

Minutes
Catawba County Board of Commissioners
Regular Session, Monday, May 16, 2005, 7:00 p.m.

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The Catawba County Board of Commissioners met in regular session on Monday, May 16, 2005, 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, 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 County Clerk Barbara E. Morris.

1. Chair Barnes called the meeting to order at 7:02 p.m.
2. Commissioner Lynn Lail led the Pledge of Allegiance to the Flag.
3. The Invocation was offered by Chair Barnes.
4. Vice-Chair Dan Hunsucker made a motion to approve the minutes from the Regular Meeting of May 2, 2005. The motion carried unanimously.
5. Recognition of Special Guests.
Chair Barnes welcomed Boy Scout Troop No. 327 from Sherrills Ford and noted they were working toward their citizenship and community merit badge. Chair Barnes said the Board was pleased to see young people take an active interest in government at all levels and hoped they learn from the experience. Chair Barnes also recognized the attendance of the farm community and said the Board looked forward to hearing from them on matters on the night's agenda.
6. Public comment for items not on the agenda. None.
7. Presentations.
 - a. Commissioner Lail presented Emergency Services Director David Weldon with a proclamation proclaiming May 15-21, 2005 as the Emergency Services Week in Catawba County. Commissioner Lail said that Catawba County has placed great importance on having qualified emergency medical services. David Weldon said Catawba County is very fortunate to have such dedicated volunteers and wonderful paramedics. David thanked the Board for their continued support of a very important service and added that the County system has been a model for the State and without all the members, volunteer and paid alike, the County would not have the system it has.
 - b. Vice-Chair Dan Hunsucker presented a proclamation proclaiming May 2005 as Foster Care Month in Catawba County to Jane Siers, Social Work Program Manager. Vice-Chair Hunsucker said the Board appreciated the work Social Services does with the foster care families and all the struggles they go through to find places for these children. Ms. Siers, on behalf of Social Services, thanked the Board of Commissioners for the proclamation and recognition of the foster parents. She said the County currently has 95 licensed foster homes and are serving approximately 170 youths in the community. Chair Barnes expressed the Boards thanks for the services of those volunteer families.

c. Commissioner Glenn Barger presented a proclamation proclaiming June 4, 2005 Cancer Survivor's Day in Catawba County to cancer survivor, Gary Skinner. Mr. Skinner thanked the Board for their support and invited the Board to attend the Cancer Survivor's Day celebration.

8. Public Hearings.

a. Michelle Deese, GIS Coordinator, presented the proposed naming of un-named roads in Bandys, Caldwell, Catawba, Clines, Hickory, Jacobs Fork and Newton Townships. The naming of these roads is necessary for the goal of the County's E-911 Office to assign individual E-911 numbers to all dwellings located in Catawba County. The requirement for a road to be named includes a length of at least 1200 feet and/or access to three or more parcels. The Planning Board approved the proposed names for the following roads:

1. Bandys Township: an un-named street off of Spurgeons Road. The suggestion of Donalds Dr. was received and recommended by staff.
2. Caldwell Township: two un-named streets, one off of Anderson Mountain Road and one off of Providence Mill Road. Lanaska Ln. was suggested for the street off of Anderson Mountain Road and Natural Knit Dr. was suggested for the street off of Providence Mill Road and these names were recommended by staff.
3. Catawba Township: an un-named street off of Boggs Road. The suggestion of Wades Dr. was received and recommended by staff.
4. Clines Township: an un-named street off of Stafford Street. The suggestion of Rabbit Crossing Ln. was received and recommended by staff.
5. Hickory Township: an un-named street off of Mountain Grove Road. The suggestion of Lillian Ln. was received and recommended by staff.
6. Jacobs Fork Township: two un-named streets, one off of Whitener Road and one off of Grace Church Road. Marantha Dr. was suggested for the street off of Whitener Road and Glady Ln. was suggested for the street off of Grace Church Road and these names were recommended by staff.
7. Newton Township: an un-named street off of Robinson Road. The suggestion of Stellar Way was received and recommended by staff.

The suggested names had been verified as non-duplicate names and the Planning Board conducted a public hearing on April 25, 2005 and received no opposition to the proposed names. The names had been advertised for this evening's public hearing and the Planning Board unanimously recommended the approval of these names.

Chair Barnes asked if the Board members had any questions and there were none so she proceeded with the public hearing on the proposed names and asked for anyone wishing to speak for or against any of the names to come forward. Hearing and seeing no one, Chair Barnes closed the public hearing and asked for action by the Board. Commissioner Barger made a motion to approve the proposed names. The motion carried unanimously.

b. Jacky Eubanks, Planning Director, presented a request to rezone three contiguous parcels of land totaling approximately 25 acres in the Sherrills Ford Small Area Planning District from C-2 Commercial District to a PD-MU Planned Development-Mixed Use District. The land is located at the intersection of Island Point Road and Norfolk Southern Railroad in Mountain Creek Township. (Parcel #1 ID 4618-01-06-6339; Parcel #2 ID 4618-01-06-9387; Parcel #3 4618-01-16-3483). Parcel #3 is currently developed with a mini-storage facility (owned by Aspen Properties). A planned development requires a rezoning application, narrative and a project site plan which allows a more specific review of the request and adds to the predictability of the uses on the site

and shows proposed improvements on the site. Along with the physical layout of the property, the proposed categories of uses are identified on the site plan.

This property is located in the State's WS-IV protected watershed and limits the amount of land allowed for development when more than one acre of land is proposed for development. The State regulations allow up to 24% built-upon area (imperviousness) with curb and gutter of 36% built-upon area without curb and gutter if more than one acre. The site plan shows 9.7% of the site as impervious, well within the State regulations.

The submitted site plan shows the buildings 10 feet from the edge of the internal road right-of-way. Allowing a variation to the 30 foot front setback would help achieve the neighborhood/pedestrian atmosphere and thus prevent the need to locate parking in the front yard. Additionally, the two out-parcels referenced on the site plan will access from the new internal road only and not off of Island Point Road. There is public water line available fronting the parcel along Island Point Road but no public sewer is available. Island Point Road is designed to handle 12-14,000 average daily trips and currently the average daily trips are 750. All new uses generate additional vehicle trips but it was noted that the number of trips per day that frequent a new use would be from already existing traffic which uses the road and happens to stop at the new site. The applicant sent a site plan to DOT but DOT does not finalize a driveway permit until the County reviews the plan.

There will be other agency approval required prior to issuing a zoning permit. They are a soil and water control approval; a driveway connection permit from DOT and approval from County Environmental Health regarding wastewater treatment and water supply.

The Planning Board conducted a public hearing on April 25, 2005. The owner, Mr. Bill Graves, spoke in favor and no one spoke in opposition. The developer has agreed to amend the site plan to include sidewalks along the internal road adjacent to the buildings. He also agreed to look at sidewalks along Island Point Road if future needs for sidewalks develops. The Planning Board recommended approval of this rezoning.

Commissioner Beatty asked if the sidewalks were going to be included in the site plan and Mr. Eubanks said this was the case regarding internal sidewalks and the only exception to that was proposed future sidewalks along Island Point Road would be coordinated with future development patterns.

