

Minutes
 Catawba County Board of Commissioners
 Regular Session, Monday, April 03, 2006, 9:30 a.m.

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The Catawba County Board of Commissioners met in regular session on Monday, April 3, 2006, at 9:30 a.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, Commissioners Glenn E. Barger, Lynn M. Lail and Barbara G. Beatty.

Also present were County Manager J. Thomas Lundy, Assistant County Manager Joellen Daley, Assistant County Manager Lee Worsley, County Attorney Robert Oren Eades, Attorney Debra Bechtel and Clerk Barbara E. Morris.

1. Chair Katherine W. Barnes called the meeting to order at 9:30.m.
2. Commissioner Barbara G. Beatty led the Pledge of Allegiance to the Flag.
3. Vice-Chair Dan Hunsucker offered the invocation.
4. Commissioner Glenn E. Barger made a motion to approve the minutes from the Regular Meeting and Closed Session minutes of March 20, 2006. The motion carried unanimously.
5. Guests: Chair Barnes welcomed those in who were in attendance to receive the awards and proclamations that were going to be presented at the meeting.
6. Comments for Items not on the Agenda. None.
7. Presentations:
 - a. Vice Chair Hunsucker presented the 2006 Litter Sweep Proclamation to Henry Helton, Chair, Catawba County Litter Task Force and Tony Gallegos, Cooperative Extension Agent. Mr. Helton accepted the award and told the Board that efforts were in process for the County to become affiliated with the Keep America Beautiful organization. Tony Gallegos noted that \$7000 in local community support had been received to assist in the affiliation process with Keep America Beautiful.
 - b. Commissioner Beatty presented the National Public Safety Telecommunicator Week Proclamation to Jerry Boggs, Telecommunications Administrator. Jerry introduced Brian Drum, Mark Wireman and the County’s new CIO, Terry Bledsoe, to also receive this proclamation.
 - c. Commission Lynn M. Lail presented the Child Abuse Prevention Month Proclamation to Pam Brooks, Child Protective Services Supervisor and Deborah Johnson, Director, Child Advocacy Center. Beth Brandis was also present from the Department of Social Services.
 - d. Commissioner Barger presented the Public Health Month Proclamation to Doug Urland, Public Health Director. Chair Barnes noted that an editorial in the Charlotte Observer stated that public health efforts in the 20th century had increased life expectancy by 30 years.
 - e. Chair Barnes presented Senior Real Estate Appraiser Mark Logan with a Certificate of Commendation for his completion of the Leadership Catawba program.
 - f. Chair Barnes presented Debbie Anderson, purchasing agent, with a Certificate of Commendation as the recipient of the Hall-Wicker Award which is awarded by the Carolinas Association of Government Purchasing.
 - g. Chair Barnes presented the Sustained Professional Purchasing Award to Purchasing Agent Debbie Anderson and her staff, Beatrice Abernathy and Regina Propst.

h. Chair Barnes presented a Certificate of Achievement for Excellence in Financial Reporting to Finance Director Rodney Miller and members of his staff Jeanne Jarrett and Kenneth Maynor.

8. Appointments.

Commissioner Barger recommended the reappointment of Jeff Mitchell for a third term and himself for a fourth term to the Subdivision Review Board and the reappointment of Charles Preston for a first term (after filling an unexpired term) to the CVCC Board of Trustees. These recommendations came in the form of a motion. The motion carried unanimously.

9. Consent Agenda.

J. Thomas Lundy, County Manager, presented only one item on the consent agenda:

A request for the Board to approve a resolution to authorize the Sherrills Ford and Newton Friends of Catawba County Library to conduct a book sale and use the proceeds for library purposes. The resolution read as follows:

RESOLUTION #

**Approving Conveyance of Property
Pursuant to G.S. 160A-279**

WHEREAS, Catawba County does not have use or need of outdated books formerly used at the Catawba County Libraries; and

WHEREAS, the Sherrills Ford and Newton Friends of the Catawba County Library has requested the books to be used in fund raising activities; and

WHEREAS, the Friends of the Catawba County Library is an organization formed specifically to benefit Catawba County Libraries; and

WHEREAS, the North Carolina General Statutes 160A-279 authorizes the transfer of county property to an entity engaged in public service; and

FURTHER, it is understood that proceeds from the sale of the books will benefit the Catawba County Library;

NOW, THEREFORE, BE IT RESOLVED, that the Catawba County Board of Commissioners hereby authorizes the Library Director to convey said property to the Sherrills Ford and Newton Friends of Catawba County Library.

Adopted this the 3rd day of April, 2006.

Commissioner Lail made a motion to adopt this resolution. The motion carried unanimously.

10. Departmental Reports.

a. Planning

Mary George, Senior Planner, presented the relicensing Agreement-in-Principle (AIP) offered by Duke Power as a part of the ongoing Federal relicensing of Duke Power's operation of hydroelectric projects along the Catawba-Wateree river system. Chair Barnes noted there had been multiple presentations on this subject and she thanked Commissioner Beatty, Mary George and Jacky Eubanks for the time commitment and the great understanding they have brought to this process and how they have kept the Board informed. Mary George said it has been a very interesting process for the past three years and it was a great opportunity to learn a lot.

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 protection.

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 Beatty and Mary George were appointed as primary stakeholders for two advisory groups: Metro and Foothills, respectively. Jacky Eubanks was the designated alternate for both groups. In addition to serving on the Foothills Advisory Group, Mary George served on four study teams: shoreline 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.

With the submittal of its final AIP, Duke Power is now requesting stakeholders to decide its level of acceptance of the AIP. Stakeholders must sign the AIP at a level of 1-5. Level 1 means agreement with the AIP. Level 5 means disagreement with the AIP and the stakeholder is removing himself from the stakeholder process. This also means that the stakeholder will not be allowed to participate in the development of the Final Agreement, which is the contractual translation of the AIP. Signing at a level 2-4 indicates that the stakeholder has minor reservations but can "live with" the AIP. With a level 4 signature, stakeholders can submit signing statements to Duke Power and FERC which indicate their areas of concern.

The Board previously received an overview of the AIP with an analysis of key objectives met and unresolved stakeholder issues. There are several outstanding issues that have not been resolved in the AIP. Following are key issues of concern for Catawba County:

1) **Aquatic habitat flow below Oxford Dam**

Catawba County is requesting a minimum continuous flow of 450- 500 cfs instead of 150 cfs below Oxford Dam, as provided in the AIP. Duke Power is proposing to mitigate the reduced flow by acquiring land in the riverine section of the Catawba River in Burke and Caldwell counties. The mitigation package, which Duke Power has worked on with State agencies, has no direct benefits to Catawba County for the loss of aquatic flow. Catawba County has requested additional funding for the Mtn. Creek tract, gamelands and/or the trail easement below Riverbend but these have not been included in the mitigation package. The County is being asked to accept mitigation for flow at two locations in Catawba County: Oxford and Lookout Shoals without any corresponding benefits to the County. One of the major recreational activities at the County's Riverbend Park, located below Oxford Dam, is fishing. It is important to have higher flow, as recommended by the aquatics study, to support the fisheries for the next 40 years or provide other land/recreational opportunities in the county to mitigate for the loss. Staff will be meeting with the Secretary of NCDENR and other state staff prior to the Board's meeting and will update the Board on how the state has responded to additional mitigation opportunities within Catawba County.

2) **Additional Lake Hickory swim beach**

Catawba County is requesting Duke Power's commitment to construct and maintain a second swim beach on Lake Hickory in the 2nd five year period. The AIP indicates that one swim beach will be provided by Duke Power on Lake Hickory, either at Wittenburg Access Area in Alexander County or at Oxford Access Area in Catawba County. The recreation study conducted by Duke Power indicates a

need for two swim beaches on Lake Hickory so we are requesting Duke to provide and maintain the second one at Oxford.

3) **Mtn. Creek acquisition deadline**

Catawba County requests that the Mtn. Creek purchase option deadline of December 1, 2007 be deleted and only retain the August 1, 2009 deadline for final acquisition. This allows the County more time to negotiate the acquisition and obtain funding from grant sources.

4) **Catawba gamelands**

Catawba County is requesting a first right-of-refusal for the gameland properties in Catawba County. This will give the County an opportunity to secure funding from grant sources to purchase the gameland properties for future recreational opportunities.

5) **Inconsistency with jurisdictional agencies**

Duke has included language in the AIP which will 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. This statement could undermine the entire FA which has been negotiated by over 150 stakeholders. Catawba County recommends that Duke Power work with these agencies to address their concerns and develop a mutually agreeable contingency plan with stakeholders which won't affect non-flow related terms of the Final Agreement.

Staff made presentations to several interest groups throughout the County to obtain input on the offerings included in the AIP. These groups included the Catawba Valley Heritage Alliance (CVHA), Hickory City Council, Waterwatch-Lake Hickory and Sherrills Ford Lions Club. Input from these groups included overall support of the AIP, including the recreation offerings. The Waterwatch group requested additional funding from Duke for land preservation opportunities to protect water intakes and stream restoration projects on Lake Hickory. Both Waterwatch and the CVHA supported the need for a second swim beach on Lake Hickory.

