C-2 Commercial district. The tracts are 2.08 acres and 1.1 acres in size for a total 3.18 acre request.

The properties are located on Bethel Church Road at the intersection of Bethel Church Road and S NC 127 Hwy in the Mountain View Small Area Planning District, Hickory Township. They are further identified as Parcel ID number 2791-18-40-1799 and 2791-18-40-3769 .

- North – Properties directly to the north are zoned C-2 Commercial and vacant. One parcel is zoned C-2 and developed with the Mtn. View Fire Department. Another is zoned C-2 and developed with the Mtn. View Market and the Mtn. View Bar-B-Q Restaurant. There are some larger vacant R-2 tracts to the north. The R-2 Residential district allows singlewide manufactured homes, doublewide manufactured homes, modular homes, stick-built single-family housing and two-family dwellings as permitted uses.
- East – Properties to the east, on the south side of Bethel Church Road, is zoned R-2 Residential and developed with some housing. The north side of Bethel Church is zoned C-2 Commercial and the immediate neighboring parcels are undeveloped. Other property to the east is zoned R-1 and R-2 Residential and is developed with residential neighborhoods mainly on the north side of Bethel Church Road.
- South – Properties to the south are zoned R-2 Residential and developed with large single use tracts.
- West – Neighboring properties to the west are zoned commercial. There is a small realty office and one parcel is developed with the Subby's sandwich shop. Other adjoining properties to the west are zoned C-2 Commercial and then become residential as you go along Hwy 127 south.

The C-2 commercial district is intended to provide land for the provision of convenience shops and specialty retail goods and business and personal services to the traveling public and the residents of neighborhoods. The C-2 district shall be located with direct access to arterial and collector streets.

Public water is available along Bethel Church Road. Connection requirements would be through the Utilities and Engineering Department.

The traffic counts along Bethel Church Road at the subject site were 1,500 Average Daily Trips (ADT). Bethel Church is designated as a major thoroughfare by the Hickory-Newton-Conover Urban Area Transportation Plan. Major thoroughfares are defined as primary traffic arteries of the urban area. Their purpose is to move traffic from city to city and within urban areas; therefore, strip development and multiple driveway access is to be discouraged.

The Board of Commissioners adopted the Mountain View Small Area Plan on October 21, 2002. This plan is the current Land Use Plan for this area. The Plan recommends a highway corridor along Hwy 127 at the Bethel Church Road intersection. The highway corridor would contain a mix of commercial, retail and office uses. The width of the Hwy 127 highway corridor would partially encompass the subject parcels along Bethel Church Road due to the proximity to the intersection. This request is in conformance with the current development pattern for this area.

The Planning Board conducted a public hearing on June 26, 2006. Several people addressed the Board in support of the request. No one present opposed the rezoning. The Planning Board concurred with the staff recommendation to support the request to rezone the property from the R-2 Residential district to the C-2 Commercial district based on:

- The Mountain View Small Area Plan recognizing this area as a future highway corridor district
- The commercial zoning of the neighboring properties
- The commercial uses of the neighboring properties

There were questions by the Commissioners if this property was in the Hickory ETJ but it was confirmed that was not.

Chair Barnes opened the public hearing. Hearing and seeing no one, Chair Barnes closed the public hearing. Commissioner Glenn Barger made a motion to approve the rezoning and the following ordinance. The motion carried unanimously.

**Ordinance No. 2006-**

**AMENDMENT TO THE CATAWBA COUNTY ZONING MAP**

**BE IT ORDAINED BY THE BOARD OF COMMISSIONERS**, that the Catawba County Official Zoning Atlas is hereby amended by rezoning the following described property from the R-2 Residential district to the C-2 Commercial district.

Two adjoining parcels from the R-2 Residential district to the C-2 Commercial district. The tracts are 2.08 acres and 1.1 acres in size for a total 3.18 acre request. The properties are located on Bethel Church Road at the intersection of Bethel Church Road and S NC 127 Hwy in the Mountain View Small Area Planning District, Hickory Township. They are further identified as Parcel ID number 2791-18-40-1799 and 2791-18-40-3769.