Chair Barnes then noted that this public hearing had been appropriately advertised for a rezoning request for Aspen Properties to rezone 3 contiguous parcels totaling approximately 25 acres from the C-2 Commercial District to a PD-MU Planned Development-Mixed Use District. She then requested anyone wishing to speak for or against this rezoning to come forward. Hearing and seeing no one, Chair Barnes closed the public hearing and asked for motion for action. Commissioner Beatty made a motion to approve this rezoning and thanked Mr. Graves for his work and efforts to improve this area. The motion carried unanimously.

c. Jacky Eubanks, Planning Director, presented the proposed ordinance for the establishment of a Voluntary Agricultural District Program and an agricultural advisory board. Mr. Eubanks said this ordinance was a little different from the normal zoning and subdivision type ordinances. He stated that over the last five years, there had been substantial loss of farmland in this country. In North Carolina over this period of time, 168,300 acres had been lost. Catawba County had lost 40,000 acres in the last 40 years – 64% of the farms in Catawba County – basically an average of about 1000 acres per year. Mr. Eubanks itemized heritage, pride and community as reasons to preserve farmland as well as the effect on the local economy – 2002 market value of production was \$21,448,000. He also pointed out this land beneficial as wildlife habitat, flood control and lowering density – fewer housing units- as well as scenic viewshed and community character.

Currently 43 counties in the State have a voluntary agricultural district ordinance – including the surrounding counties of Burke, Caldwell, Alexander, Iredell and Lincoln.

In 1985 the Farmland Preservation Enabling Act was established and states a county MAY establish voluntary agricultural districts and create advisory boards to oversee the process. The purpose of this effort is to make developers aware of the relationship of farmland to a rapidly growing urban environment. The Agricultural Advisory Board would have the ability review applications for districts and provide recommendations on a wide range of farm related matters.

An informal committee of interested farmers and those involved in farming interests have been meeting since 2002. The Planning Department drafted the proposed ordinance and it was presented to the Farm Bureau and the Cattlemen's Association and both endorsed the overall objective and purpose of the proposed ordinance.

The proposed ordinance is a free-standing ordinance – not part of the general statute as it relates to zoning and land use regulations. It is a voluntary program. Individual farms can go in and out of the program at will – at their own discretion or at the discretion of the Advisory Board. The jurisdiction for setting up a district includes in cities' ETJ areas and if the ordinance is approved, the staff and other county agencies would pledge to work with cities in order to coordinate the voluntary agricultural district designations. Mr. Eubanks pointed out that there is pending legislation which the staff had just become aware of which may modify the ETJ relationship and may take that ability away.

Mr. Eubanks pointed out that this agricultural district ordinance is discretionary and is at the pleasure of the Board of Commissioners to establish it or not. The advisory board would be appointed by the Board of Commissioners and Mr. Eubanks referenced the proposed ordinance where the establishment of this committee is outlined. The Voluntary Agricultural Committee is recommending 9 members to this board with one member coming from each of the seven small area plans, one member from soil and water conservation and one member from the Farm Bureau Board of Directors – these people all being farmers and owning farmland. They would advise the Board on all farm related matters, particularly on alternative farming, preservation measures and agritourism.

A farm qualifies based on the requirements of the present use value legislation. Throughout the state, the requirements vary. The Voluntary Agricultural Committee chose the minimums based on the minimum legislated for forest land development – 20 acres of forest land designation as the minimum size of a farm to be eligible to come into the program. They also must be participating in the present use tax value program – which basically says on an annual basis the farmer applies for this designation with the tax appraiser/assessor. There has to be a 3 year average income of \$1000 produced from the proceeds from the farm operation.

The General Statutes requires that the program has to be certified by the Natural Resources Conservation Service that the land is suitable for farming. It must be managed in accordance with the erosion control practices for highly erodible soils. It is also subject to the conservation agreement that prohibits non-farm use for ten years.

One of the discretionary benefits (not in the statute) of the program is public notice – the committee recommended that the GIS system note on the maps the location of districts within one half mile, signs be posted on the actual district – really having to do with the buyer beware issue. The committee recommended a voluntary disclosure to potential buyers that the property was close to a district farm.

The committee also felt the legislation did allow for the notion of condemnation. The committee believed that if they put in the condemnation proceedings in the ordinance it would mean that before the Board of Commissioners could take action on a condemnation proceeding they would refer the matter to the Voluntary Agricultural District Advisory Committee who in turn would

conduct a public hearing and report, in writing, to the Board of Commissioners. Mr. Eubanks said the legal staff had a lot of discussion with the Committee about what did this really mean and what would be the ramifications for the future for Board action and as it relates to utilities extension projects. The General Statute is very clear that the Board of Commissioners do not have to abide by the recommendations of the Advisory Committee so the staff felt that this might give the Voluntary Agricultural District and the community a false sense of participation. Mr. Eubanks further said that it was unclear how this legislation would impact DOT – if it was put in the ordinance would it have any impact on DOT as they talk about condemning property for roads. After quite a bit of discussion – centered around public disclosure and condemnation provisions – the Committee recommended the ordinance have the condemnation language as well as the suggested by-laws. The proposed ordinance read:

ORDINANCE NO. 2005-

BE IT ORDAINED that the Catawba County Code of Ordinances, is hereby amended by adding a new chapter, to be numbered Chapter 4, which said chapter reads as follows:

**CHAPTER 4
AGRICULTURAL DISTRICTS**

ARTICLE 1. IN GENERAL

Sec. 4-1. Title

An ordinance of the Board of County Commissioners of CATAWBA COUNTY, NORTH CAROLINA, entitled, "**VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE.**"

Sec. 4-2. Authority

The articles and sections of this ordinance are adopted pursuant to authority conferred by the N.C.G.S. Sections 106-735 through 106-744 and Chapter 153A.

Sec. 4-3. Purpose

The purpose of this ordinance is to promote agricultural values and the general welfare of the county, increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture; and increase protection from non-farm development and other negative impacts on properly managed farms.

Sec. 4-4. Definitions

The following are defined for purposes of this ordinance:

Advisory Board means the Catawba County Agricultural Advisory Board.

Board of Commissioners means the Catawba County Board of Commissioners.

Chairperson means Chairperson of the Catawba County Agricultural Advisory Board.

District means Voluntary Agricultural District as established by this ordinance.

Farming means engaged in the production of crops, vegetables, fruits, sod, ornamental or flowering plants, dairy, livestock, poultry, timber and other forms of agricultural products having a domestic or foreign market.

ARTICLE II AGRICULTURAL ADVISORY BOARD

Sec. 4-5. Creation

The Board of Commissioners shall establish an Agricultural Advisory Board to implement the provisions of this program.

Sec. 4-6. Membership

The Advisory Board shall consist of no less than nine members appointed by the Board of Commissioners.

Sec. 4-7. Membership Requirements

- (a) Each Advisory Board member shall be a Catawba County resident and/or landowner.
- (b) All members shall be actively engaged in farming.
- (c) One member shall be selected from each of the County's seven Small Area Plan districts to the extent feasible.
- (d) One member shall be an individual recommended by the Soil & Water Conservation District Board of Supervisors.
- (e) One member shall be an individual recommended by the Catawba County Farm Bureau Board of Directors.
- (f) Members shall be selected for appointment by the Board of Commissioners from names of individuals submitted to the Board of Commissioners by the Soil and Water Conservation District Board of Supervisors, the County Office of the North Carolina Cooperative Extension Service, the U.S. Farm Service Agency County Committee, County Farm Bureau, Natural Resources Conservation Service, nonprofit agricultural organizations, conservation organizations, agribusiness, and the public at large.

Sec. 4-8. Tenure

The initial board is to consist of three appointees for terms of two years and three appointees for terms of three years and three appointees for terms of four years. Thereafter, all appointments are to be for terms of three years, with reappointments permitted.

Sec. 4-9. Vacancies

Any vacancy on the Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term.

Sec. 4-10. Removal

Any member of the Advisory Board may be removed with or without cause by the Board of Commissioners upon a two-thirds vote of the Commissioners. All members are subject to Catawba County Code section 2-266 regarding absences of board members.