The Board can consider including these additional comments in its signing statements to Duke Power. In addition to the Board including their comments, these groups and other interested parties can forward their comments on Duke Power's Final Agreement directly to FERC. After Duke Power files its license in August 2006, FERC will provide an intervention notice which is a time period where interested parties can register to provide comments. FERC will have official public comment periods in 2007 and 2008 when they begin to prepare required environmental documents and then again when the environmental documents are completed.

After the stakeholders sign the AIP in April 2006, Duke Power will submit the Final Agreement (FA) for stakeholders review. The FA will be the legally binding contractual agreement which includes the terms of the AIP. Duke will submit the FA to stakeholders in June 2006 and ask them to sign the FA by August 2006. Staff will present the FA to the Board of Commissioners during this time period for its official action.

After three years of negotiations for the terms of the Agreement-in-Principle, staff recommended that the Board authorize stakeholders Barbara Beatty and Mary George to sign the AIP at a level "4" based on the areas of concern noted above. Not only would this will allow the County to submit official signing statements, but also allows the County to remain in the process for development of the FA in order to address the County's concerns.

County Manager J. Thomas Lundy asked Mary how much land was in the three tracts of gamelands at issue. Mary said there were two tracts on the river – 300 to 400 acres each – about 700 acres between two tracts. County Manager Lundy said he was raising the concern because the way it currently read the County wants the right of first refusal for the County to purchase the property which takes it off the tax books. He asked whether there was discussion about trying to get Duke to keep the property but with public access – whether they operated it or they contracted to somebody else with another option being the public being responsible for it. Mary said they tried to get that included in the recreational opportunities and it was not included. They also tried to talk with Wildlife Resources Commission to see if they would want it as state gamelands and they said it was too small and it did not have a diverse enough habitat. County Manager Lundy asked that if this was still an outstanding issue, why not leave those other options in. Mary

said they could keep it in that way but they felt they had hit a deadend with these negotiations. County Manager Lundy asked Mary and Commissioner Beatty whether they thought it was worth including other options in the exception than just the right of first refusal. Commissioner Beatty said she thought the chances of getting any of the other options were very slim. Mary said the key was that Duke had not yet agreed for the land to be for public access but Mary noted they did not have to narrow their options and would include the suggested options.

Mary noted that originally when this AIP information was sent to the Board the only way that the County could have a signing statement was to sign at a level "4". But on Friday, the document was revised and even if the County signed at level "1", "2" or "3", a signing statement could be included.

Mary noted that before this change, the staff's recommendation was to sign at level "4" and added that Duke Power had been wonderful with work with but the County still had the above reservations but the Board could sign at a level "2" or "3" now with these new revisions regarding signing statements.

Commissioner Beatty said that once the final agreement was signed, there would be a committee formed to work on the implementation and if the County did not sign, then it could not be part of that committee. Commissioner Barger asked about the change that was received on Friday and what did a "2" or "3" actually mean and Mary said there was not much difference between those two – they just indicated the signatory had some minor reservations. She said the "4" was saying there were strong comments that needed to be made – but she did point out that if the signatory signed a "1", "2", "3" or "4", they were basically in agreement with the document.

Chair Barnes said she believed they needed to make note that while they have recreational amenities listed, they are not things that will be tackled immediately and the whole process would take over the next 20 years.

County Manager Lundy asked Mary if the staff's recommendation remained to sign the document at a level "4" and she said yes it remained a "4". Commissioner Beatty also pointed out that the signing statement was limited to 500 words. Mary said she believed that "4" sent a stronger message to Duke and Commissioner Beatty agreed and this is what she would recommend.

Commission Beatty made a motion to authorize the signing of the AIP at the level "4" and the additional comments indicated. The motion carried unanimously. Commissioner Beatty said that she, Mary and Jacky have offered to serve on oversight committee.

b. Utilities and Engineering

1. Barry Edward, Utilities and Engineering Director, presented a request to approve the Blackburn MSW Landfill Study. Mark Cathey, P.E. from McGill and Associates was also present to answer any questions regarding the study. Barry noted that the County had held the same MSW rate for 14 years and that was due to consistent management. On February 6, 2006 the Board of Commissioners approved the Landfill Alternative Siting Study as prepared by Camp Dresser and McKee in accordance with North Carolina General Statute §153A-136 (c). The report compared the proposed expansion site with alternative sites and contained socioeconomic and demographic data relating to the proposed site and the alternative sites. Based on the results of the Landfill Alternative Siting Study, Camp Dresser and McKee recommended the proposed Blackburn Landfill expansion site as the preferred site for the County to proceed with the permitting process.

The Expansion Properties Site Study is an in-depth study of the properties approved by the Board through the Landfill Alternative Siting Study performed by Camp Dresser & McKee. The Site Study is to ensure the property is acceptable for solid waste landfill operations.

The North Carolina Solid Waste Management Rules (15A NCAC 13B), Section .1618 (c)(5)(A) requires approval of the Site Study Report prepared by McGill Associates, by the Board of Commissioners having authority in the County that the proposed landfill site is located. The Board must have at least one public meeting to inform the community of the proposed solid waste management activities as described in the Proposed Facility Plan, which is an integral part of the Site Study Report and public notice of the meeting includes a legal advertisement placed 30 days in advance of the meeting in at least one newspaper, and a

news release to one newspaper, one radio station, and one television station serving the County. The "Expansion Properties Site Study Report, Blackburn MSW Landfill, Catawba County, North Carolina" will be available for public review in the Utilities and Engineering Department at the Government Center located at 100A SW Blvd, and the Main Library located at 115 West C Street, both in Newton, Catawba County, between the date of submittal to the State and the date of approved permitting from the State as required.

County Manager Lundy clarified this expansion would result in **40-66 more years of capacity at this landfill** (40 if the Wilfong Pond and tributary cannot be closed, 66 if the pond and tributary can be closed). Both Barry and Mark Cathey said they felt that it was likely that the State would approve the closure of the pond and tributary (which will occur in approximately 5 years).

Vice-Chair Dan Hunsucker made a motion to adopt this study. The motion carried unanimously.

2. Barry Edwards then presented the Catawba County regional Eco-Complex and Resource Recovery Facility Project: Preliminary Engineering and Project Feasibility Study for Bio-Energy Center, "Catawba County Bio-Energy Center Initial Assessment". Wayne Marshall, President, Petra Engineering was also present.

During the budget process for fiscal year 2005/06, the Board was introduced to the Regional Eco-Complex and Resource Recovery Facility (Blackburn Landfill) Project. The purpose is to promote economic development and create new jobs in the green energy and business, agricultural, and environmental sectors. The Eco-Complex design will convert waste streams into commodities, provide conduit for moving science from the lab to the real world, and will promote Western North Carolina as a center for green energy, agricultural, and environmental innovation and enterprises. The County and its partnering municipalities can take advantage of the synergies with ongoing and planned activities within the Complex. These synergies and low cost "green" energy will help all waste management fees remain stable. With the approval of the budget for this fiscal year, a combination of water and sewer and solid waste funds were appropriated for the conceptual and preliminary Eco-Complex development. Providing for the complex will continue to be a legislative priority for the County.

Through Private-Public partnerships and the strengths of multiple institutions, the Eco-Complex presents an array of business development and research opportunities such as solid waste management, wastewater treatment and sludge management, water resource management, hydrogen cell production, carbon dioxide production and management, environmental remediation and restoration, pollution prevention and industrial ecology, air quality, agricultural, biological, aquaculture, bio-regenerative life support, environmental technologies, and business development. The Eco-Complex can accommodate research involving all aspects of biologically derived energy recovery and uses, as well as research of fuel cell, hydrogen, nitrogen, carbon dioxide, and ethanol for environmental, agricultural, and energy use.

Within the Eco-Complex design, the County proposes to provide energy (steam and/or electrical power) to multiple users at the County's Eco-Complex by contracting with a private service provider (Service Agreement Management Contractor) through a long-term Service Agreement (SA) as outlined in the Board approved Letter of Intent (LOI) dated February 6, 2006 between Catawba County and Petra Engineering PLLC. The LOI and the services delivered therewith are necessary to and required for the Bio-Energy Center and Eco-Complex development.

The County's objective is to develop a high-tech energy facility, which will use the County's wood waste to produce energy, primarily in the form of steam. The Bio-Energy Center is fundamental to the Eco-Complex design and essential to university research and the synergetic relationships between Eco-Complex partners. All Eco-Complex partners will employ and reduce their respective operational costs by employing the energy produced by the Bio-Energy Center and synergies acquired by converting waste streams to commodities.

The Bio-Energy Center's core service to the County will be wood waste processing that results in heat energy. The SA Management Contractor will provide all essential structures, equipment and appurtenances for processing wood and cellulose waste byproducts from G&G Lumber, a pallet company, the County landfill and other Eco-Complex partners into heat energy for operating wood, brick and pottery

kilns, the sludge facility, greenhouse(s), turbine electrical generators, a University Research Facility and any future needs the County deems suitable.