**PLAN CONSISTENCY STATEMENT:**

The Board of Commissions finds that the request is consistent with the land use patterns established in Mountain View Small Area Plan and is consistent with the comprehensive plan for Catawba County.

This the 17<sup>th</sup> day of July 2006.

9. Appointments:

Chair Barnes recommended the appointment of Gary Laws to the Catawba County Economic Development Corporation for a first term, the reappointment of Al Jean Bogle for a third term, James Gaither for a second term, Gregory Hayes for a fourth term, L. David Huffman for a fourth term and Floyd Lucas for a fourth term on the Criminal Partnership Advisory Board, the appointment Chip Blackwelder to the Hickory Regional Planning Commission for a first term, the reappointment of Helen Sides to the Salt Block Foundation for a second term and reappointed Larry Bowman and Commissioner Lynn Lail to the Future Forward Alliance Board for second terms. Commissioner Lynn Lail recommended the reappointment of Grace McLeod and Lucille Woodrum to the Nursing and Rest Home Community Advisory Committee for third terms and reappointment of Ed Neill for a second term and the appointment Scott Rhoney for a first term to the Catawba County Planning Board. Commissioner Lail nominated Chair Barnes as voting delegate for the NCACC Annual Conference. These recommendations came in the form of a motion. The motion carried unanimously.

10. Consent Agenda:

J. Thomas Lundy, County Manager, presented the following three items on the consent agenda:

a. A request to accept a bid for 48 eSlates at \$1,000 each for a total sale of \$48,000 and the adoption of the following resolution:

**RESOLUTION #**  
**DECLARATION OF SURPLUS PERSONAL PROPERTY AND**  
**AUTHORIZING THE SALE BY UPSET BID PROCEDURE**

WHEREAS, G.S. 160A-269 allows the Catawba County Board of Commissioners to sell personal property by the upset bid procedure, and

WHEREAS, the County has received an offer to purchase the property described above, in the amount of \$48,000 from San Patricio County, Texas; and

WHEREAS, San Patricio County has paid the required five percent (5%) deposit on its offer;

WHEREAS, the following Hart Intercivic voting equipment is no longer needed for any governmental use by Catawba County;

(48) e-Slates voting unit and booth combination

WHEREAS, the Catawba County Board of Commissioners accepts the offer of \$48,000 or any higher, upsetting offer, subject to the upset bid procedure;

THEREFORE, the Catawba County Board of Commissioners resolves that:

1. The Catawba County Board of Commissioners authorizes the sale of the property described above through the upset bid procedure of North Carolina General Statute 160A-269.
2. The Purchasing Agent shall cause a notice of the proposed sale to be published. The notice shall describe the property and the amount of the offer, and shall state the terms under which the offer may be upset.
3. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the Purchasing Agent within ten days after the notice of sale is published. At the conclusion of the ten-day period, the Purchasing Agent shall open the bids, if any, and the highest such bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.
4. If a qualifying higher bid is received, the Purchasing Agent shall cause a new notice of upset bid to be published, and shall continue to do so until a ten-day period has passed without any qualifying upset bid having been received.
5. A qualifying higher bid is one that raises the existing offer by not less than ten percent (10%) of the first \$1,000 of that offer and five percent (5%) of the remainder of that offer.
6. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent (5%) of the bid; the deposit may be made in cash, cashier's check, or certified check. The County will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset if a qualifying higher bid is received. The County will return the deposit of the final high bidder at closing.
7. The terms of the final sale are that: The buyer must pay with cash, cashier's check or certified check at the time of closing.
8. The County reserves the right to withdraw the property from sale at any time before the final high bid is accepted and the right to reject at any time all bids.
9. If no qualifying upset bid is received after the initial public notice, the offer set forth above is hereby accepted. The appropriate County officials are authorized to execute the instruments necessary to convey the property.

This the 17th day of July, 2006.