Sec. 4-11. Board Procedures

The initial board will establish its rules and procedures through the adoption of official board by-laws. The by-laws may be amended by the board in accordance with procedures noted in the adopted by-laws.

Sec. 4-12. Duties

The Advisory Board shall consider the following work items:

- (a) Review and approve applications for qualified farmland and voluntary agricultural districts, including modifications to existing districts;
- (b) Conduct public hearings pursuant to Article VII of this ordinance;
- (c) Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the county that will affect agricultural districts;
- (d) Review and make recommendations concerning proposed amendments to this ordinance;
- (e) Study additional methods of farmland preservation and make recommendations to the Board of Commissioners;
- (f) Perform other agricultural related tasks or duties assigned by the Board of Commissioners;
- (g) Coordinate with and provide input on changes to county departmental policies related to agricultural issues;
- (h) Advise the Board of Commissioners and Planning Board on the status, progress, and activities of the county's agricultural district program; and
- (i) Coordinate the formation and maintenance of agricultural districts with the county's land use planning activities and the county's small area plans.

Sec. 4-13. Administrative

The County Planning & Community Development Department will serve the Board for record keeping, correspondence, application procedures under this ordinance, and whatever services the Board needs to complete its duties.

Sec. 4-14. Consultation Authority

The Advisory Board may consult with the North Carolina Cooperative Extension Service, the County Soil & Water Conservation District, the Natural Resources Conservation Service office, the North Carolina Department of Agriculture and Consumer Services, and with any other individual, agency, or organization the Advisory Board deems necessary to properly conduct its business.

ARTICLE III. CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS

Sec. 4-15. Implementation

In order to implement the purposes stated in Article I, this program provides for the creation of voluntary agricultural districts which meet the following standards:

- (a) The District shall contain a minimum of twenty (20) contiguous acres of qualified farmland; or
- (b) The District shall contain two or more qualified farms which contain a minimum of twenty (20) acres total and are located within one mile of each other.

Sec. 4-16. Education

The county may take such action as it deems appropriate through the Advisory Board or other entities or individuals to encourage the formation of the districts and to further the board's purposes and objectives, including the implementation of a public information program to reasonably inform landowners of the agricultural district program.

Sec. 4-17. Withdrawal

In the event that one or more participants in the district withdraw and the acreage in the district becomes less than the minimum acreage required or results in the remaining land being noncontiguous, a voluntary agricultural district will continue to exist so long as there is one qualifying farm.

ARTICLE IV. CERTIFICATION AND QUALIFICATION OF FARMLAND

Sec. 4-18. Requirements

To secure county certification as qualifying farmland, a farm must:

(a) Be participating in, or otherwise qualify for, the farm present-use-value taxation program established by N.C.G.S. §105-277.2 through §105-277.7; and

(b) Be certified by the Natural Resources Conservation Service (formerly the Soil Conservation Service) of the United States Department of Agriculture as being a farm on which at least two-thirds of the land is composed of soils that:

- (1) Are best suited for providing food, seed, fiber, forage, timber, forestry products, horticultural crops and oil seed crops; and
- (2) Have good soil qualities; and
- (3) Are favorable for all major crops common to the county where the land is located; and
- (4) Have a favorable growing season; and
- (5) Receive the available moisture needed to produce high yields for an average of eight out of ten years.

OR

Have been actively used in agricultural, horticultural or forestry operations as defined by N.C.G.S. §105-277.2 (1,2,3) during each of the five previous years, measured from the date which an agricultural district application has been made; and

(c) Be managed, if highly erodible land exists on the farm, in accordance with the Natural Resources Conservation Service defined erosion-control practices that are addressed to said highly-erodible land; and

(d) Be the subject of a conservation agreement, as defined in N.C.G.S. §121-35, between the county and the owner of such land that prohibits non-farm use or development of such land for a period of at least ten years, except for the creation of not more than three lots that meet applicable county zoning and subdivision regulations.

ARTICLE V. APPLICATION, APPROVAL, AND APPEAL PROCEDURE

Sec. 4-19. Application Procedure

(a) A landowner may apply to participate in the program by making application to the chairperson of the Advisory Board or a designated staff person. The application shall be on forms

provided by the Advisory Board. The application to participate in a district may be filed with the certification for qualifying farmland.

(b) An agreement to sustain, encourage, and promote agriculture must be executed by the landowner and recorded with the Advisory Board.

Sec. 4-20. Approval Process

(a) Upon receipt of a complete application, the chairperson shall forward copies immediately to the following offices which must provide comments to the Advisory Board within twenty (20) days of receipt:

- (1) The Catawba County Tax Assessor;
- (2) The Catawba County Soil and Water Conservation District office; and
- (3) The Natural Resources Conservation Service.

(b) Upon submission of a complete application to the Advisory Board, the Advisory Board shall meet within sixty (60) days, or as soon thereafter as possible, to approve or disapprove the application. The chairperson shall notify the applicant by first class mail of approval or disapproval of participation in the district. If the application is disapproved, the reasons for disapproval shall be noted in the notification letter.

Sec. 4-21. Appeal

If an application is denied by the Advisory Board, the petitioner shall have thirty (30) days to appeal the decision to the Board of Commissioners. Such appeal shall be made in writing and delivered to the county clerk for a final decision by the Board of Commissioners.

ARTICLE VI. REVOCATION OF PRESERVATION AGREEMENT

By written notice to the Advisory Board, a landowner of qualifying farmland may revoke the Preservation Agreement or the Advisory Board may revoke the same Preservation Agreement based on noncompliance by the landowner, subject to the same provisions as contained in Article V for appeal of denials. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a district. Absent noncompliance by the landowner, neither the Advisory Board nor the Board of Commissioners shall revoke any preservation agreements prior to its expiration.

ARTICLE VII. PUBLIC HEARING FOR CONDEMNATION PROCEEDING

Sec. 4-22. Purpose

Pursuant to N.C.G.S. §106-740, no state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a district until such agency or unit has requested the Advisory Board to hold a public hearing on the proposed condemnation. This

ordinance shall not be interpreted or construed to limit the county's authority to acquire land within or outside a voluntary agricultural district for a public purpose, whether by purchase or condemnation.

Sec. 4-23. Procedure

(a) Upon receiving a request, the Advisory Board shall publish notice describing the proposed action in newspapers having general circulation in the County within ten (10) business days of the receipt of the request. The public hearing on the proposed condemnation is to be held within twenty-one (21) days of receipt of the request.

(b) The Advisory Board shall meet to review:

(1) Whether the need for the project has been satisfactorily established by the agency or unit of government involved; and

(2) Whether there are alternatives to the proposed action that have less impact and are less disruptive to the agricultural activities of the District within which the proposed action is to take place.

(c) The Advisory Board shall consult with the County Cooperative Extension Service, the Natural Resources Conservation Service, Soil & Water Conservation District and any other individuals, agencies, or organizations deemed by the Advisory Board to be necessary for its review of the proposed action.

(d) Within five (5) days after the hearing, the Advisory Board shall make a written report containing its findings and recommendations regarding the proposed action. The report shall be made available to the public prior to it being conveyed to the decision-making body of the agency proposing the acquisition.

(e) There will be a period of ten (10) days allowed for public comment on the report of the Advisory Board. Public comments must be submitted in writing to the Clerk of the Advisory Board.

(f) After the ten (10) day period for public comment has expired, the Advisory Board shall review the public comments received and submit a final report containing all of its findings and recommendations regarding the proposed action to the decision making body of the agency proposing the acquisition.