The Board approved LOI establishes a framework that includes four decision points for the development and operation of the Eco-Complex Bio-Energy Center. Within the terms of this LOI, the Board of Commissioners is provided the opportunity to decide whether or not to proceed with the Project as follows:

Decision Point 1 Preliminary Engineering and Project Feasibility Study:

Upon approval by the Board of Commissioners of the Preliminary Engineering and Project Feasibility Study proceed with Decision Point 2. If the County chooses not to proceed with the project at this point Petra will be compensated \$25,000 for the preparation of the Preliminary Engineering and Project Feasibility Study, which will become the property of Catawba County.

Decision Point 2 Project Design Documents:

Upon approval by the Board of Commissioners of the Project Design Documents proceed with Decision Point 3. If the County chooses not to proceed with the project at this point Petra will be compensated for actual costs incurred and verified by County, pursuant to Petra's records and industry standards, plus 10% management and administrative cost at an amount not to exceed \$500,000 for the preparation of the Preliminary Engineering and Project Feasibility Study and the Project Design Documents, which will become the property of Catawba County.

Decision Point 3 Service Agreement:

In the event that Petra is not the SA Management Contractor, Petra will be compensated for actual costs incurred and verified by County, pursuant to Petra's records and industry standards, plus 10% management and administrative cost for the preparation of the Preliminary Engineering and Project Feasibility Study and the Project Design Documents, which will become the property of Catawba County.

Decision Point 4 Third Party Operations and Maintenance Selection:

The County will be involved in the selection of the provider of Operations and Maintenance through an RFQ/RFP process and will have the right of first refusal in making the selection.

The approved LOI provides for Catawba County to follow through with its planned Eco-Complex development. The County will own the land and premises associated with the Bio-Energy Center. The County will own and distribute the energy produced by the Bio-Energy Center. The Bio-Energy Center will employ a renewable energy source generated from wood waste from G&G Lumber, a pallet company and the County landfill to generate steam, heat and electricity. The Private-Public partnership structure will allow the SA Management Contractor and the County to benefit from and optimize Federal and State incentives for employing renewable energy. The Bio-Energy Center will generate electricity from steam-driven turbine-generators using boilers to produce both heat and electricity (cogeneration). Cogeneration converts up to 85 percent of the fuel's potential energy into useful energy in two primary forms: electricity and heat.

Under the terms of the approved LOI, Petra Engineering PLLC has completed work necessary for the County to address Decision Point 2 Project Design Documents.

Petra Engineering PLLC has submitted the Eco-Complex Bio-Energy Center preliminary engineering feasibility study, "Catawba County Bio-Energy Center Initial Assessment".

Petra recommends that Catawba County proceed with Bio-Energy Center development and Decision Point 2, Project Design Documents, as outlined in the approved Letter of Intent between Petra Engineering, PLLC and Catawba County.

Petra's assessment determined that the Energy Facility has minimal risk associated with its development due to multiple uses for energy outputs (hot air, hot water, steam, and electricity). There is also flexibility to modify and change uses with ease and minimal cost by increasing and acquiring additional bio-fuel. The assessment is based on the local market value of woody byproducts, which enables the SA-Contractor to go to the local market to procure any needed woody by products in the event that ample supply is not available within Eco-complex. This ensures the economic viability of the Bio-Energy Center regardless of the source of the byproduct feedstock.

Petra study concludes that the Bio-Energy Center will provide the most economical short and long-term solution to byproduct optimization and energy cost reduction through the use of biomass (wood) waste streams for fuel. The steam cost from the Bio-Energy Center is projected to be at least 40 percent lower than the next best available fuel source and technology option (natural gas).

The financial assessment concludes that the Bio-Energy Center project cost is estimated to be \$9,500,000 with an initial annual budget of \$750,000 for O&M. It is projected that the SA-Management Contractor can initially provide steam to the County for \$6.50 per million Btus, which includes debt service and O&M. O&M costs will be indexed to the Consumer Price Index or equivalent indices. The 40% lower energy costs allows the County flexibility in usage, fee structure and marketing. The economic benefits will not only be realized by the users of the affordable steam/heat energy, but they will also be realized by County citizens through stabilized waste management costs. Environmental benefits are gained through waste management as well by reducing waste streams and fossil fuel consumption by reduced materials hauling. Environmental benefits are also garnered through "green energy" production.

This Petra Study confirms the economic and environmental benefits of moving forward with the development of the Bio-Energy Center.

If the County chooses not to proceed with the project at this point, Petra will be compensated \$25,000 for the preparation of the Preliminary Engineering and Project Feasibility Study, and the Study will become the property of Catawba County.

Upon Board of Commissioner's acceptance and approval of the attached Petra Study and authorization to move forward, staff and Petra will proceed with the Bio-Energy Center Design and there will be no compensation for Preliminary Engineering and Project Feasibility Study at this time.

Upon Board of Commissioner's authorization to move forward with Decision Point 2 Project Design Documents, Petra will be compensated as defined in the approved LOI (Letter of Intent) for the preparation of the Preliminary Engineering and Project Feasibility Study and the Project Design Documents, and the Project Feasibility Study and Design Documents will become the property of Catawba County.

Chair Barnes asked about how the center would deal with particulate matter and Barry said the \$9,500,000 included the cost of the process so that it did not produce particulate matter.

Commissioner Barger clarified that what the Board was being asked to do at this meeting was to accept the study and to move forward with the design. He asked that once the project had been designed, was it going to be competitively bid and Barry said this was the case. County Manager Lundy said the project before the Board at this meeting was the result of action the Board took in February 2006 where the Board authorized the staff to sign an agreement with Petra to do this first phase study. There would be a competitive bid for whoever would manage the facility and also for the construction of the facility. Barry said he would prefer that those both be bid at the same time so the managing entity would be involved in the construction. Commissioner Lail moved to accept the study and authorize the staff to proceed with the design. The motion carried unanimously.

b. Finance

Finance Director Rodney Miller came forward to present the proposed financing for the Catawba Elementary School. The Board of Commissioners was requested to accept the proposal of BB&T in connection with an installment purchase financing of \$9.2 million for a new Catawba Elementary School. In addition, the Board was requested to adopt a resolution making certain findings and determinations regarding the financing, seek approval from the Local Government Commission and authorize the

execution of a financing agreement and deed of trust, a construction and acquisition agreement, a lease agreement and related documents in connection with the installment financing for public school improvements. Finally, the Board was requested to appropriate \$9,252,900 for the construction and furnishing of a Catawba Elementary School.

In fiscal year 2003-04, the Board of Commissioners set aside two cents of the property tax rate to be used for financing school construction over a four-year period.

Four projects have been completed and/or under construction with those funds: a new Grandview Middle School, a new Maiden High School, a new Learning Library and Technology Center at CVCC and the conversion of Tuttle Middle School to an elementary school. These projects were identified by a Citizens' Advisory Committee that was formed in 2001 and included in the first half of an eight-year school construction and improvement plan, as presented to the Board of Commissioners in 2002. The Catawba Elementary School project is the final project in the first four-year cycle.

The County will pursue financing for this project under G.S. 160A-20, which pledges the asset acquired or constructed as collateral for the loan in case of default. Since the County does not own the land upon which the Elementary School will be built, the Catawba County Board of Education must convey the land to the County in order for the County to borrow the funds for the new school. The County will, in turn, lease the new school and land back to the Board of Education for its use, and at the end of the financing term, transfer all rights to the property back to the school system.

All local governments in North Carolina that borrow funds greater than \$500,000 and longer than five years to maturity must receive approval by the Local Government Commission (LGC), a division of the NC Department of State Treasurer. The LGC will consider this request on April 4, 2006 in Raleigh.

The Board of Commissioners, at its January 17, 2006 meeting authorized the Catawba County Board of Education to proceed with bids for a new Catawba Elementary School. Bids were received in February at a total cost of \$9.9 million. Almost \$700,000 in funds have been secured, leaving a balance of \$9.2 million to be financed. As required, a public hearing was held on March 27, 2006 to receive public comment regarding the financing. No one spoke at the public hearing.

Requests for banking proposals were sent to four banks: Bank of America, BB&T, RBC Centura and Wachovia. The bid results are below.

Bank of America	4.69%
BB&T	4.19%
RBC Centura	4.36%
Wachovia	4.90%he

The lowest bidder on \$9.2 million was BB&T with a rate of 4.19% for fifteen years.

Catawba County Schools will receive two refunds from Trane Inc. and NC Department of Transportation amounting to \$52,900, which will be reimbursed to the County upon completion of the school.

Commissioner Beatty made a motion to accept the proposal of BB&T in connection with an installment purchase financing of \$9.2 million for the new Catawba Elementary School, to adopt the resolution as follows, seek approval from the Local Government Commission and authorize the execution of a financing agreement and deed of trust, a construction and acquisition agreement, a lease agreement and related documents and appropriate \$9,252,900 for the construction and furnishing of a Catawba Elementary School. The motion carried unanimously.

