

The Washington City Council met in a regular session on Monday, August 13, 2012 at 5:30pm in City Council Chambers at the Municipal Building. Present were: Archie Jennings, Mayor; Doug Mercer, Councilman; Ed Moultrie, Councilman; William Pitt, Councilman; Richard Brooks, Councilman; Bobby Roberson, Mayor Pro tem; Josh Kay, City Manager; Cynthia Bennett, City Clerk and Franz Holscher, City Attorney.

Also present were: Matt Rauschenbach, Administrative Services Director/C.F.O.; Robbie Rose, Fire Chief; Allen Lewis, Public Works Director; Gloria Moore, Library Director; John Rodman, Interim Community and Cultural Services Director/Planning Director; Stacy Drakeford, Interim Fire and Police Services Director; Susan Hodges, Human Resources Director; Keith Hardt, Electric Director; Lynn Lewis, Tourism Director; David Carraway, IT; Kristi Hardison, Parks and Recreation Manager and Mike Voss, Washington Daily News.

Mayor Jennings called the meeting to order and Councilman Pitt delivered the invocation.

Councilman Mercer recognized Scouts from Troop 99 in attendance:

Anthony Beaudreaux	Blake Beresheim
Johnson Buck	Austin Hanchey
Gunnar Hardt	Simon Harris
Jeremy Jarvis	Mason Landing
Patrick Lodge	Kyle Pontieri
Luke Rosario	Daniel Waters

Belinda Cowell, Assistant Scoutmaster

APPROVAL OF MINUTES

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council approved the minutes of July 23, 2012 as presented.

APPROVAL/AMENDMENTS TO AGENDA

Mayor Jennings requested adding Closed session under NCGS 143-318.11(a)(6)Personnel.

City Manager, Josh Kay requested the following amendments to the agenda:

1. Addition of Load Management Report
2. Addition of Purchase Order Consent Agenda - Requisition #11846, \$40,613.11 to Utility Service Co. for water tank maintenance contract, account 30-90-8140-4500.
3. Removal of Scheduled Public Appearance – Joe Davis - Appeal

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council approved the agenda as amended.

CONSENT AGENDA

By motion of Councilman Pitt, seconded by Councilman Mercer, Council approved the consent agenda as presented.

A. Accept/Adopt – Cornerstones of Science Grant and Adopt Budget Ordinance Amendment (\$675)

AN ORDINANCE TO AMEND THE BUDGET ORDINANCE OF THE CITY OF WASHINGTON, N.C. FOR THE FISCAL YEAR 2012-2013

BE IT ORDAINED by the City Council of the City of Washington, North Carolina:

Section 1. That the Estimated Revenues in the General Fund be increased in the amount of \$675 in the account Library Grant- Cornerstone, account number 10-40-3611-3302.

Section 2. That account number 10-40-6110-5600, Materials, Brown Library portion of the General Fund appropriations budget be increased in the amount of \$675.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 13th day of August, 2012.

Attest:

s/Cynthia S. Bennett, CMC
City Clerk

s/N. Archie Jennings, III
Mayor

B. **Approve** – **Revision of the assigned pay grade for Municipal Code Enforcement Officer Pay Grade** *The City of Washington re-established a Municipal Code Enforcement Officer position for animal control for the 2012-13 fiscal year. It was intended for this position classification to be placed at the same pay grade as when it was last active in 2006. Due to an administrative error, the classification was inadvertently placed at pay grade 11 and should be a pay grade 12. A correction is recommended.

C. **Adopt** – **Budget Ordinance Amendment to appropriate funds for expenses related to Gustnado**

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2012-2013**

BE IT ORDAINED by the City Council of the City of Washington, North Carolina:

Section 1. That the Estimated Revenues in the General Fund be increased in the amount of \$14,422 in the account Fund Balance Appropriated, account number 10-00-3991-9910.

Section 2. That account number 10-40-6130-1502, Maintenance/Repair Parks, Parks & Grounds Maintenance portion of the General Fund appropriations budget be increased in the amount of \$14,422.

Section 3. That the Estimated Revenues in the Electric Fund be increased in the amount of \$81,313 in the account Fund Balance Appropriated, account number 35-90-3991-9910.

Section 4. That account number 35-90-9990-9900, Contingency, Contingency portion of the Electric Fund appropriations budget be decreased in the amount of \$43,442.