(g) Pursuant to N.C.G.S. §106-740, the Board of Commissioners shall not permit any formal initiation of condemnation by local agencies while the proposed condemnation is properly before the Advisory Board.

ARTICLE VIII. PUBLIC NOTICE

Sec 4-24. Public Notice of Proximity to Voluntary Agricultural District

(a) Land Records System. Upon certification of qualifying farmland and designation of real property as a district, the listing of that qualifying farmland and real property, which is contained in the

Catawba County Geographic Information System (GIS), shall be changed to include a notice reasonably calculated to alert a person researching the title of a particular tract through GIS that such tract is located within one-half aerial mile of a voluntary agricultural district.

(b) Signage. Signs, the design of which has been approved in advance by the county, may be placed along the rights-of-way of major roads that pass through or next to approved agricultural districts. At least one sign will be posted along the roads, the location of which is deemed appropriate by the Advisory Board or its administrative agent for the county's agricultural district program.

(c) Maps. Maps identifying approved agricultural districts shall be provided to the following agencies or offices:

- (1) Register of Deeds; and
- (2) Natural Resources Conservation Service; and
- (3) North Carolina Cooperative Extension Service; and
- (4) County Planning & Community Development; and
- (5) County Tax Office; and
- (6) Soil and Water Conservation District; and
- (7) Any other such agency or office the Advisory Board deems appropriate.

(d) Posting of Notice. The following notice, printed on a minimum 8½ inch x 11 inch paper, shall be posted in the office of the Register of Deeds, and any other office or agency the Advisory Board deems necessary.

“NOTICE TO REAL ESTATE PURCHASERS IN CATAWBA COUNTY –
AGRICULTURAL DISTRICTS “

Catawba County has established agricultural districts to protect and preserve agricultural lands and activities. These districts have been developed and mapped by the county to inform all purchasers of real property that certain agricultural and forestry activities, including but not limited to pesticide spraying, manure spreading, machinery and truck operation, livestock operations, tree harvesting, sawing, and other common farming activities may occur in these districts any time during the day or night. Maps and information on the location and establishment of these districts can be obtained from the North Carolina Cooperative Extension Service – Catawba County office, the office of the Register of Deeds, the County Tax office, the County Planning office, the County Soil & Water Conservation District or the Natural Resources Conservation Service office.”

(e) Subdivision Plat. Developers of all subdivisions or planned unit developments shall designate on the preliminary and final development plats, the existence of all districts within one-half aerial mile of the proposed development.

Sec. 4-25. Limit of Liability

In no event shall the county or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance for any action made in good faith in connection with the duties or obligations imposed by this ordinance.

Sec. 4-26. No Cause of Action

In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or voluntary agricultural district as defined in this ordinance, unless otherwise dictated by law.

ARTICLE IX. WAIVER OF WATER AND SEWER CONNECTION REQUIREMENT AND ASSESMENTS

Sec. 4-27. No Assessment.

A landowner belonging to the district shall not be assessed for public water and/or sewer systems. A landowner belonging to the district shall not be required to connect to public water and/or sewer systems except as otherwise required by the North Carolina Building Code, the Catawba County Code of Ordinances, and/or County Environmental Health regulations as each may be amended from time to time. No provision of this section shall relieve any landowner belonging to the district from paying any and all applicable connection fees, including but not limited to County Capital Fees and Municipal connection fees, as may be charged for connection to public water/sewer systems at the time of connection.

ARTICLE X. NORTH CAROLINA AGENCY NOTIFICATION

A copy of this adopted ordinance, and any subsequent amendments, shall be sent to the Office of the North Carolina Commissioner of Agriculture and Consumer Services. The county shall submit an annual written report to the Commissioner of Agriculture and Consumer Services on the county's agricultural district program, which should include the following information:

- (a) Number of landowners enrolled;
- (b) Number of acres enrolled;
- (c) Number of acres certified during the reporting period;
- (d) Number of acres denied during the reporting period;
- (e) Copies of any amendments to the ordinance; and
- (f) Any other information the Advisory Board deems useful.

ARTICLE XI. LEGAL PROVISIONS

Sec. 4-28. Severability

If any article, section, subsection, clause, phrase, or portion of this ordinance is for any reason found invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Sec. 4-29. Conflict with other Ordinances and Statutes

Whenever the provisions of this ordinance conflict with other ordinances of Catawba County, the most restrictive ordinance shall govern. Whenever the provisions of any federal or state statute require more restrictive provisions than are required by this ordinance, the provisions of such statute shall govern.

Adopted this the ____ day of _____, 2005.

CATAWBA COUNTY BOARD OF COMMISSIONERS

Kitty W. Barnes, Chairman

ATTEST:

Barbara Morris, Clerk to Board of Commissioners

Approved as to form:

County

And the proposed by-laws read:

**VOLUNTARY AGRICULTURAL DISTRICT
SUGGESTIONS FOR BOARD BY-LAWS**

1. Chairperson

The Advisory Board shall elect a chairperson and vice-chairperson each year at its first meeting of the fiscal year. The chairperson shall preside over all regular or special meetings of the Advisory Board. In the absence or disability of the chairperson, the vice-chairperson shall preside and shall exercise all the powers of the chairperson. Additional officers may be elected as needed.

2. Jurisdiction

The Advisory Board may adopt rules of procedure not inconsistent with this ordinance or with other provisions of State law.

3. Advisory Board Year

The Advisory Board shall use the Catawba County fiscal year as its meeting year.

4. Meetings

Meetings of the Advisory Board shall be held at the call of the chairperson and at such other times as the Advisory Board may specify in its rules of procedure or upon the request of at least a majority of the Advisory Board Membership. A meeting shall be held at least annually. Notice of any meetings to the members shall be in writing unless otherwise agreed to by all Advisory Board members. Meeting dates and times shall be advertised in local newspapers or by other means of public dissemination as may be agreed upon by at least a majority of the Advisory Board Membership. All meetings shall be open to the public.

5. Majority Vote

All issues shall be decided by a majority vote of the members of the Advisory Board present at a meeting, except as otherwise stated herein.

6. Records

The Advisory Board shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Advisory Board and shall be a public record.

Six of the 43 counties which have adopted a voluntary agricultural district ordinance do not have a condemnation provision. After the Committee approved the proposed ordinance, it went to the Planning Board on April 25, 2005 where approximately 15 citizens were in attendance – four people spoke in support of the ordinance including the condemnation provision. The Planning Board recommended the ordinance with the condemnation provision. After a lot of consideration, the Planning STAFF recommended the ordinance with some exceptions and the removal of the condemnation provision. This recommendation was made because that provision is rarely used,

its only used when no other options exists and the County Commissioners only use this power sparingly and reluctantly. Further, the condemnation process involves negotiations between private individuals and the public entity and is only disclosed to the public upon completion and the farming community has been and will continue to be actively involved in small area planning efforts and the planning of the future of rural areas in the County. The Planning Staff does not believe that the farming communities rights or ability to be heard would be diminished by the removal of the condemnation provision of the proposed ordinance. The counties which do not have the condemnation provisions in their ordinances are Gilford, Stanly, Franklin, Northhampton, Sampson and Wake Counties.

Chair Barnes asked Mr. Eubanks what impact would this county ordinance have on municipalities regarding the public hearing on condemnations – she said she understood the requirement to only apply to the County and wouldn't affect other entities that have those powers such as power companies and public utilities. County Attorney Robert Eades said it does apply to state and local governmental agencies which include cities in terms of exercising condemnation authority but it does not apply to private condemnors such as Duke Power.