The adopted resolution read as follows:

RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS REGARDING THE FINANCING OF PUBLIC SCHOOL IMPROVEMENTS PURSUANT TO AN INSTALLMENT FINANCING AGREEMENT, ACCEPTING THE PROPOSAL OF BRANCH BANKING AND TRUST, REQUESTING THE LOCAL GOVERNMENT COMMISSION TO APPROVE THE

**FINANCING ARRANGEMENT AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN
INSTALLMENT FINANCING AGREEMENT AND DEED OF TRUST, A CONSTRUCTION AND
ACQUISITION AGREEMENT, A LEASE AGREEMENT AND RELATED DOCUMENTS IN
CONNECTION WITH SUCH INSTALLMENT FINANCING FOR PUBLIC SCHOOL
IMPROVEMENTS**

BE IT RESOLVED by the Board of Commissioners (the "Board") for the County of Catawba, North Carolina (the "County") as follows:

Section 1. The Board does hereby find and determine as follows:

(a) The Board of Education of the Catawba County School Unit (the "Board of Education"), the governing board of the Catawba County local school administrative unit, has determined that a need exists for constructing and equipping a new public elementary school for the Catawba County School District (the "Project") and has requested capital funding therefore.

(b) The Project is hereby ratified and approved.

(c) Upon careful review and consideration of the proposals submitted by banks to provide financing through an installment purchase financing, the County desires to accept the proposal of Branch Banking and Trust in the principal amount not to exceed \$9,200,000 for the purpose of providing funds to pay a portion of the cost of the construction and equipping of a public elementary school, subject to further approval of the particular documentation related thereto by the Board.

(d) After a public hearing and due consideration, the Board has determined that the most efficient manner of financing the Project will be through the County entering a Financing Agreement (the "Agreement") with Branch Banking and Trust (the "Bank") pursuant to Section 160A-20 of the General Statutes of North Carolina, as amended. Pursuant to the Agreement, the Bank will advance moneys to the County in an amount sufficient to pay, together with other available funds, the costs of the Project, and the County will repay the advancement in installments, with interest (the "Installment Payments").

(e) In order for the County to enter into the plan of finance, the site of the Project will be conveyed by the Board of Education to the County.

(f) In order to secure the performance of the County's obligations under the Agreement, the County will execute and deliver a Deed of Trust (the "Deed of Trust"), granting a lien on the site of the Project and all improvements and fixtures located and to be located thereon (the "Mortgaged Property").

(g) In order to facilitate the construction of the Project, the County will enter into a Construction and Acquisition Agreement (the "Construction Agreement") with the Board of Education providing for the supervision of construction of the Project by the Board of Education.

(h) The Mortgaged Property will be leased back to the Board of Education pursuant to a Lease Agreement (the "Lease Agreement") between the County and the Board of Education, which Lease Agreement will be subordinate to the lien created by the Deed of Trust.

(i) There has been presented to the Board forms of the following documents relating to the transaction hereinabove described:

- (1) the Agreement and Deed of Trust;
- (2) the Construction Agreement; and
- (3) the Lease Agreement.

(j) It is in the best interest of the County to enter into the Agreement and Deed of Trust, the Construction Agreement and the Lease Agreement in that such transaction will result in providing financing for much needed public school improvements in an efficient and cost effective manner;

(k) Entering into the Agreement is preferable to a general obligation bond and revenue bond issue in that (i) the County does not have the constitutional authority to issue non-voted general obligation bonds pursuant to Article V, Section 4 of the North Carolina Constitution because the County has not retired a sufficient amount of debt in the preceding fiscal year to issue a sufficient amount of general obligation bonds for the Project without an election; (ii) the nature of the financing does not allow for the issuance of revenue bonds; (iii) the cost of the Project exceeds the amount to be prudently provided from currently available appropriations and unappropriated fund balances; (iv) the circumstances existing require that funds be available to commence construction of the Project as soon as practicable and the time required for holding an election for the issuance of voted general obligation bonds pursuant to Article V, Section 4 of the North Carolina Constitution and the Local Government Bond Act will delay the commencement of construction of the Project by several months; and (v) there can be no assurances that the Project will be approved by the voters and the necessity of such Project dictates that the Project be financed by a method that assures that such Project will be constructed in an expedient manner;

(l) It has been determined by the Board that the cost of financing the Project through an installment financing agreement is reasonable comparable to the costs of issuing general obligation bonds or other available methods of financing and is acceptable to the Board;

(m) Counsel to the County will render an opinion to the effect that the proposed undertaking as described above is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of the State of North Carolina;

(n) The debt management policies of the County have been carried out in strict compliance with law, and the County is not in default under any obligation for repayment of borrowed money; and

(o) The County intends to make the Installment Payments under the Agreement from tax revenues, and any increase in taxes necessary to meet the sums to fall due under the proposed Agreement will not be excessive.

Section 2. The Board hereby ratifies and approves the filing of an application with the Local Government Commission for approval of the Agreement and requests the Local Government Commission to approve of the Agreement and the proposed financing in connection therewith.

Section 3. The Board hereby approves the Agreement and Deed of Trust, the Construction Agreement and the Lease Agreement in substantially the forms presented at this meeting. The Chairman or the Vice Chairman of the Board or the County Manager of the County are each hereby authorized to execute and deliver on behalf of the County each of said documents in substantially the forms presented at this meeting, containing such insertions, deletions and filling in of blanks as the person executing such documents shall approve, such execution to be conclusive evidence of approval by the Board of any such changes. The Clerk or any Deputy or Assistant Clerk to the Board is hereby directed to affix the official seal of the County to each of said documents and to attest the same.

Section 4. No deficiency judgment may be rendered against the County in any action for breach of any contractual obligation under the Agreement and Deed of Trust, and the taxing power of the County is not and may not be pledged directly or indirectly to secure any moneys due under the Agreement and Deed of Trust.

Section 5. The Chairman, the Vice Chairman, the County Manager, the Finance Director, the County Attorney and the Clerk to the Board, and any other officers, agents and employees of the County, are hereby authorized and directed to execute and deliver such closing certificates, opinions and other items of evidence as shall be deemed necessary to consummate the transactions described above, including (a) the execution of any necessary financing statements relating to fixtures located on the Mortgaged Property, (b)

the execution of any documents necessary for the conveyance of the site of the Project to the County and (c) the filing of a Form 8038-G with the Internal Revenue Service in connection with the financing.

Section 6. The County hereby represents that it reasonably expects that it and all entities issuing obligations on behalf of the County and all subordinate entities of the County will issue in the aggregate more than \$10,000,000 of tax-exempt obligations (not counting private activity bonds except for qualified 501(c)(3) bonds as defined in the Internal Revenue Code of 1986, as amended) during calendar year 2006.

Section 7. This resolution shall take effect immediately upon its passage.

The supplemental appropriation is as follows:

423-740100-863200-31126-2-01	Construction-Catawba Elementary	\$9,252,900
423-740050-690450	Installment Purchase Proceeds	\$9,200,000
423-740050-650600	Catawba County Schools	\$52,900

11. Other Items of Business.

Assistant County Manager Joellen Daley presented the State Legislative Agenda for the 2006 Short Session which will commence on May 9, 2006.

FUNDING ITEMS

COUNTY'S SHARE OF MEDICAID

As with the 2004 and 2005 agendas, the Board's top priority has been relief from additional funding for the County's portion of Medicaid. In 2005, this was a top priority for the North Carolina Association of County Commissioners and will continue to be during the Short Session of the General Assembly. Presently, there is a proposal being considered that would redirect local proceeds from a local one-cent sales tax to the State in exchange for elimination of county Medicaid financial participation with local authority to enact an additional one-cent sales tax. The North Carolina Association of County Commissioners is considering this proposal and presently working with the Legislative Delegation to consider the proposal and develop alternatives. We will watch this throughout the session and keep you advised of progress in this regard.

LOCAL REVENUE OPTIONS

As you are aware, several counties over the years have been granted specific authority to levy local taxes. Recently, Dare and Gaston counties were two of these counties. It is suggested that Catawba County continue to align with the North Carolina Association of County Commissioners to request that any local revenue options granted by the General Assembly be extended to all counties rather than a select few.

HICKORY METRO HIGHER EDUCATION CENTER

As you are aware, funding for the HMHEC was included in the budget as a continuing appropriation during the 2004 Session of the General Assembly. Funding remained in the budget during the 2005 Session. We will continue to monitor the funding to make sure it remains as a continuing appropriation in next year's budget.

CHILD CARE SUBSIDIES FUNDING

The County has a waiting list for daycare and we are looking for more resources. The unemployment rate has been reduced with more parents working, but many are working in jobs that pay lower wages. Therefore, it is necessary for us to look for more funding to subsidize childcare. We are aware that this is a statewide problem. It is suggested that we turn to the General Assembly to appropriate additional funds to meet the present daycare needs.

CHILD WELFARE SERVICES

Presently, the federal government and county government fund child welfare services. It has been suggested that the State and counties split the local burden on a 50/50 basis. The federal burden should remain the same, but the remaining burden should be shared by the State and local governments in a partnership. It has been suggested that a partnership be formed to support child welfare services with the State and counties participating equally. We expect to receive additional information on this matter in the

future and at that time we will bring that additional information back to the Board for consideration. We just wanted to make you aware at this time of this item that may have an impact on our funding.