Mr. Lundy reminded the Board that last year the State would not allow use of the eSlates and the Board had declared them surplus and had accepted a bid from Knox County, TN some months ago which was \$100 a eSlate higher than this current bid. Staff recommends selling at this price as interest in the remaining equipment is decreasing. The funds from the sale will go into the general capital projects fund and after this sale of 48 eSlates, there are only 24 more eSlates to sell. Mr. Lundy said he had been in Maryville, TN in the previous week and they were kicking off their early voting and their headlines were about how wonderful the eSlates were and how easy they were to work with and the public to understand – which was exactly what Catawba County had said about the equipment.

b. A request for approval to submit a request to the State of North Carolina for another two year period of "Electing Status" for Catawba County's Temporary Assistance to Needy Families (Work First Program), and appoint a committee to assist in developing the plan. Catawba County's plan includes:

The Medical Initiative: Catawba County's plan enabled Work First staff to require the applicant to obtain medical information from a physician of the program's choosing when insufficient detail was available to determine the legitimacy of exclusion from the work requirement. This policy has been rendered unnecessary, as the State changed the mandatory medical form in order to obtain appropriate and sufficient information from the physician.

Job Quit: If a citizen quits a job without good cause, did not accept employment, or refused to work the available hours, the “electing” plan enabled Work First to sanction the family by removing the adults from the payment for a three-month period. This effort has worked, as there have been no citizens receiving Work First during the first year of “electing status” who met those three criteria. Prior to “electing status”, there were citizens from time to time who received the assistance while having quit employment.

Financial: The primary reason for pursuing “electing county status” in 2004 was the belief that there would be a financial benefit, or savings realized, from the Work First Cash Assistance that would be available locally rather than remaining with the State. Work First’s goal was to realize \$200,000 savings for the first year. That amount has been exceeded, and the available funds have allowed Social Services to function in the Reinventing Government environment by providing such services as adult protection, group care for foster children, TaxLink, school social work, adolescent pregnancy prevention, day care, etc. where insufficient federal, state, and county allocations were unavailable to support the level of need.

Work First had a highly successful year. One hundred and sixty-four participants became employed, and 62% of the cases were “caregiver”. Caregiver cases most often are grandchildren living with grandparents, or other relatives, where the normal Work First work requirements, etc. do not apply. Many of these cases are known to the Child Welfare system. Three hundred and thirty-two Catawba County citizens were diverted from welfare dependency by the Work First staff’s intervention, and amazingly only six able-bodied citizens have received Work First in excess of twelve months. General Statute 108A-27 requires County Commissioners to appoint a committee of local leaders to assist in the development of the county’s Work First Block Grant Plan and a recommended list of committee members were provided for approval.

c. A request for tax refund, verified by the Tax Collector, to Lee Industries, Inc. in the amount of \$772.69

Chair Barnes asked if there were any items that any Commissioner would like broken out of the consent agenda. There were no requests to break out an item. Commissioner Barbara G. Beatty made a motion to approve the consent agenda. The motion carried unanimously.

11. Departmental Reports:

a. Economic Development Corporation

Julie Pruett of the Economic Development Corporation presented a request for an economic grant for Baker Knapp & Tubbs, Inc. which includes Baker Furniture, Baker Knapp & Tubbs Showrooms, and Baker Stores. Along with The McGuire Furniture Company, Ann Sacks Tile & Stone, Inc., and Kallista Plumbing, Baker Furniture is part of the Kohler Interiors Group and a wholly owned subsidiary of Kohler Co., a global leader in kitchen and bath designs.

Founded in 1873 and headquartered in Kohler, Wisconsin, Kohler Co. is one of America’s oldest and largest privately held companies. Kohler is a global leader in the manufacture of kitchen and bath products, engines and power generation systems, cabinetry, tile and home interiors, and international host to award-winning hospitality and world-class golf destinations. The company currently has a global workforce of more than 31,000 employees and manufacturing plants at 49 worldwide locations.

Kohler Co. proposed to purchase the 344,000-square-foot former Corning Specialty Cable Facility located off of McDonald Parkway in Hickory. They plan to invest more than \$12 million over the next three years including the purchase of the building.