Commissioner Beatty asked Jacky to clarify that farmers have to already be in the present use value program to be eligible for this voluntary agriculture district program and they would continue in that program. Commissioner Beatty had a further question on membership requirements as it stated that each advisory board member shall be a resident and a landowner or engaged in farming – it was confusing in that the member could own land and not farm and not own land and farm and not be a member – and Commissioner Beatty pointed out that there are related areas where people would be good on the board and couldn't serve due to these requirements – and she said the requirements were limiting. Jacky acknowledged the limitations and felt the Board would have the discretion to expand the requirements for that board. Commissioner Beatty asked that if a citizen did not want to have a public hearing, could they opt out of one? County Attorney Eades thought that was not an option and one would have to be held – it would be an obligation of the Board but Commissioner Barger added that the citizen didn't have to show up. Commissioner Barger then asked Jacky if the Planning Board unanimously approved the proposed ordinance, was it before the staff recommendation to remove the condemnation provision and Jacky responded it prior to the staff recommendation. Commissioner Barger then asked if the Planning Board was aware of the staff's change recommendation and Jacky said they were aware.

Commissioner Barger then asked County Attorney Eades if this ordinance would impose upon municipalities and school boards the necessity to have that public hearing and without the condemnation provision there would no public hearing requirement? County Attorney Eades responded that no public hearing requirement would exist if the condemnation provision was removed but if left in, municipalities and school boards would be required to have such a hearing. Without the condemnation provision, the landowner would have the opportunity to speak at the Board of Commissioners meeting at which the Board votes on the initiation of the condemnation. Chair Barnes then asked if the advisory committee conducted the public hearing and reported to the public entity. County Attorney Eades said any convening authority is going to have the same requirement to have the public hearing if it's in the ordinance. Commissioner Barger asked how aware are the municipalities, school boards and other of this proposed ordinance. Mr. Eubanks replied that he did not think the cities or school boards had been contacted to be made aware how this provision might impact them. County Attorney Eades said he would like to make some general comments regarding that issue – he said he did not understand from the language of the state statute or the proposed ordinance whose responsibility it was to notify these other agencies

that may be undertaking condemnation. He said it is our ordinance and our advisory board which would suggest that the County had some obligation to make certain these hearings were held but on the other hand it was certainly foreseeable that folks would be undertaking condemnation without the Board having any knowledge whatsoever that it is going forward. He said that is one of the procedural aspects of this matter that he is not clear about but there are 43 other counties that have this ordinance. It was his understanding that when these other counties were called to asked how this was working, very often the response was that it was on the books but people are really not utilizing it and in many instances the people have acted surprised when they went back and read the ordinance and realized that the condemnation provision was in there. Vice-Chair Hunsucker asked Jacky if the Planning Board was opposed to the condemnation provision, why was that opposition not voiced before the public hearing. Jacky responded said it was discussed with the Planning Board but it was not greatly emphasized and they were in favor of it. The staff then did more investigation and were against it. Vice-Chair Hunsucker said he thought the planning staff was in favor of it prior to the meeting but Jacky indicated the planning staff's feelings were mixed and they felt that there were merits by both sides – concerns about tying officials hands and believing that fair prices are offered when condemnation takes place. Vice-Chair Hunsucker then asked about the ability for voluntary agriculture districts within ETJs and Jacky confirmed this was possible but that there is possible legislation that might tighten the provision. Chair Barnes then asked Robert Eades for the general comments he had made reference to earlier. County Attorney Eades said he had met with the informal advisory committee on two occasions to talk about these issues and he stressed that his concerns about the condemnation provision in no way suggest that he was not sensitive the concerns of the farmers or other land owners and has faced the condemnation process with his own family's land so he understood this was an issue that people get worked up about. But he said his obligation was to the County and the Board of Commissioners and while he was sensitive the farm community's concerns, his first obligation was to try to advise the Board. He said it was true that other counties have chosen to include the condemnation provision but he did not know why but was hoping that it was that he and Debra Bechtel were especially vigilant and paid attention to it. He also acknowledged that the Board has had problems with condemnation in the past because there was a public hearing requirement of which they were not aware and ramifications of that had to be dealt with and therefore he was very sensitive to the date coming sometime from now when none of these existing members are around and the county is proceeding with a condemnation and this obscure ordinance is in place and someone says – hey, did you have the public hearing? He then said in terms of condemnation as it currently exists, there is a clear statutory process to be followed. What has always been done in Catawba County on the very few occasions the County has initiated condemnation - Mr. Eades pointed out he has been County Attorney for eleven years and he has only worked on two – has been to go out and talk to the landowners and try to purchase the property and if that was unsuccessful, then the following statutory process was done – give the landowner written notice at least 30 days before the filing of the condemnation action, tell the landowner what property the County was interested in, how much the County believed it was worth, when the County intended to take possession and all of this was done by Statute. Even after written notice the County and the landowner can still negotiate to try and resolve it. If it cannot be resolved, a complaint is filed. Unlike other suits where an answer needs to be filed in 30 days, in condemnation suits, the landowner has 120 days to file an answer. When the County files the complaint, the County pays into the Clerk of Court the amount of money the property is estimated to be worth and the landowner can at that point come in and get that money – so in most cases the County gets the land when they file the complaint and the landowner gets the money and then essentially what is trying to be resolved is whether it is enough money. Robert stressed that

these negotiations and proceedings are with the landowner and that points out the difference between condemnations and zoning issues. When the County is undertaking zoning actions, that's a public action that pertains to the public at large that have ramifications in the entire community and that is the legitimate subject of a public hearing and public comment. But a condemnation action is something between the County and a private party and Mr. Eades believes as a practical matter, a policy matter and a legal matter, it is best that the negotiations are kept and the prosecution of that lawsuit targeted between the County and the private party and this committee, while well-intended, is going to introduce unnecessary, complicating factor from the County's standpoint. Mr. Eades said that it is his obligation to the Board to advise of this belief. Mr. Eades further stated that there are fundamental questions that have yet to be resolved – and stated an example of a landowner who qualified for one of these districts and the very next landowner down the road from him does not, and an entity needs to condemn property along the way – the first landowner is entitled to the procedural protections that his neighbor is not – both are going to end up having condemnation actions filed against them but one will get an extra set of protections. Mr. Eades said if he were the neighbor without that right, he would argue he had been denied equal protection of the law. Mr. Eades then raised a further point that there are many other categories of land for which special condemnation provisions are adopted and if a landowner is not within one of the statutory classifications, they do not get this special protection – its not just neighbors and neighbors, it's the type of landuse – and that is not typically the way the County handles landuse issues. Mr. Eades reiterated that this ordinance would apply to any number of condemning authorities and it has not been clarified how that relationship will be administered and how it will work and there isn't a lot of guidance in the ordinance or in the Statutes how to do that. The other procedural question raised by Mr. Eades was the language of the ordinance and the language of the enabling Statute which says a condemning unit may not "formally initiate any condemnation action" – and Attorney Eades said he did not know what formally initiates means and the only way to know is if there are cases that have decided on that question and the courts says here is what that means – he said his reasonable belief was that it probably means the filing of the notice of condemnation but he did not know. He said in the final analysis that he believed that there are already sufficient procedures and safeguards to protect landowners and as the Board of Commissioners' attorney, he would not likely advise the Board to place an additional procedural burden on the Board that it was not required when he did not believe there was a corresponding public good.

Chair Barnes then noted that the public hearing regarding the proposed voluntary agricultural district ordinance had been duly advertised and opened the public hearing and invited those who wished to make a comment to come forward.