FEDERAL RECONCILIATION BUDGET

The fiscal impact of the federal reconciliation budget could amount to a reduction of approximately \$400,000 in funds for Catawba County. The reductions come in the areas of child welfare, Temporary Aid to Needy Families (TANF), and child support. We will be looking to the General Assembly to assist in making up for this revenue loss. The reason why we would be looking to the State for relief is due to the fact that the programs we are offering are mandated by the State and therefore, it is our suggestion that they make up for the loss of funds from the federal government. An example of a program in child support relates to the child support enforcement incentive money. These funds are received as a result of aggressively pursuing child support dollars. Catawba County receives a large sum of funds through this program, approximately \$250,000, and, therefore, we would not like to see it reduced in the future.

SALES TAX REFUND FOR SCHOOLS

In the last legislative session, the sales tax refund for schools was eliminated. In 1999, the schools were granted the ability to apply for a refund of the 7% sales tax. When the refund was rescinded, the intent was only to rescind the 4.5¢ related to the State sales tax. Apparently, the full 7¢ was rescinded. It is our understanding that the 2.5¢ will be restored in the upcoming session and schools will be able to apply for that 2.5¢ refund. This is pertinent to Catawba County as the school systems may come to us for additional funds as their revenues from this source has been partially eliminated. Our suggestion is that we watch this throughout the session and report back as to whether or not the 2.5¢ has been restored.

ADDITIONAL STATE AID TO LIBRARIES

Last legislative session bills co-sponsored by Austin Allran and Representative Hollo were introduced in the Senate and House respectively requesting an increase of \$4.7 million. \$1 million recurring was secured. Now, the remaining \$3.7 million is requested. The issues being focused on are growing demand for public library services; library support of local economic development, small business development and employment opportunities; and the libraries' role in helping children to be successful in school. Catawba County currently receives \$163,917 in State Aid to Libraries. The additional \$3.7 million would bring this support up \$38,444 to a total of \$202,361 in State Aid. Our suggestion is to work to secure additional funds for libraries.

POLICY

HOUSE 1638 – FUNDING OF E911 EMERGENCY TELEPHONE SERVICES AND THE USE OF FEES COLLECTED FOR THE SERVICES

As you are aware, we looked to expand the use of E911 funds in the last session of the General Assembly. Unfortunately, the bill was expanded to remove the requirement of paying E911 fees by telephone companies. Although the intent was to expand the definition of the use, the outcome was that the bill was changed and used as an attempt to eliminate the fees. In the upcoming session, we will continue to monitor this bill to protect our interest as it relates to the E911 fees and the present availability of fee uses.

HOUSE 648 – SENATE 508 – Builders Inventory Bill

The bill would exempt from taxation the increase in value attributable to improvements in property prior to sale. Not only would this be costly to our local government, it is inconsistent with the practice of taxing residential property at fair market value. Our suggestion is that we remain opposed to this bill.

SENATE 951 – TRASH HAULERS BILL

The bill would require local governments to provide extended notice to companies providing solid waste collection services (haulers) before awarding franchises to other haulers or canceling franchises. The effect of the bill would make it more costly to change solid waste haulers and would greatly limit local governments' ability to provide the best services possible for our citizens. We suggest that we remain opposed to this bill in the upcoming session.

HOUSE 900 – ONSITE SUBSURFACE WASTEWATER BILL

Legislation to permit issuance of permits for onsite subsurface wastewater systems (septic tanks) after evaluation by private soil sciences will come up again in the short session. It was referred to Committee

last year and a stakeholder group was formed. We are fortunate to have our employee, Mike Cash, as a member of this stakeholder group. Our suggestion is that we remain opposed to this bill in the upcoming session, or work for a viable solution through our representation on the stakeholder group.

HOUSE 1769 – STATEWIDE WASTE DISPOSAL TAX

The bill would institute a \$2 per ton tax on solid waste with the intent of using the proceeds to remediate old closed landfills statewide. The impact to Catawba County would be that a tax would be charged and the proceeds would be used elsewhere in counties that have not monitored their landfills. The landfills in Catawba County are presently monitored and, therefore, we do not think we would be the recipient of any of these funds.

HOUSE 1765/SENATE 1030 – ELECTRONICS WASTE RECYCLING AND TAXATION

The bill would require that consumers pay a nominal tax when purchasing electronics items, similar to the white goods tax that exists today. Our suggestion is that we support this tax however; we will watch to see how the program is developed to make sure that the appropriate amount of the proceeds from the tax come back to Catawba County to address the disposal of electronics waste in our community.

CHAMPIONS OF EDUCATION PROPOSAL

The Champions of Education Cabinet has proposed and endorsed a legislative item related to high school students. Specifically, the item requires an increase in the age for compulsory education attendance to 18 or until graduation. Our suggestion is that the Board support the Champions of Education Cabinet if it determines to proceed with this recommendation.

Commissioner Barger asked if there were any more detail regarding the Champions of Education proposal and said he felt the real issue was making the kids *want* to stay in school and he wondered if the proposal dealt with motivation rather than just a mandate. Joellen said she would make sure that she communicated that concern to Danny Hearn at the Chamber and Tom said he would relay it at the Education Cabinet meeting.

County Manager Lundy asked whether a proposed tax on mobile homes would fit in with the other solid waste proposals on this agenda. Assistant County Manager Daley said she could include it and it had been discussed with the staff and information is being gathered on that issue. Chair Barnes said she thought it showed good faith in including it on this agenda.

Commissioner Barger made a motion to adopt this agenda. The motion carried unanimously.

12. Attorneys' Report.

Attorney Debra Bechtel reported reminded the Board that back in 2005 the County had received a PARTF grant for park improvements and some of those funds were used to add a pavilion to Riverbend Park. That project is going forward but in order for there to be lighting to the pavilion, an easement is necessary to give Duke Power the right-of-way to run power to the pavilion. Attorney Bechtel requested the Board authorize the Chair to execute a right-of-way agreement in favor of Duke Power for this purpose. Commissioner Beatty made a motion for this authorization. The motion carried unanimously.

Attorney Bechtel went on to report on another project which was getting sewer to G&G Lumber which the Board approved back in December 2003. G&G Lumber, a Union Grove, NC based company, entered into a contract with Catawba County the 1st day of December 2003 to build and operate a 65,000 BFH Lumber Manufacturing Facility. The location where the new jobs and investment are made is Rocky Ford Road located in Catawba County and adjacent to the County's Blackburn Landfill. The Blackburn Landfill and G&G Lumber are vital components of the County's emerging EcoComplex.

G&G Lumber agreed to create at least 115 new, permanent full-time jobs, invest at least \$20,000,000 in building construction, machinery & equipment, and remove useful clay and other useful materials from the aforesaid real property, at its own expense, and transport it to a location determined by County.

At this time, G&G Lumber has invested in excess of \$25 million in locating to Catawba County. The lumber mill is currently operational and has created the 115 jobs as agreed upon in the Economic Development

Agreement. G&G Lumber has moved +/- 65% of the clay and/or other useful materials from the aforesaid real property at its own expense; the agreement allows G&G Lumber 10 years to remove the remainder.

The incentives provided to G&G Lumber by County include: (1.) transfer of fee simple title to 71.1 acres of real property located on Rocky Ford Road adjacent to the Blackburn Landfill, (2.) extension of an 8-inch water line to property line, (3.) providing of sewer service to property line, (4.) construction of a sewer pump station near property line, and construction of sewer force main, and (5.) construction of approximately 1,400 feet of public roadway to provide access to the aforesaid real property from Rocky Ford Road.

At this time, the County has completed incentives 1, 2, and 5: transferred the property, constructed a waterline, and the access road has been completed. In order to meet its obligation, the County through a temporary Pump-and-Haul Permit is providing the sewer service to G&G Lumber. The waterline was installed to the site through a CDBG project. The access road was constructed through assistance from the North Carolina Department of Transportation.

Incentives 3 and 4 are related to sewer services. The County applied for a Federal EDA Grant on the 18th day of June 2004 for providing sewer service to G&G Lumber, six-months after the County contracted to provide said service. The \$348,600 grant was awarded on the 15th day of December 2004, over one year after the County contracted with G&G Lumber.

The development of the sewer service has been pro-longed and complicated by numerous factors including determining service provider, Blackburn Landfill operations, easement acquisitions, NCDOT right-of-way existence, and poor communication with and from EDA staff. However, the sewer service projects initial grant time constraint of 18 months ending the 12th day of June 2007 remains achievable.

At this time, the sewer service engineering design is complete and all State construction permits have been issued. The project is ready to bid and construct immediately upon completing acquisition of easements.

In September 2005, Staff began obtaining easements for the G&G Lumber Sewer Project. At that time, 21 separate easements were identified as necessary to begin work on the project. During the course of work associated with this project, the County has diligently managed its responsibilities. In fact, in the latter portion of the project design phase it became evident that the County would need to acquire several additional permanent and temporary easements including 17 unplanned easements along Hickory-Lincolnton Highway and NC Highway 10 where NCDOT right-of-ways are non-existent. County staff and consultants failed to recognize the absence of recorded NCDOT right-of-way along a portion of the project route. Staff was made aware of the possibility that NCDOT does not have recorded right-of-way when meeting with a property owner about a temporary construction easement for the project.

In order to retain the EDA \$348,600 grant, the remaining 18 easements (including the easement on the Shuford property) must be acquired by the 4th day of May 2006. The following project timeline must be adhered to in order to retain the grant:

- 3/17/06 Easement maps will be completed.
- 3/20/06 Board of Commissioners approval for condemnation of Shuford property.