Section 5. That account number 35-90-6610-5740, Gustnado Expense, Miscellaneous Non-Departmental portion of the Electric Fund appropriations budget be increased in the amount of \$124,755.

Section 6. That the Estimated Revenues in the Airport Fund be increased in the amount of \$50,000 in the account Miscellaneous Revenue, account number 37-90-3839-0000.

Section 7. That account number 37-90-4530-5740, Gustnado Expense, Warren Field Airport portion of the Airport Fund appropriations budget be increased in the amount of \$50,000.

Section 8. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 9. This ordinance shall become effective upon its adoption.

Adopted this the 13th day of August, 2012.

Attest:

s/Cynthia S. Bennett, CMC
City Clerk

s/N. Archie Jennings, III
Mayor

D. **Approve** – **Purchase Orders >\$20,000**

- Requisition #11767, \$59,559 to HD Supply Utilities for regulators for the main substation, account 35-90-8370-7401.
- Requisition #11774, \$277,680 to Miller Supply for AMR water meters, account 30-90-7250-7000.

- Requisition #11800, \$54,217 to Clarke Power Services for a 125 kW generator for the Penn and Haven lift station, account 32-90-8230-7400.
- Requisition #11846, \$40,613.11 to Utility Service Co. for water tank maintenance contract, account 30-90-8140-4500.

**ALLISON WILLS – FOODBANK OF THE ALBEMARLE –
SEPTEMBER IS HUNGER ACTION MONTH**

Allison Wills, Foodbank of the Albemarle's Food Resource Coordinator told Council that twenty percent of Beaufort County's population is "food insecure". The food bank serves 15 counties in eastern North Carolina and has 20 partner agencies in Beaufort County, which includes Eagle's Wings and Mother of Mercy Catholic Church. We have discovered that one in five citizens in Beaufort County are food insecure, which means either they don't know where their next meal is coming from or they're not sure they're going to have money to buy their next meal. Of those one in five who are food insecure, one in four of them are children. During the past fiscal year the food bank served 26,892 households in the county and 50,572 individuals, with 44 percent of that number being children or senior citizens. Ms. Willis explained the food bank is working to provide more healthful food options to its clients and we're trying to lean more toward a fresh product so people get a little bit healthier choices. We know childhood obesity is at a very high level right now. We are trying to encourage people to eat. Half of the food bank's support comes in the form of donated product and 20 percent of its funding comes from federal and state dollars. So, it's very important that the regular, general public does things like food drives, donates to us and these types of activities. Mayor Jennings said the city appreciates the work the food bank is doing and that we will do anything we can to help your efforts.



HEATHER JACOBS DECK – PTRF CAMPING PLATFORMS

Heather Jacobs Deck, PTRF Riverkeeper presented a report on the Pamlico-Tar River Foundation's plan that will create a system of camping platforms along the river as part of an eco-tourism effort. The goal is to build a continuous system of platforms from 10 to 15 miles apart, spanning from the river's headwaters in Granville County to the estuarine waters of the Pamlico Sound in Beaufort, Hyde and Pamlico counties. Some of the platforms have been built, while others await construction. The proposed platforms would be 32 feet by 16 feet, with half of each platform enclosed with a roof and screened-in area to provide protection from rain and insects. The platforms will rent for a maximum of \$15 a person per night, with a maximum of eight people sharing a platform.

COMMENTS FROM THE PUBLIC –None

JOE DAVIS – APPEAL (Request removed by applicant)

MEMO – ECU RESEARCH VESSEL RIGGS DOCKAGE

The Research Vessel Riggs is once again requesting to continue their relationship with the City of Washington for docking at the Waterfront Docks. They are not requesting any changes in the agreement. Last year was the first year the RN Riggs docked at the Waterfront Dock. They requested dockage at the eastern most dock in front of the NC Estuarium. During the 2011 boating season, Washington experienced Hurricane Irene. Boats were required to leave the docks during the hurricane. The RN Riggs followed procedure and both the vessel and docks were affected minimally as result.

Each year the RN Riggs provides a list of emergency contacts, as these people tend to change frequently. The new docking agreement will be for the period of August 15, 2012 - August 14, 2013.

MEMO – BUDGET TRANSFER

The Budget Officer transferred \$9,645 of funding between divisions of the Stormwater Fund to provide for the accrual of Recovery Zone Bond interest for FY 2012.