Baker will relocate its operations headquarters from Grand Rapids, Michigan and consolidate distribution centers into a single source distribution center in the former specialty cable plant. The building offers 40,000 square feet of office space that will house Baker’s operations headquarters. The company will invest \$5,628,000 and create a minimum of 76 new positions in management, accounting, administration, transportation, programming and other functions.

Other Incentives (State and Local):

Governor Easley has committed One NC Fund incentives of \$76,000 based on the creation of 76 new jobs.

The City of Hickory has agreed to the following incentive grant:

For each CY1-CY5, upon payment of ad valorem taxes by the Company to the City of Hickory, the City will, within sixty (60) days after receipt of proof of such payment, pay to the Company as an economic development incentive, the amount not to exceed \$14,070 per year, or \$70,350.

The proposed County incentives were based on the condition of a total investment of \$12,328,000 including a minimum of \$5,628,000 in new taxable investment and the creation of a minimum of 76 new jobs paying at or above Catawba County's median average wage, the County may provide a grant equal to 67% of the ad valorem tax receipts over a three year period. The incentive would equal a maximum payment of \$ 11,086 per year or \$55,430 payable over a period of five years upon approval of a contract and the satisfaction of conditions of that contract and the payment of property taxes annually. The ad valorem tax receipts on \$5,628,000 equal \$137,886 over five years; this investment will net a positive payback to the county immediately, similar to paybacks used to determine grant involvement in other Catawba County projects. In no instance would the County be front-loading the grant payments to the Company and, as such, the chances of default are kept to a minimum.

Commissioner Lynn Lail made a motion to approve this grant with a maximum of \$55,430 to be used to reimburse Company expenditures as eligible under North Carolina General Statute 158-7.1. This grant will be paid to the company in installments over five years and also directs the County to execute a contract between the Company and the County under these terms and conditions. The motion carried unanimously.

b. Utilities and Engineering:

Jack Chandler, Public Services Administrator, presented a request for the Board to adopt by resolution, the mandatory 3-Year Update to the 10-Year Catawba County Solid Waste Management Plan during an advertised public meeting, allowing for a public comment period.

On June 16<sup>th</sup>, 1997, in accordance with NCGS §130A-309.09A, the Board of Commissioners adopted a State mandated 10-year Solid Waste Management Plan. Approved by the North Carolina Department of Environment and Natural Resources, Solid Waste Section, this plan must be updated every three years.

By virtue of this Plan and through additional planning efforts by the County's Utilities and Engineering Department landfill tipping fees have remained constant for over 13 years, the life of the landfill has been extended to at least 66 years and environmentally friendly and economically enhancing projects such as the highly successful landfill gas to energy Co-Generation project and the developing EcoComplex have been made possible.

The purpose of the 3-year update, as well as the original Solid Waste Management Plan, is to insure that local solid wastes needs are being met and to document measurable progress toward the effort of achieving both the local governmental waste reduction goals and state waste reduction goals.

The 3-year update includes current status, determines needs, addresses goals, and describes how goals will be achieved. Planning elements considered include reduction, collection, recycling and reuse, composting and mulching, incineration, transfer outside geographic area, disposal, education with the community through the schools, special wastes, illegal disposal/litter, purchasing recycled products, and disaster response.

As advertised on July 6, 2006, the draft Catawba County Solid Waste Management Plan was available for public review at the Catawba County Library located at 115 West C Street, Newton and the Catawba County Utilities and Engineering Department at the Government Center located at 100-A South West Blvd, Newton from July 6 – July 17, 2006, during normal operating hours.

Chair Barnes announced a public comment period. No one came forward with comments regarding this item. Chair Barnes closed the public comment period.

Vice Chair Dan Hunsucker made a motion to adopt the following resolution. The motion carried unanimously.