- 3/21/06 thru 3/31/06 WPCOG will initiate easement acquisition of remaining easements by contacting property owners.

- 4/4/06 Condemnation letters go out to property owners who do not accept County's offer. 30-day condemnation waiting period begins.
- 5/4/06 Condemnation paperwork filed with Clerk of Court. Easement acquisition completed.
- 5/8/06 Advertise for Bids to construct sewer infrastructure.
- 5/25/06 Bid opening (Gov. Center 2nd floor meeting room, 2:00 pm).
- 6/12/06 Public Works Subcommittee approval of Bid Award.
- 6/19/06 Board of Commissioners approval of Bid Award.

7/3/06 Issue Notice to proceed with construction of sewer infrastructure to approved contractor.
7/24/06 Sewer infrastructure construction start date.
5/15/07 Sewer infrastructure construction end date providing 27 calendar days for unanticipated delays.
6/12/07 EDA mandated sewer infrastructure construction end date.

Upon receipt of new easement maps, Staff immediately began attempting to negotiate with property owners to obtain the 17 newly identified necessary easements. Staff is in the process of offering affected property owners \$3 per linear foot of easement. This amount is the current rate paid by the City of Hickory and an average rate paid by other cities in the region. Rates have been confirmed with the cities of Hickory and Conover. Staff have obtained 6 of the 17 necessary easements. The remaining easements needed are related to the following owners:

1. Farrell and Lottie Johnson
2. Roger and Rodney Warlick
3. Charlie and Marie Jane Wyant
4. Michael and Dana Wyant
5. Rhoney's Methodist Church
6. Rhoney's Chapel AME Zion Church
7. Charles Whitmire
8. Harry and Carolyn Whisnant
9. Johnny Lee and Elaine Wyant
10. David and Belinda Wilfong
11. Malinda Leatherman and David Whisnant, Jr.

In order to comply with the project and grant deadlines, the Board was requested to authorize condemnation action for any easements not obtained by March 31, 2006.

Condemnation action against these property owners is vital to the G&G Lumber Sewer Project because the County cannot solicit bids until all easements are obtained.

Chair Barnes made the following motions regarding these condemnations:
Chair Barnes moved to approve a resolution authorizing condemnation action against Farrell and Lottie Johnson as follows. The motion carried unanimously.

RESOLUTION AUTHORIZING CONDEMNATION ACTION

WHEREAS, Catawba County is undertaking acquisition activities necessary for the construction and maintenance of a sanitary sewer system entitled the "G&G Lumber Sewer Project"; and

WHEREAS, in order to provide for the necessary and expedient purchase of real property designated to be acquired for the construction and maintenance of a permanent sanitary sewer, Catawba County has negotiated with the property owners in an attempt to acquire the necessary property by negotiation in accordance with state law; and it appears that negotiations will not be successful in acquiring the needed property;

NOW, THEREFORE, BE IT RESOLVED BY CATAWBA COUNTY that the attorney for Catawba County be, and hereby is, authorized to institute condemnation action against:

Farrell C. Johnson & Lottie L. Johnson
Tax Parcel Identification #: 3618-02-77-1687
Deed Book 2444, Page 1406

Being a 0.18 acre portion designated for a Permanent Sanitary Sewer Easement and a 0.20 acre portion designated for a Temporary Construction Easement, of the following described property:

BEING all those certain two (2) tracts of land located in Jacob's Fork Township, Catawba County, North Carolina, and being more particularly described in accordance with Exhibit A attached and by reference thereto, incorporated herein as fully as if copied herein in full.

FIRST TRACT: All that certain piece, parcel or tract of land containing two hundred forty seven and one-fourth (247 $\frac{1}{4}$) acres, more or less, situate, lying and being on the Hickory-Lincolnton Public Road, about seven (7) miles West from the Town of Newton in Jacob's Fork Township, Catawba County, State of North Carolina, same being bounded on the North by the lands of O. M. Jarrett and R. L. Shuford; on the East by the lands of R. L. Shuford; on the South by the lands of W. H. Shuford and W. W. Lynch; on the West by the lands of W. W. Lynch, same being more fully described as follows:

BEGINNING at a Mulberry on the bank of the South Fork River, R. L. Shuford's corner, and runs S. 9 E 4 poles to a Wild Cherry; thence S. 68 W. 339 poles to a Black Oak; thence N. 22 W. 22 poles to a stone; thence S 66 W. 133 $\frac{1}{4}$ poles to a stake in the road; W. W. Lynch's corner, thence along said road N. 46 W 64 poles, crossing another road, to a stake in said road; thence leaving said road North 10 poles to a stake; thence N. 66 E. 319 poles, crossing a road, to a Black Oak; thence N. 75 E. 73 poles to a stake, where a Peach Tree formerly stood, on the bank of the South Fork River; thence down said river as it meanders to the beginning, containing 247 $\frac{1}{4}$ acres. Being the identical tract of land devised under item #8 of the Last Will and Testament of the late L. R. Whitener, said Will being duly recorded in Will Book #4, Page 126, in the Office of the Clerk of Superior Court of Catawba County, North Carolina and formerly known as the "home place" tract of L. R. Whitener.

For further Title Reference see Deed recorded in Book 243 at Page 163 in the Catawba County Public Registry.

SECOND TRACT: All that certain tract of land located in Jacob's Fork Township, Catawba County, North Carolina and more particularly described as follows:

BEGINNING at a point in the middle of the South Fork River, corner of C. E. Johnson, said point being located 36 poles from J. G. Finger's Southern corner, and at the intersection of the old and new channels of the South Fork River, and running thence with the old river bed and the line of Johnson, as follows: S. 47° W. 12 poles; S 26° W. 9 poles, S. 8° W. 13 poles; S 35° W. 9 poles, S 85° W. 9 poles; N 78° E. 6 poles; N.5° E. 10 poles; N. 38° W. 7 $\frac{1}{2}$ poles; W. 10 $\frac{1}{2}$ poles; N. 34° W. 6 poles; N. 41° E. 21 poles with the line of the Shuford Farm; N. 71° E. 21 poles to the Northern intersection of the South Fork River with the new Channel; thence with the middle of the new channel in a southeasterly direction, approximately 30 poles to the beginning, containing 6 acres, more or less.

For Title Reference see Deed recorded in Book 406 at Page 542 in the Catawba County Public Registry.

BARRING AND EXCEPTING however, from the foregoing lands the following:

1. A 1.39 acre tract described in Deed recorded in Book 898 at Page 543 in the Catawba County Public Registry.
2. A 1.10 acre tract described in Deed recorded in Book 698 at Page 370 in the Catawba County Public Registry.

Chair Barnes made a motion to approve a resolution authorizing condemnation against Roger Dale Warlick as follows. The motion carried unanimously.

RESOLUTION AUTHORIZING CONDEMNATION ACTION

WHEREAS, Catawba County is undertaking acquisition activities necessary for the construction and maintenance of a sanitary sewer system entitled the "G&G Lumber Sewer Project"; and

WHEREAS, in order to provide for the necessary and expedient purchase of real property designated to be acquired for the construction and maintenance of a permanent sanitary sewer, Catawba County has negotiated with the property owner in an attempt to acquire the necessary property by

negotiation in accordance with state law; and it appears that negotiations will not be successful in acquiring the needed property;

NOW, THEREFORE, BE IT RESOLVED BY CATAWBA COUNTY that the attorney for Catawba County be, and hereby is, authorized to institute condemnation action against:

Roger Dale Warlick

Tax Parcel Identification #: 3618-01-16-5427

Deed Book 0406, Page 0571

Being a 0.14 acre portion designated for a Permanent Sanitary Sewer Easement and a 0.14 acre portion designated for a Temporary Construction Easement, of the following described property:

Lying on the East side of the highway between Hickory and Lincolnton, and;

BEGINNING at a point in the center of said highway in the Spurgeon Rhoney-H.T. Lynch line; extending thence with the Rhoney line, N. 66° 30' E 349 feet to a stake in said line, a new corner; thence a new line S. 20° 45' E. 418 feet to a stake, which is 9 feet from the north margin of a country road which road adjoins Chas. Johnson on his north margin; thence S. 67° 12' W 315 feet to the center of the said highway; thence with the center of said highway N. 25° W. 415 feet to the point of beginning. Containing 3.18 acres, more or less.

Chair Barnes made a motion to approve the resolution authorizing condemnation action against Charlie and Marie Jane Wyant as follows. The motion carried unanimously.