Mr. Ira Cline came forward and thanked the Board for all their hard work and said the Planning staff had done a very good job and it was appreciated. He said that at times those in agriculture do not say thank you when they should but said the County had been good to them. He said while the County was good, there are others who are involved in condemnation who do not give them a chance to respond. He said after the ordinance was voted on, the County would have the best voluntary agricultural district in the State. Chair Barnes asked Mr. Cline and then asked for a show of hands from those in attendance, who would choose to participate in having an agriculture district for themselves – the show of hands included the majority of those in attendance.

Steve Woods came forward and stated he was an attorney with the North Carolina Farm Bureau, State office in Raleigh. He said he had been asked to speak briefly about the ordinance, especially regarding the provision for the public hearing on condemnation. He said the power of the Agricultural Advisory Board to hold public hearings does not take any authority away from the Board of Commissioners. The Agricultural Advisory Board is just an advisory board and the

findings of this advisory board on condemnation is merely to advise and represent an organized voice of the agriculture within the County – whereas one farmer might not want to be heard or might not be able to be heard in a condemnation action – the advisory board would be there to represent farmers that have banded together to form these voluntary agricultural districts and he said he believed that those farmers would feel that they have had a fair hearing when and if something like this comes up for land that is in an agricultural district. He said it was only an extra 30 days that the condemning party has to take to allow the public hearing – and said it was really not that much to ask to allow these people to be heard. He further said he didn't believe that the farmers involved in these districts would get their hopes up that this would somehow tie the hands of whoever was doing the condemnation. He further stated there were two tangible benefits for participating in the program – one was the record notice of proximity of people moving into the area to a farm or to one of these districts and the other was representation on the agricultural advisory board. He said the more active the advisory board they have, the more the incentive this representation will be. He said the advisory board could be useful in present use value schedules that need to be adopted and a host of things that effect agriculture in the County that the advisory board could hear. He said of all the counties he had dealt with have the condemnation provision with the exception of Stanly County – he said he understood there are four others – and there hasn't been a lot of discussion about it. He admitted there was no track record on this and he was not aware how it was working in other counties. He gave an example that the state law required that there be representation on the advisory board from each agricultural district and he said this is obviously not workable when you have 30-40 agricultural districts. He said when this was first passed in 1983 there were about a dozen counties that adopted these ordinances and then didn't do anything. In just the past 6-7 years with Governor Hunt's emphasis on preserving farm

land, there has been a renewed interest in counties to adopt these ordinances and probably more than half of the existing ordinances are less than 7 years old – so there are a lot of things that are yet to be tested – and he believes the public hearing on condemnation is one of them. He said he wanted to touch on one thing that Attorney Eades said about the issue of neighboring landowners. Mr. Woods said as he read the Statute and the proposed ordinance, it was his opinion that when there was land in a particular project that was within a voluntary agricultural district it triggered the requirement for the public hearing but the public hearing that was held by the agricultural advisory board would not merely benefit the person who owned farm land in the voluntary agricultural district. He said he thought that the purpose of the hearing was to review the entire project and it would also be a forum for the person who maybe wasn't in the agricultural district but his land was part of the proposed project. The procedure in the proposed ordinance says the Board should review whether the reason for the project had been satisfactorily established by agency or division of government involved and whether there were alternatives to the proposed action that had less impact and were less disruptive to the agricultural activities of the district within which the proposed action was to take place. He said he thought that was broad enough to really review the entire proposed project and benefit everyone whose land was proposed to be taken and not just those in an agricultural district. He stated the Farm Bureau was in support of the ordinance and was looking to have ordinances like this in all 100 counties. He said the General Assembly was constantly looking at new incentives to add on to the voluntary agricultural districts program and it's difficult to do that when the program is not in all 100 counties. Attorney Eades then clarified that the landowner within a voluntary agricultural district was entitled as a matter of right to an additional hearing that the landowner not in an agricultural district would not be entitled to – not what they could do, but what they are required to do. Commissioner Barger then asked that without the condemnation portion of this ordinance, was a public hearing still

required for this Board or whatever municipal board is condemning the property. Mr. Eades said that was not the case – a public hearing is not required – this Board or any other board has to in public session adopt a resolution initiating condemnation action – but it is not a public hearing. Commissioner Barger said that session would be an opportunity for the landowner to make their case publicly and Mr. Eades agreed.

Susan Proctor thanked the Board and County for the 36 hours per day and 12 days a week that they put into keeping the County safe. She said she thought there was a different way of looking at the condemnation ordinance and felt it would be a much more positive way. Giving a public hearing would give the landowner a chance to grieve the loss of their land. She said that those who had been born and bred to the land, the land becomes part of them and it is very difficult to give that up. She said in this type of loss it is considered healthy to grieve and a public hearing would give these people a chance to heal and it would give the Board a chance to offer to hear these people who were losing something for the better good of the community. She said most of the farmers would not say no when they know that a condemnation needs to be done but they still want the opportunity to grieve.

Ms. Nancy Smyre came forward and said she had been married to a farmer for over forty years and had eight grandchildren, one of which they hoped would take over the farm which has been on Smyre land for over 150 years. Ms. Smyre said she had served on the NC Farm Bureau Federation Environmental Committee for many years. In her many roles on the Farm Bureau she had heard about voluntary agricultural districts for many years and over the past three years has served on the voluntary agricultural district committee and she said she has never heard an unfavorable word about these districts from those counties who had them in place. She further said that all the counties surrounding Catawba County had this ordinance in place with the condemnation provision. She said she had been asked why the Planning Dept. had been designated to administer the ordinance rather than the Extension Service or the Soil and Water District and since she did not know otherwise, she supposed that Mary George had realized the need for the ordinance and undertook the endeavor. Ms. Smyre encouraged the Board to vote to approve the ordinance as presented by the committee.

Mr. Clarence Hood of Sigmon Dairy Road came forward and thanked the Commissioners and county government for the support they give to agriculture and forestry. Mr. Hood said he had also served on the voluntary agricultural district committee since 2002 and they had drafted a proposed ordinance but it was held off due to the shortage in the Planning Office and further said that the committee had decided the Planning Department was the best to handle the ordinance and would be best for the County. When the committee reconvened in 2005, the proposed ordinance differed from the 2002 version in that it left out what department would administer the ordinance and how the advisory committee would be structured and the condemnation provision was also missing. Mr. Hood then said he believed there were four pillars which support the structure of a viable voluntary agricultural district program – the first would be the signage that would go up along the road which would bring pride and show the non-farmers what the farmers are trying to do out in the community, the second would be ability to notify people who were buying property within a half mile of a district that there would be sounds, noises and odor associated with agriculture – the fifth pillar which was removed was a signed statement by purchasers of property that they acknowledged they were buying property within a half mile of a district but the realtors requested that be removed -, the third pillar is the advisory committee and it helped the agricultural community and the local government have a better exchange of ideas and the fourth pillar of support is the concept of having a hearing by the advisory board when proceedings are underway to take property for the public good by a government agency. Mr. Hood said that Burke and Caldwell Counties use the term public meeting rather than public hearing and Mr. Hood

thought maybe that wording may be more acceptable to all concerned. He said these four pillars are necessary for buy in from the farmers to make this ordinance work. He encouraged the Board to vote for the ordinance.

Mr. Carl Rector from the Oxford District, 6544 St. Peters Church Road, said he and his wife have been on the same farm for 51 years. He had served 4 years as the president of the Cattlemen's Association, on the Catawba River Basin Committee and last year was named by the North Carolina Cattlemen's Association as Stewardship of the Year. He said most farmers were smarter than they looked and they generally supported anything that was good for their farms or their community and they strongly support the voluntary agricultural district ordinance and would like to see it with the condemnation provision in place.