**APPROVING THE CATAWBA COUNTY  
SOLID WASTE MANAGEMENT PLAN UPDATE**

**WHEREAS**, better planning for solid waste will protect public health and the environment, provide for an improved solid waste management system, better utilize our natural resources, control the cost of solid waste management; and

**WHEREAS**, NCGS §130A-309.09A(b) requires each unit of local government, either individually or in cooperation with other units of local government, to develop a 3-year update to the 10-year Comprehensive Solid Waste Management Plan; and

**WHEREAS**, Catawba County as represented on the Catawba County Planning Advisory Committee; and

**NOW, THEREFORE, BE IT RESOLVED** that the Catawba County Board of Commissioners hereby approves the 3-year update to the 10-year Comprehensive Solid Waste Management Plan.

Adopted this the 17<sup>th</sup> day of July 2006.

There followed a discussion regarding the moratorium on landfills – there was an exception to this moratorium for landfills that are currently in the process of expanding to be allowed to continue that expansion so for the short term, the County is okay – short term being defined as five years.

c. Planning:

Mary George, Senior Planner presented a request for the Board to approve the Duke Power Catawba-Wateree Relicensing Final Agreement and the adoption of a resolution authorizing the Board Chairperson to sign the Final Agreement. Chair Barnes recognized the efforts of both Mary George and Commissioner Beatty in this process that had taken years.

The Federal Energy Regulatory Commission (FERC) requires that all non-federal hydroelectric projects obtain a new license for its dams when the project's current license expires. The Federal Power Act, as amended in 1986, requires that in establishing the conditions of a new license FERC must give "equal consideration" to power production, and non-power benefits such as energy conservation, water quality, recreation and fish and wildlife protections.

Duke Power obtained its current license for the Catawba-Wateree system in 1958, which will expire in 2008. The Catawba-Wateree project encompasses 13 hydropower dam facilities and 11 reservoirs in the Catawba-Wateree River Basin. Duke Power began its relicensing process in February 2003 when it filed its "First Stage Consultation Document". This document outlined the process which Duke would follow for its relicensing. The process Duke chose to proceed with is called an "enhanced traditional" approach. This allows an opportunity for public input during the development of the license terms, rather than Duke including terms in a license agreement presented to FERC and mitigated afterwards during a limited public process.

The enhanced traditional approach began with Duke Power establishing a stakeholder process to review results of 32 studies that Duke conducted. These studies addressed water quality, recreation, habitat, shoreline guidelines, land preservation, etc. Based on the findings of the studies, stakeholders negotiated specific terms of a new license application which will be submitted to FERC by Duke Power. Commissioner Barbara Beatty and Senior Planner Mary George were appointed as primary stakeholders for two advisory groups: Metro and Foothills, respectively. Jacky Eubanks, Planning Director, was the designated alternate for both groups. In addition to serving on the Foothills Advisory Group, Mary George served on four study teams: shoreline management plans, mapping and guidelines, recreation and land identification.

After three years of review and negotiation, Duke Power incorporated stakeholders' interests into a final document called the "Agreement-in-Principle" (AIP). The AIP addresses 14 broad areas such as lake levels, recreation amenities, water quality, shoreline management and resource enhancements. These are the typical areas which FERC addresses in a new license for a project.

Below is a list of the new amenities the negotiating team secured for the citizens of Catawba County. Duke Power has agreed to provide these new amenities to Catawba County as part of the final agreement.

**Lake Hickory**

Third Five-Year Period

Long Shoals Access Area- Duke Power will provide and manage canoe/kayak access with gravel parking at this currently undeveloped access area. The access area will be available for lease for passive recreation including picnic sites and trails to be developed by the lessee. If leased, all facilities will be managed by the lessee; otherwise, Duke Power will manage the facilities.

Fourth Five-Year Period

Oxford Access Area- Duke Power will provide a swimming area and additional paved parking as needed to support the swimming area in the first five-year period, only if Duke Power does not develop a swimming area at Wittenburg. This area will be available for lease to and management by others. (Note: if a lessee develops a swimming area here, Duke Power will develop one at Wittenburg) Duke Power will market the site for lease and management to commercial operators for development of a RV campground with bathhouse and dump station, marine pump-out, primitive camping, paved parking, picnic facilities, bank fishing, trails, and restrooms. The access area and the above facilities will be available for lease to and management by others. The NCWRC will maintain all boating access facilities. The suitability and capability of providing a swimming area at this site or at Wittenburg Access Area will be evaluated together, and Duke Power will develop a swimming area at one of these two sites in the first five-year period.