RESOLUTION AUTHORIZING CONDEMNATION ACTION

WHEREAS, Catawba County is undertaking acquisition activities necessary for the construction and maintenance of a sanitary sewer system entitled the "G&G Lumber Sewer Project"; and

WHEREAS, in order to provide for the necessary and expedient purchase of real property designated to be acquired for the construction and maintenance of a permanent sanitary sewer, Catawba County has negotiated with the property owners in an attempt to acquire the necessary property by negotiation in accordance with state law; and it appears that negotiations will not be successful in acquiring the needed property;

NOW, THEREFORE, BE IT RESOLVED BY CATAWBA COUNTY that the attorney for Catawba County be, and hereby is, authorized to institute condemnation action against:

Charlie C. Wyant & Mary Jane Rhoney Wyant

Tax Parcel Identification #: 3618-01-18-7760

Deed Book 0718, Page 0306

Being a 0.54 acre portion designated for a Permanent Sanitary Sewer Easement and a 0.58 acre portion designated for a Temporary Construction Easement, of the following described property:

BEGINNING at an iron pin, a corner of George Smith in the line of Dave Leatherman, and running thence along a line of Dave Leatherman North 24° West 828 feet to an old iron pin at the branch; thence continuing in the same direction 261 feet to a corner in the paved road leading to Blackburn school; thence along the Hilton line and said road North 77° 44' East 173.25 feet to a corner in said road; thence leaving the road and running along Hilton line North 24° 53' West 519.75 feet to a stone, a corner of Fred N. Whisnant; thence along his line North 70° 37' East 379.5 feet to a persimmon and iron pin at the West edge of the Hickory-Lincolnton paved highway; thence along the line of Fred N. Whisnant and the West edge of said road North 26° 53' West 194 feet to a stake at the West edge of said road; thence North 11° 53' West 286.8

feet to a stake at the East edge of the road; thence continuing along said road or Highway in the same direction 142.2 feet to a stake at the East edge of the road; thence North 0° 53' West 266 feet to an iron pin a short distance East of the Highway; thence continuing in the same direction 100 feet to an iron pin in the Charles Hoover Estate line about 25 feet East of the highway; thence along the old Hoover line North 60° 39' East crossing a branch 1303.6 feet crossing Duke Power line to an old iron pin, corner of Walker Lyerly Property; thence continuing North 60° 39' East with the Lyerly line 924.3 feet to an old iron pin, corner; thence with another Lyerly line South 85° 29' East 798.7 feet to an old iron pin, Lyerly's corner; thence with another Lyerly line, South 5° 31' West 1125 feet to an old iron pin; thence with another Lyerly line South 75° 31' East 325.5 feet to an iron pin, Boyer corner; thence with the Boyer line South 15° East 624 feet to an iron pin, after crossing a branch to the Lyerly line; thence with the Lyerly line South 65° 28' West 1112.1 feet to an old iron pin in the center of the Duke Power line right of way and on the South side of a branch, and a corner of Charley Johnson; thence South 84° 13' West along a line of Charley Johnson and a line of Guy Warlick 866.25 feet to an old iron pin; thence South 54° 09' West 199 feet along the Warlick line; thence along another Warlick line South 14° 41' East 888.6 feet to an old iron pin, Guy Warlick's corner; thence with another Warlick line South 67° West 1237.5 feet crossing the Hickory-Lincolnton paved Highway and along the George Smith property line, passing on the South side of the new home of Mary Jane Rhoney Wyant, and Charlie C. Wyant, to the point of beginning, 149.79 acres, more or less, which includes the Church lot of 2.90 acres, according to a survey and Plat made by Joe F. Robinson, Registered Surveyor, dated March 8, 1963. See deeds recorded in Book 336 at Page 120; Book 273 at Page 538, Book 336 at Page 573 and Book 360 at Page 313, for further description and chain of title, and being the former home and farm of Spurgeon Rhoney, deceased.

Chair Barnes made a motion to approve a resolution authorizing condemnation action against Michael and Dana Wyant as follows. The motion carried unanimously.

RESOLUTION AUTHORIZING CONDEMNATION ACTION

WHEREAS, Catawba County is undertaking acquisition activities necessary for the construction and maintenance of a sanitary sewer system entitled the "G&G Lumber Sewer Project"; and

WHEREAS, in order to provide for the necessary and expedient purchase of real property designated to be acquired for the construction and maintenance of a permanent sanitary sewer, Catawba County has negotiated with the property owners in an attempt to acquire the necessary property by negotiation in accordance with state law; and it appears that negotiations will not be successful in acquiring the needed property;

NOW, THEREFORE, BE IT RESOLVED BY CATAWBA COUNTY that the attorney for Catawba County be, and hereby is, authorized to institute condemnation action against:

Michael S. Wyant & Dana W. Wyant

Tax Parcel Identification #: 3618-01-08-7291
Deed Book 1697, Page 0236

Being a 0.15 acre portion designated for a Permanent Sanitary Sewer Easement and a 0.15 acre portion designated for a Temporary Construction Easement, of the following described property:

BEGINNING at an iron pin, a new corner of Rhoney's Methodist Church on the East margin of the right of way of the Hickory-Lincolnton Road, (SR 1008) and running thence with the Church, North 86° 25' 20" East 304.03 feet to an iron pin, corner of the Church and Charlie Wyant; thence a new line, North 86° 25' 20" East 464.47 feet to an iron, a new corner; thence South 19° 18' 50" East 245.08 feet to an iron, a new corner, thence new line, South 71° 03' 50" West 785.83 feet to a persimmon tree in the West side of the right of way of the public road, after passing an iron 49.63 feet back on the East margin of the right of way; thence with the road, North 24° 54' 50" West 193.53 feet to a corner in the West side of the road; thence with the road, North 10° 05' 40" West 266.19 feet to an iron at the East edge of the pavement of said road; thence with the Church, North 86° 25' 20" East 23.24 feet to the BEGINNING, containing 6.41 acres, more or less, according to a survey and plat thereof made by J. Mike Honeycutt, Surveyor, dated December 6, 1990, entitled "Charlie C. and wife, Mary Jane Wyant".

Chair Barnes made a motion to approve a resolution authorizing a condemnation action against Rhoney's Methodist Church as follows. The motion carried unanimously.

RESOLUTION AUTHORIZING CONDEMNATION ACTION

WHEREAS, Catawba County is undertaking acquisition activities necessary for the construction and maintenance of a sanitary sewer system entitled the "G&G Lumber Sewer Project"; and

WHEREAS, in order to provide for the necessary and expedient purchase of real property designated to be acquired for the construction and maintenance of a permanent sanitary sewer, Catawba County has negotiated with the property owners in an attempt to acquire the necessary property by negotiation in accordance with state law; and it appears that negotiations will not be successful in acquiring the needed property;

NOW, THEREFORE, BE IT RESOLVED BY CATAWBA COUNTY that the attorney for Catawba County be, and hereby is, authorized to institute condemnation action against:

Rhoney's Methodist Church

Tax Parcel Identification #: 3618-01-08-5604
Book 0757, Page 0079

Being a 0.05 acre portion designated for a Permanent Sanitary Sewer Easement and a 0.06 acre portion designated for a Temporary Construction Easement, of the following described property:

BEGINNING at a stake at the East edge of the Hickory-Lincolnton paved highway, a corner of Fred N. Whisnant, and running N 83° 52' E 313 feet to an iron pin; thence N 11° 52' W 420 feet to an iron pin; thence S 80° 17' W 257.5 feet crossing a branch to an iron pin, Fred N. Whisnant's corner about 25 feet East from the Hickory-Lincolnton paved highway; thence along Fred N. Whisnant's line, S 0° 53' E 266 feet to a stake at the East edge of said highway; thence along said highway and the line of Fred N. Whisnant, S 11° 53' E 142.2 feet to the point of Beginning, containing 2.90 acres, more or less, according to a map and survey made by Joe F. Robinson, Registered Surveyor, dated March 8, 1963, recorded in Book of Plats No. 12 at Page 5, Catawba County Registry, and known as Rhoney's Tabernacle Church Property.

Chair Barnes made a motion to approve a resolution authorizing condemnation action against Rhoney's Chapel AME Zion Church as follows. The motion carried unanimously.

RESOLUTION AUTHORIZING CONDEMNATION ACTION

WHEREAS, Catawba County is undertaking acquisition activities necessary for the construction and maintenance of a sanitary sewer system entitled the "G&G Lumber Sewer Project"; and

WHEREAS, in order to provide for the necessary and expedient purchase of real property designated to be acquired for the construction and maintenance of a permanent sanitary sewer, Catawba County has negotiated with the property owners in an attempt to acquire the necessary property by negotiation in accordance with state law; and it appears that negotiations will not be successful in acquiring the needed property;

NOW, THEREFORE, BE IT RESOLVED BY CATAWBA COUNTY that the attorney for Catawba County be, and hereby is, authorized to institute condemnation action against:

Rhoney's Chapel AME Zion Church

Tax Parcel Identification #: 3618-01-08-5369

Deed Book 1705, Page 0532

Being a 0.01 acre portion designated for a Permanent Sanitary Sewer Easement and a 0.01 acre portion designated for a Temporary Construction Easement, of the following described property:

BEGINNING at an iron pin, the present Northeast corner of Rhoney's Methodist Church and the Grantor, and running thence with the East line of the Church, South 11° 21' 20" East 420 feet to an iron, the Southeast corner of the Church; thence with the Church, South 84° 21' 40" West 313 feet to an iron at the East edge of the pavement of Hickory-Lincolnton Road (SR 1008); thence with the road, South 10° 05' 40" East 20.69 feet to a new corner at the East edge of the present pavement of said public road; thence with said Michael S. Wyant and wife, North 86° 25' 20" East 22.23 feet to an iron, a new corner on the East margin of the right of way of the public road; thence continuing a new line, North 86° 25' 20" East 304.03 feet to an iron, a new corner; thence a new line, North 12° 54' 50" West 453.89 feet to the BEGINNING, containing 0.25 acres, more or less, according to a survey and plat thereof made by J. Mike Honeycutt, Surveyor, dated December 6, 1990, entitled "Boundary Survey of 0.25 acre Parcel-Wyant to Church".