Chair Barnes then asked if anyone else would like to speak and hearing and seeing no one, she closed the public hearing and said she was concerned that sister municipalities had not been advised of the proposed ordinance and it did impact them. She said she felt the County had not provided a public forum for key partners to understand what this was all about and she believed that was a very necessary step. She said she also had a question for Mr. Eubanks in that when she reviewed some of the information that the Planning Department gave to the Commissioners there was the mention of growth corridors in some of the ordinances and not allowing a district in those growth corridors. She said as the County moves forward with its small area plans she had not noticed there was any mention of this and she didn't know whether there should be. Chair Barnes said these were issues that she did not feel have been resolved.

Vice-Chair Hunsucker then asked Mr. Eubanks why had it been decided that the Planning Department would administer this ordinance rather than Extension Service or Soil and Water. Mr. Eubanks replied the Planning Department had volunteered and he believed it was a passion of the department coming back to the small area plans as it is very closely related to a zoning project. He said the Planning Staff is dedicated to furthering economic opportunities for community farms and took the initiative to get the ordinance to at least this level. Vice-Chair Hunsucker then said farming is not a very glamorous profession and the amount of money made on a farm does not allow a glamorous life and he thought the general public didn't really care – as long as they had food on the table, it was not an issue for them and farmers have to look out for themselves. He said it has been said that the County's open space and farms are some of its greatest assets and they want to try and protect them. Vice-Chair Hunsucker pointed out that farming was a business just like anything else and he acknowledged that prior Boards and this Board have been sympathetic to agriculture and did as much as they could for agriculture but he said he thought it was time to do more than lip service and listen to what this group has come up with and with what the Planning Board has already passed. He acknowledged there were a lot of questions that had not been answered for some of the other Commissioners but he had come prepared to vote for the ordinance but he would like for it to be a unanimous effort and he wanted everyone to be comfortable with it. While he said he understood the need to put it off a little longer, he did not want to delay it very much longer because it had been worked on for three years to get it this far.

Commissioner Barger then said he thought Clarence Hood had made an interesting observation about the pillars of support and that one pillar being the condemnation provision. He noted that several counties had adopted this ordinance without that provision and he was interested in finding out what kind of participation those counties have versus the counties which have the condemnation provision. He said he also liked Mr. Hood's comment about the terminology of public meeting vs. public hearing and that language may be truly more advisory than the decision making process. Commissioner Barger said he would like to have those answers and would like to do everything possible to make the voluntary agricultural districts work and if that provision needs to be there to get participation, then he thinks its there. He also said that condemnation is

something that the Board takes very seriously and he would hope the other municipal boards would take seriously and they would provide a public forum for anyone to express their concerns in a public position to be heard before any condemnation action would occur. Commissioner Barger said he agreed with Chair Barnes that the County had partners in this and he is not sure how aware they are of what is about to take place. Chair Barnes said this Board had worked very hard to establish a strong relationship with all the municipalities and have made some real strides and pointed out the future meetings with the various councils. She said it was vital to extend to these municipalities the opportunities to make some comments if the County is to maintain this public hearing portion.

Commissioner Beatty said she supported the voluntary agricultural districts for a long time and had attended national meetings where discussion on this matter had taken place and these ordinances had been talked about for a long time and appreciated everyone's effort. She pointed out she had grown up on a farm and knew farming was extremely difficult and commended the farmers for all the work they did. Commissioner Beatty then asked Attorney Eades if the wording would be changed, would his opinion change regarding the public hearing requirement. Attorney Eades replied the wording change would not have any effect – and said it was not the fact that it was a public hearing per se that he was concerned about, it was the fact there was an additional procedural requirement that otherwise counties would not have. Commissioner Beatty then asked if the County had no real history records on condemnations in other counties under this ordinance. Attorney Eades said he had no knowledge of this history and pointed out as Mr. Woods had said, that a lot of this had yet to be tested and it was not known how it would work until it was actually put to the test.

Vice-Chair Hunsucker then said that he noticed that there were at least three younger members of the agricultural community present and noted the average age of farmers in North Carolina is 56 and said a woman had come to him and was concerned about her child wanting to go into agriculture and was worried that he would not be able to make a living. Vice-Chair Hunsucker said if the County was going to encourage people to come back to the farm, there is going to have to be something in place that gives them a little bit of hope and a little bit of light at the end of the tunnel or inspiration to come back. County Attorney Eades said he did not disagree with anything that Vice-Chair Hunsucker had said nor what the farming community was saying and said he had talked with the committee about alternatives that gets them much closer to what the stated goals are than a condemnation provision. He said he did not disagree with what was trying to be done but some of what is in the ordinance is going to get the farmers to where they want to be which is to encourage farming.

Chair Barnes said she was still struggling over whether this was something that could go into UDO which might even make it stronger and more of an important piece for Catawba County. Attorney Eades clarified the question by saying there are avenues outside the proposed ordinance to do some of what the farming community was concerned about and he believed that was possible and told Mr. Eubanks and Ms. George that in the UDO they could enact provisions that were designed to protect farming in Catawba County. It could be done under the general zoning authority and it did not have to be done under the ordinance. Commissioner Beatty then asked Attorney Eades to explain UDO to those present who did not know – and Attorney Eades explained that it was a Unified Development Ordinance which is an ordinance that Catawba County is currently working on that is hoped to have all land use and planning decision in a unified manner across the County with a goal to incorporate all the small area plans.

Mr. Eubanks made a follow-up comment to Mr. Eades comments and said the draft UDO had specialty districts, overlay districts and it could be possible to customize special district that could accommodate the goals and objectives and principles that have been promoted in the evening's

meeting without the regulatory provisions that are concerns. Commissioner Barger said he did not know whether that would accomplish what was being proposed and agreed with Vice-Chair Hunsucker regarding protecting farmland and anything that could be done to promote that conservation should be done and he would like to move forward with the agricultural districts rather than part of the UDO. Chair Barnes said she thought making it part of the UDO would make the issue front and center rather than a stand-alone ordinance. Commissioner Lail then said she had mixed feeling about the ordinance - on one hand she did not think it was an unreasonable request for the agricultural community to have the ordinance but on the other hand she saw Attorney Eades' point in that this was not something that everybody would be entitled to and it was a question of setting precedence that the Board doesn't want to set and said if she had to vote on it right then she would not know what way she would vote.

Chair Barnes then asked for any further questions and said she did favor voluntary agricultural districts and she said she sensed that sentiment from the Board but some of the details are concerning and if the Board took any action that had impact on another public body, they had not been given them the appropriate notice. Commissioner Lail then asked Attorney Eades if the condemnation public hearing requirement was only thing he would change in the ordinance and Attorney Eades responded it was the most significant thing -in terms of a legal standpoint, not a policy standpoint and the possible ramifications it would have on the County - that was what he had focused on.

Commissioner Beatty said she would like to see a little more clarification on the membership requirements to the Advisory Board - they appeared to be little bit contradictory. She said she would like to see how other counties had their membership requirements and Mr. Eubanks said they had not thoroughly research that issue. Commissioner Beatty said the proposed requirement eliminated some people who would be very good on the Board.