### **Oxford Regulated River Reach**

#### **Third Five-Year Period**

Oxford Tailrace Fishing Area-Duke Power will develop and the NCWRC will maintain a public fishing area.

Oxford Dam Canoe Portage- Duke Power will improve the existing gravel parking and extend the portage trail from the put-in at the Highway 16 Bridge to Riverbend Park in cooperation with Catawba County. Duke Power will manage the facilities.

### **Lookout Shoals Lake**

#### **First Five-Year Period**

Upper Lookout Shoals Access Area and Trail-Duke Power will acquire property in Catawba County and develop and manage a 1-5 acre tailored boat access area with parking, restrooms, and primitive camping downstream of the "bend" of the lake. Also, provided that Catawba County is a signatory party to the FA, Duke Power will provide cost-share funding up to \$220,000 to Catawba County to assist the county in its acquisition and development of a 50-foot wide easement for approximately 1.5 miles of walking/hiking trail between Riverbend Park and the new Upper Lookout Shoals Access Area. Catawba County will develop and manage the walking trail. The walking trail will not be included in the FERC Project Boundaries.

***Lookout Shoals Access Area***-Duke Power will provide and manage restrooms and the NCWRC will maintain the boating access facilities.

### **Lookout Shoals Tailrace**

#### **D. Third Five-Year Period**

Lookout Shoals Tailrace Fishing Area- Duke Power will develop and the NCWRC will maintain a public fishing area.

#### **E. Fourth Five-Year Period**

Lookout Shoals Dam Canoe Portage-Duke Power will develop and manage a portage trail with canoe/kayak access (take-out, put-in) and signage around Lookout Shoals Dam.

### **Lake Norman**

#### **F. First Five-Year Period**

Hunsucker Park - Duke Power will enter into a lease with the Town of Catawba or another public entity for the Licensee's property on the south side of Lyle Creek for expansion of Hunsucker Park. Duke Power will develop picnic facilities, 0.5 miles of trail, a tailored boat access, and paved or gravel parking on the Duke Power's property. Duke Power will also develop an entrance road from Hunsucker Park to the boat access site, provided the Town acquires the necessary easement across private property. Duke Power will also incorporate its property on the north side of Lyle in the lease provided that the Town's or other public entity's operations and management plan for the park is acceptable to the Duke Power.

Mountain Creek Park - Provided that Catawba County is a signatory party to the FA, Duke Power will support acquisition of up to 600 acres of property by Catawba County for public recreation and compatible permanent conservation at the mouth of Mountain Creek. Duke Powers's financial support for this acquisition will consist of a reduction in the purchase price of \$1,900 per acre purchased up to \$1,140,000 if the total tract is

purchased. The property to be acquired must be under purchase option by December 31, 2007, and the purchase must be complete by August 1, 2009. Facility development may include a canoe/kayak launch, trails, bank fishing, campgrounds, swimming, and other water-based recreation facilities to be developed and managed by Catawba County. If Catawba County acquires the property, this site will not be included in the FERC Project Boundaries. If Catawba County does not acquire funding available for alternative land purchases as noted, Duke Power will acquire 20-30 acres at this location and develop and manage a canoe/kayak launch, restrooms, fishing pier, swimming beach, and paved parking.

At its April 3, 2006 meeting, the Board of Commissioners authorized Commissioner Beatty and Senior Planner, Mary K. George, to sign Duke Power's Agreement-in-Principle (AIP) with minor reservations based on six areas of concern. Since the signing of the AIP, staff worked with Duke Power, State personnel and the Final Agreement Committee in order to address Catawba County's remaining key issues. Following is the status of these issues in the signature copy of the Final Agreement submitted by Duke Power, dated June 8, 2006.