Chair Barnes made a motion to approve a resolution authorizing condemnation action against Charles Whitmire as follows. The motion carried unanimously.

RESOLUTION AUTHORIZING CONDEMNATION ACTION

WHEREAS, Catawba County is undertaking acquisition activities necessary for the construction and maintenance of a sanitary sewer system entitled the "G&G Lumber Sewer Project"; and

WHEREAS, in order to provide for the necessary and expedient purchase of real property designated to be acquired for the construction and maintenance of a permanent sanitary sewer, Catawba County has negotiated with the property owners in an attempt to acquire the necessary property by negotiation in accordance with state law; and it appears that negotiations will not be successful in acquiring the needed property;

NOW, THEREFORE, BE IT RESOLVED BY CATAWBA COUNTY that the attorney for Catawba County be, and hereby is, authorized to institute condemnation action against:

Charles Lee Whitmire & Kimberly Troutman Whitmire

Tax Parcel Identification #: 3618-01-09-1243

Deed Book 1855, Page 1284

Being a 0.01 acre portion designated for a Temporary Construction Easement, of the following described property:

BEING ALL of Lots Nos. 3 and 4 of Block "A" of the Charles S. Hoover property as shown on a plat thereof prepared by Sam Rowe Jr., Registered Surveyor, and recorded in Book of Plats No. 9 at Page 93, in the Office of the Register of Deeds of Catawba County, North Carolina, to which plat reference is hereby made for a more complete description.

Chair Barnes made a motion to approve a resolution authorizing condemnation action against Harry and Carolyn Whisnant as follows. The motion carried unanimously.

RESOLUTION AUTHORIZING CONDEMNATION ACTION

WHEREAS, Catawba County is undertaking acquisition activities necessary for the construction and maintenance of a sanitary sewer system entitled the "G&G Lumber Sewer Project"; and

WHEREAS, in order to provide for the necessary and expedient purchase of real property designated to be acquired for the construction and maintenance of a permanent sanitary sewer, Catawba County has negotiated with the property owners in an attempt to acquire the necessary property by

negotiation in accordance with state law; and it appears that negotiations will not be successful in acquiring the needed property;

NOW, THEREFORE, BE IT RESOLVED BY CATAWBA COUNTY that the attorney for Catawba County be, and hereby is, authorized to institute condemnation action against:

Harry Scott Whisnant & Carolyn Jeanette Whisnant

Tax Parcel Identification #: 3618-01-09-1408
Deed Book 1670, Page 0065

Being a 0.01 acre portion designated for a Temporary Construction Easement, of the following described property:

BEING all of Lots Nos. 5 and 6 of Block "A" of the Charles S. Hoover Property as shown on a plat thereof prepared by Sam Rowe Jr., Registered Surveyor, and recorded in Book of Plats 9 on Page 93 in the Office of the Register of Deeds of Catawba County, North Carolina, to which plat reference is hereby made for a more complete description.

Chair Barnes made a motion to approve a resolution authorizing a condemnation action against Johnny Lee and Elaine W. Wyant as follows. The motion carried unanimously.

RESOLUTION AUTHORIZING CONDEMNATION ACTION

WHEREAS, Catawba County is undertaking acquisition activities necessary for the construction and maintenance of a sanitary sewer system entitled the "G&G Lumber Sewer Project"; and

WHEREAS, in order to provide for the necessary and expedient purchase of real property designated to be acquired for the construction and maintenance of a permanent sanitary sewer, Catawba County has negotiated with the property owners in an attempt to acquire the necessary property by negotiation in accordance with state law; and it appears that negotiations will not be successful in acquiring the needed property;

NOW, THEREFORE, BE IT RESOLVED BY CATAWBA COUNTY that the attorney for Catawba County be, and hereby is, authorized to institute condemnation action against:

Johnny Lee Wyant & Elaine W. Wyant

PIN 3608-02-99-9252
Deed Book 2138, Page 1476

Being a 0.03 acre portion designated for a Temporary Construction Easement, of the following described property:

TRACT ONE: BEGINNING at an iron pin located in or near the point of intersection of the eastern margin of the right of way of Highway No. 10 and the western margin of the right of way of the Hickory-Lincolnton Highway and running thence with the western margin of the right of way of the Hickory-Lincolnton Highway, South 07° 36' 18" East for 483.35 feet to an iron stake in the western margin of said right of way; thence South 82° 15' 07" West for 199.14 feet to an iron pin, the northeast corner of Lot No. 8; thence with the northern line of Lot No. 8 North 52° 44' 58" West for 199.96 feet to an iron pin located in the eastern margin of the right of way of Highway No. 10; thence North 37° 14' 00" East for 483.45 feet to the point of BEGINNING according shown as Lot No. 7 on a plat prepared for "Johnny L. Wyant and wife, Elaine W. Wyant" made by Houser Brothers & Associates Surveying, Inc. dated March 12, 1999.

In addition to the above described property, the parties of the first part convey to the parties of the second part all right, title and interest they have or ought to have in the property lying between the eastern margin of the above described property and the center of the right of way of the Hickory-

Lincolnton Highway and also between the western margin of said property and the center of the right of way of Highway No. 10. The above described property is shaped similar to an arrowhead.

For partial chain of title see deed recorded in Book 574 at Page 322, Catawba County Registry.

Chair Barnes made a motion to approve a resolution authorizing condemnation action against David and Belinda Wilfong as follows. The motion carried unanimously.

RESOLUTION AUTHORIZING CONDEMNATION ACTION

WHEREAS, Catawba County is undertaking acquisition activities necessary for the construction and maintenance of a sanitary sewer system entitled the "G&G Lumber Sewer Project"; and

WHEREAS, in order to provide for the necessary and expedient purchase of real property designated to be acquired for the construction and maintenance of a permanent sanitary sewer, Catawba County has negotiated with the property owners in an attempt to acquire the necessary property by negotiation in accordance with state law; and it appears that negotiations will not be successful in acquiring the needed property;

NOW, THEREFORE, BE IT RESOLVED BY CATAWBA COUNTY that the attorney for Catawba County be, and hereby is, authorized to institute condemnation action against:

David A. Wilfong & Belinda F. Wilfong

Tax Parcel Identification #: 3618-01-09-3849

Deed Book 1843, Page 0330

Being a 0.02 acre portion designated for a Permanent Sanitary Sewer Easement and a 0.03 acre portion designated for a Temporary Construction Easement, of the following described property:

BEING all of Lots Nos. 8 and 9 in Block "B" of the Charles S. Hoover Property as shown on a plat thereof prepared by Sam Rowe Jr., Registered Surveyor, and recorded in Book of Plats 9 at Page 93 in the Office of the Register of Deeds for Catawba County, North Carolina, to which plat reference is hereby made for a more complete description.

Chair Barnes made a motion to approve a resolution authorizing a condemnation action against Malinda Leatherman and David Whisnant, Jr. as follows. The motion carried unanimously.

RESOLUTION AUTHORIZING CONDEMNATION ACTION

WHEREAS, Catawba County is undertaking acquisition activities necessary for the construction and maintenance of a sanitary sewer system entitled the "G&G Lumber Sewer Project"; and

WHEREAS, in order to provide for the necessary and expedient purchase of real property designated to be acquired for the construction and maintenance of a permanent sanitary sewer, Catawba County has negotiated with the property owners in an attempt to acquire the necessary property by negotiation in accordance with state law; and it appears that negotiations will not be successful in acquiring the needed property;

NOW, THEREFORE, BE IT RESOLVED BY CATAWBA COUNTY that the attorney for Catawba County be, and hereby is, authorized to institute condemnation action against:

**Malinda W. Leatherman
David M. Whisnant, Jr.**

Robert G. Whisnant

Tax Parcel Identification #: 3619-03-00-4240
Deed Book 2280, Page 0196

Being a 0.02 acre portion designated for a Permanent Sanitary Sewer Easement and a 0.02 acre portion designated for a Temporary Construction Easement, of the following described property:

BEING all of Lot No. 13 of Block "A" and Lots Nos. 5 and 7 of Block "B" of the Charles S. Hoover property as shown on a plat thereof prepared by Sam Rowe Jr., Registered Surveyor, and recorded in Book of Plats 9, Page 92, Catawba County Registry.

Attorney Bechtel clarified that the easements will allow the sewer to be put in right on the roadway and the County would not be taking any of the owners property or deprive them of the use of it in any way. All property owners have been contacted personally regarding these easements and every effort was being made to work out these easement without condemnation.

13. Manager's Report. None.
14. Adjournment. Commissioner Barger made a motion to adjourn at 11:30 a.m. The motion carried unanimously.

Katherine W. Barnes, Chair
Board of Commissioners

Barbara E. Morris, County Clerk