Chair Barnes then said that there would be no motion at this point and it would be appropriate for the municipalities to be notified of the draft as it stands and get answers to the questions that had been raised and bring it back up at the June 20, 2005 meeting. County Manager Lundy said the Board could act on it at any meeting but the June 20th meeting would be an evening meeting, making easier for people to attend. Commissioner Beatty suggested that this be done fairly quickly since people had worked on this a long time and the Board should move forward one way or the other. Chair Barnes proposed that the Board return to the issue at the June 20th meeting. She expressed her appreciation for the diligence of everyone who served on the committee and the attendance of the farming community at the evening's meeting. Attorney Eades clarified that the meeting on June 20th would not be a public hearing on the issue. Commissioner Beatty reiterated what Chair Barnes had said and commended all for their professionalism at the meeting. Chair Barnes itemized what needed to be done before the June 20th meeting: notifying the municipalities and school boards, CVCC, State, DOT, DENR - anyone who had the right of condemnation -; review of other counties in terms of the activity based on their ordinances; have Attorney Eades review any legal issues that had been raised - equal protection - (Mr. Eades at this point said he would appreciate it if Attorney Woods would provide him with any information he had regarding these issues); membership questions; other ways to achieve the accomplishment the same purpose. Mr. Eubanks asked Chair Barnes for clarification on the notification to municipalities on what type of response the Board would want from these entities by the June 20th meeting. - did they just want proof of notification or did they want actual responses - Chair Barnes said they would need both the manager and elected officials and attorney's input prior to the meeting. County Manager Lundy said he expected that correspondence to go out in the next couple days.

9. Appointments.

Commissioner Lail nominated Pete Miller, James Packard, Dennie Miller and John Dollar for private sector appointments, Bebe Leitch for Economic Development Agency and Bobby Boyd for Community-based organization to the Workforce Development Board.

Commissioner Lail also recommended the reappointment of Dr. Eric Shook to the Catawba County Planning Board, the reappointment of Reverend Dixon Adams to a fourth term on the Nursing & Rest Home Community Advisory Committee.

Vice-Chair Hunsucker recommended the reappointment of Ray Hildebran as a perimeter member for a third term and Harvey Lee Sipe as a perimeter alternate for second term to the Conover Board of Adjustment.

Commissioner Lail recommended the reappointment of Cindy Yount to a third term on the Resource and Referral Service.

Chair Barnes stated these appointments came in the form of a motion and the motion carried unanimously.

10. Consent Agenda:

County Manager Lundy presented four items for the Board's consideration:

- a. Four tax refund requests totaling \$103.38 due to some listing errors and property not being transferred to new owners.
- b. Appropriation of funds from a grant for \$29,384.88 to implement hospital bioterrorism preparedness – which was proposed to buy equipment for the state medical assistant team which helps with decontamination.
- c. Appropriation of funds from a grant for \$5800.00 which was part of Governor Easley's disaster relief fund which is to be used to help victims who do not have flood insurance or deductible who have not yet received assistance from FEMA.
- d. An amendment to the Board of Commissioners meeting schedule for the June 20, 2005 meeting with the Conover, Newton and Maiden Councils to change the location to Conover City Hall with Conover hosting the meeting. The Board would then return to the 1924 Courthouse for their regular board meeting.

Chair Barnes asked if any Commissioner wished for any item to be broken out of the consent agenda and no item was broken out. Vice-Chair Hunsucker made a motion to adopt the consent agenda. The motion carried unanimously.

11. Departmental Reports.

Utilities and Engineering

- a. Barry Edwards, P.E. Utilities and Engineering, presented a request to award the engineering contract for the sewer line and pump station extension to serve Gregory Wood Products to Camp Dresser and McKee in the amount of \$195,000. On February 7, 2005, the Board of Commissioners accepted a United States Department of Commerce-Economic Development Administration (EDA) grant awarded to Catawba County, in conjunction with the City of Newton in the amount of \$697,243, which in part will be used to help fund construction of a sewer line and pump station at the site of Gregory Woods Products located on Rocky Ford Rd.

Request for Qualifications were received on February 3, 2005, in order to secure engineering services to provide assistance to Catawba County and the City of Newton for the sewer line and pump station. The Scope of Services includes, but is not limited to, design, engineering, document preparation, bid opening and tabulation, construction on-site and field inspections, and obtaining all required approvals and permits necessary, as outlined in the Request for Qualifications (RFQ).

Fourteen RFQ's were received and reviewed by Catawba County and the City of Newton staff. The City of Newton and Catawba County are recommending Camp Dresser and McKee

(CDM) based on credentials and past work and services; CDM designed the City of Newton's HWY 321 sewer pump station, which this project will employ, developed the city water and sewer master plan, and is currently employed by Catawba County to assist in establishing Catawba County's Eco-Complex components which will or may include or includes solid waste bio-reactor, landfill, bio-solids processing facility, resources recovery, electrical generation, heat energy and carbon dioxide generator and recovery and employment, green house operations, fishery, kiln(s), bio-research and education including edible fruits and vegetables, flowers, trees, shrubs and grasses, and a household hazardous waste collection and processing center. Funding for this project is available through the EDA grant as accepted by the Board on February 7, 2005.

Chair Barnes clarified that the County would receive two options – one which gravity fed or forced fed – and the difference in cost in the two different methods – and Mr. Edwards said that if the County elected to go with the gravity method, Newton had agreed to pay 50% of the difference in that cost. Commissioner Barger made a motion to approve this award. The motion carried unanimously.

- b. Jack I. Chandler, Public Services Administrator, presented a report on the May 7, 2005 Hazardous Waste and Electronics Collection Event. This was the 7th Household Hazardous Waste collection and the first full electronics waste collection event. This year 485 vehicles came through representing 572 households – 2nd highest since these events have been held. 40 vehicles dropped off just e-waste and 90 vehicles dropped off both household hazardous waste and e-waste. This e-waste expansion collected, in addition to the usual televisions and computer monitors, stereo equipment, microwave ovens, VCR's telephones, fax machines, copiers, camcorders, computers, keyboards, etc. Approximately 1 and ½ tractor trailer loads of this e-waste was collected. The staff and volunteers participating were Amanda Kain, Dave Hardin, Tarra Buff (Maiden High School Student), Jamelle Griffith (Newton-Conover High School Student), Kathryn Zimmer, Tony Gallegos and Jack Chandler. Commissioner Beatty commended the Utilities and Engineering Department for this effort and Vice-Chair Hunsucker joined in this praise and said he had been there to dispose of some of this waste. Commissioner Beatty pointed out there had been a church which participated and they had collected batteries from approximately 150 households.
- c. Jacky Eubanks, Director of Planning and Parks presented a resolution of support for the Board's approval on behalf of SEQL – Sustainable Environment for Quality of Life promotes sound environmental planning principles in a 15 county region surrounding the Greater Charlotte Metro Region. The resolution read as follows:

**A RESOLUTION FOR SUPPORT
BY
THE CATAWBA COUNTY
BOARD OF COMMISSIONERS**

WHEREAS, the Catawba County Board of Commissioners is keenly aware of the importance of natural resource protection and enhancement within our community; and

WHEREAS, the degradation of natural resources, including air and water pollution and the consumption of open space, does not recognize political boundaries; and

WHEREAS, the protection and preservation of natural resources within Catawba County and the greater region are essential to the general health, safety and welfare of community and regional residents; and

WHEREAS, improper management of natural resources is contrary to the ideals of a healthy, economically vital and aesthetically pleasing community and region;

NOW THEREFORE, BE IT RESOLVED, that the Catawba County Board of Commissioners through its comprehensive and other planning efforts, will seek to implement sound environmental planning principles to the benefit of Catawba County and regional citizens.

Adopted this the ____ day of May 2005.

Commissioner Beatty made a motion to adopt the resolution. The motion carried unanimously.

12. Attorneys' Report. None.
13. Manager's Report. None
14. Other items of business. None.
15. Adjournment. Vice-Chair Hunsucker made a motion to adjourn the meeting at 9:32 p.m.. The motion carried unanimously. Chair Barnes reminded all in attendance that the Newton Sesquicentennial Celebration would take place the next day.

Katherine W. Barnes, Chair
Board of Commissioners

Barbara E. Morris, County Clerk