- 1) **Aquatic habitat flow below Oxford Dam**  
Catawba County requested a minimum continuous flow of 450- 500 cfs instead of 150 cfs below Oxford Dam. Commissioners Barnes and Beatty along with staff had numerous conversations and correspondence with the State Department of Environment and Natural Resources (NCDENR), including the Department's Secretary. State staff reviewed Catawba County's request for mitigation within the County but based on its mitigation criteria there are no river sections which meet the State's requirements. With the mitigation criteria being a function of NCDENR, Duke Power has no control over this issue; therefore, it has not been resolved in the Final Agreement.
- 2) **Additional Lake Hickory swim beach**  
Catawba County requested a second swim beach on Lake Hickory to be constructed and maintained by Duke Power. Duke Power has agreed in the Final Agreement to construct and maintain a second beach on Lake Hickory in the 4<sup>th</sup> five-year period of the recreation schedule. The location of the swim beach will be determined by Duke Power.
- 3) **Mtn. Creek acquisition deadline**  
Catawba County requested that the Mtn. Creek purchase option deadline of December 1, 2007 be deleted and that only the August 1, 2009 deadline for final acquisition remain. This would allow Crescent Resources more time to obtain funding from grant sources. The Final Agreement still includes the original deadlines but specifies that if Crescent Resources, LLC is a party to the Final Agreement they will remain a willing seller of this property until August 1, 2009. Also, language was included to allow a justified extension for the final acquisition date.
- 4) **Catawba gamelands**  
Catawba County requested a first right-of-refusal for the gameland properties in Catawba County. This would give the County an opportunity to secure funding from grant sources to purchase the gameland properties for future recreational opportunities. The Final Agreement did not include this request for the Catawba gamelands; however, Duke is providing \$4 million to the State for the purchase of public recreation and gamelands. The County can request the State to support the acquisition of the Catawba gamelands with this funding source.
- 5) **Inconsistency with jurisdictional agencies**  
Duke included language in the AIP which would allow them to withdraw from the Final Agreement if a jurisdictional agency, such as the U.S. Fish and Wildlife Service, requires additional flows as part of that agency's mandatory conditions. The County was concerned that this statement could undermine the entire Final Agreement which has been negotiated by over 150 stakeholders. Duke Power has kept the withdrawal language in the Final Agreement; however, a multi-level process was developed, which includes arbitration, prior to allowing a party to withdraw from the Final Agreement. The Catawba-Wateree Relicensing Coalition and other stakeholders, including Catawba County, continues to support Duke Power working with the jurisdictional agencies to reduce the risk of inconsistent actions which could lead to withdrawal.
- 6) **Focus group for Island Point public recreation site**

Due to concerns from residents in the Island Point Road area over the commercial recreation site identified in the AIP, a request was made to Duke Power to establish a focus group to provide input on the amenities and site design for the access area. The Final Agreement includes language for a workgroup to be established by Duke Power and Catawba County to participate in the development of a site plan for this area.

In addition to these six issues of concern, staff requested that Duke ensure that if commercial operators are not secured for the public access sites that the recreation enhancements will still be developed as stipulated in the agreement. Duke Power agreed in the Final Agreement to “back-stop” the recreation sites where they will provide the public recreation enhancements, such as trails, primitive campgrounds, picnic sites, restrooms and swim beaches, even if a commercial operator is not secured. Duke may delay the construction of these sites until the next five-year recreation period; however, stakeholders are now ensured that the recreations offerings will be provided.

After three years of negotiating the terms of Duke Power’s Catawba-Wateree Relicensing Final Agreement, staff recommended that the Board of Commissioners adopt the following resolution with the following qualifications:

- 1) Catawba County is signing the Final Agreement with the provision that Crescent Resources, LLC will be a signing party in order to ensure the sale and financial support for the Mtn. Creek tract; and
- 2) The technically-corrected signature copy of the Final Agreement provided by Duke Power in mid-July will not substantially deviate from the signature copy of the Final Agreement provided on June 8, 2006.

Staff recommended the signing of the Final Agreement due to the benefits provided in the contractual agreement which exceed the license terms which FERC would approve for the project. This includes financial support for the upper Lookout riverfront trail and the Mtn. Creek tract and the development of the Hunsucker Park trail.

#### RESOLUTION #2006-

#### A RESOLUTION TO AUTHORIZE THE BOARD CHAIR TO SIGN DUKE POWER'S CATAWBA-WATEREE RELICENSING FINAL AGREEMENT

**WHEREAS**, Duke Power obtained a license from the Federal Energy Regulatory Commission (FERC) in 1958 to operate thirteen hydroelectric dams on the Catawba and Wateree rivers in North and South Carolina; and

**WHEREAS**, Duke Power’s license for its dams on the Catawba-Wateree River system will expire in 2008; and

**WHEREAS**, Duke Power has filed a letter of intent to submit a relicensing application to FERC for its hydroelectric dams; and

**WHEREAS**, Duke Power established an enhanced traditional process which involved stakeholders in the development of a mutually-beneficial contractual final agreement to support its license application; and

**WHEREAS**, Catawba County has actively participated as a stakeholder in the development of the terms of the contractual Final Agreement for the past three years; and

**WHEREAS**, the Catawba County Board of Commissioners has received progress reports from its stakeholder representatives and is knowledgeable of the terms of the Final Agreement; and

**WHEREAS**, the Catawba County Board of Commissioners has reviewed the Final Agreement and has determined that it will receive recreational and other project-related benefits from the terms of the Final Agreement beyond the scope of what is traditionally provided for in a new license from FERC;

**THEREFORE BE IT RESOLVED** that Catawba County agrees to the benefits and conditions of Duke Power’s Final Agreement for the Catawba-Wateree Relicensing project and authorizes Chairperson, Katherine W. Barnes to sign the contractual Final Agreement provided that:

- 1) Crescent Resources, LLC is a signing party; and
- 2) The technically corrected signature copy of the final agreement does not substantially deviate from the June 8, 2006 signature copy.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2006

Commissioner Beatty thanked Mary for her hard work on this project. Commissioner Lail thanked Commissioner Beatty for her efforts in this project. Commissioner Beatty made a motion to adopt the above resolution and authorized the Chair to sign the Final Agreement subject to the two qualifications noted above. The motion carried unanimously.

12. Other Items of Business:  
Section II F of the 2006-2007 Budget Ordinance states: "Reinventing Departments may create or abolish positions which impact the outcomes approved by the Board of Commissioners and within available revenues upon summary approval of the Board of Commissioners. Approval will come at the next regularly scheduled Board of Commissioners' meeting and will be attached and approved as part of the minutes."

Under this provision of the Budget Ordinance, the following personnel change has been made to Social Services' budget:

Social Worker III

The Community Alternative Program for Children (CAP-C) caseload size and demands have increased to the extend there needs to be another social worker position established. The social worker provides case management to the child and families of children that remain in their own homes when they otherwise would need to be hospitalized. Medicaid revenue will pay for the service.

Human Services Coordinator I

Social Services was awarded a grant from NC Division of Social Services for Project Success. The outreach effort will provide twelve hours of after-school instruction a week for twenty-nine weeks during the school year to 50 Arndt Middle School students of Latino descent to: support student academic improvement; increase parent involvement with student's education; assist student in development of academic goals; prevent adolescent pregnancies; and provide character development to battle risky behaviors. Grant funds cover the total cost.

13. Attorneys' Report. None.
14. Manager's Report. County Manager Lundy asked the Board's consideration to go into a brief closed session under General Statute 143-318.11(a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. He did not anticipate any action while in closed session. Vice-Chair Hunsunker made a motion to go into closed session at 8:02 p.m. The motion carried unanimously.

At 8:10 p.m., the moved back into to open session. No action was taken in closed session.

15. Adjournment. Commissioner Barbara Beatty made a motion to adjourn at 8:11 p.m. The motion carried unanimously.

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Katherine W. Barnes, Chair  
Board of Commissioners

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Barbara E. Morris, County Clerk