- 34-90-5710- 1300 Water& Electric Services (\$9,645)
- 34-90-4020- 8401 Recovery Zone Bond Investment \$9,645

LOAD MANAGEMENT REPORT

Load Management Device Installation Report

Project Start Date : October 2010

	July 2012	Project to Date
Total Load Management Device Installations	33	1467
Total Accounts Added with Load Management	25	1141
Appliances Control Installations		
Air Conditioner / Heat Pump	26	1196
Auxiliary Heat Strip	10	592
Electric Furnace	4	225
Water Heater	17	917
Total Encumbrances to Date		
Load Management Devices		\$65,600
Contractor Installations		\$160,000
Total Project Encumbrances		\$225,600
Total Expenses to Date		
Load Management Device Purchases		\$65,600
Contractor Installation Expenses	\$3,215	\$158,775
Total Project Expenses		\$224,375
Average Cost per Load Management Device Installed		\$152.95
Average Installed Cost per Controlled Appliance		\$76.58
Load Management Devices Remaining in Stock	1066	

HUMAN RELATIONS COUNCIL

Recognition of New board members and re-appointment: Chairman O’Pharrow recognized new board members and Josh Kay, City Manager presented the members with a manual (inclusive of by-laws and city code). Chairman O’Pharrow reviewed the mission statement noting this is the guiding principle for all we do as members of the Human Relations Council. Councilman Mercer issued a challenge sharing the activities this board undertakes will have a significant impact on the community. Mr. Kay echoed this statement and added this is by far one of the most important boards considering the stretch and breadth of the board responsibilities and opportunities in reaching the community. Council Liaison Pitt concurred.

Update: Multicultural Festival 2012 - Vice chairwoman Cherry noted the Multicultural Festival has been planned for Sunday, October 28, 2012 from 3pm-6pm. The tentatively planned events includes ECU School of Dance performers (providing dance of different cultures, inclusive of Native American, Asian community, African American community, Latin/Spanish affairs & Expressions), cuisine, and exhibits with an estimated cost of \$3,000 - \$5,000.

Report/reminder: Crime Prevention & Outreach Manager Kimberly Grimes addressed the board concerning the success of the Summer Football Camp —2012. Approximately 14 NFL players participated and there were over 200 kids who participated in the football camp on Saturday, June 16, 2012.

Update: Domestic Violence Shelter - Board member Barr reviewed/updated the Board concerning the Domestic Violence Shelter. Board member Barr noted some of the issues with the house have been resolved and they have now secured the lease. The shelter should be opened by the end of August. The house is located on 727 North Market Street with the monthly cost to operate the shelter approximately \$3,500 \$4,000.

FYI items addressed at this time were inclusive of June report to be submitted to Council on July 23, 2012 and the Mission Statement.

WASHINGTON HARBOR DISTRICT ALLIANCE

WHDA Focus of Work 2012 – 2013

Under the Main Street organizational structure WHDA's purpose of action is to promote the economic development and quality of life in the Washington "central business district on the water".

DESIGN

- Underground electrical initiative block by block to benefit merchants; help with events, overall design, ADA compliance, etc.
- Branding

ECONOMIC DEVELOPMENT

- Maritime Team approving Dock Master's new structure
 - Advisor to Dock Master, Build Maritime Center and Dock Master Quarters
 - People's Pier, Fuel, Completion of the build out for docks
- Adaptive Reuse explore ways to reuse buildings with a focus on a hotel and Turnage
- Recruitment/Retention Team for new and existing businesses

PROMOTIONS

- Recruit Corporate Sponsorships
- Produce one big concert a year (Motown - Sept 15 2012)
- Other Activities: (in the process of reevaluating the purpose and benefit of each).
 - Art Walk, Flotilla/Boat Parade, Music in the Streets, Maritime Market, 4th of July
- Facilitate marketing program that creates interest and traffic downtown by marketing to communities that are not covered by WTDA.

ORGANIZATION:

- Volunteer Base
- Membership: Friends of the Alliance
- Merchants; Develop Merchants Council, initiate Coffee with Council program
- Communications
- Fundraisers like: Wedding Guide, Picking on the Pamlico

Our process in accomplishing these goals and objectives is by using:

- CLARITY: Defining what we are and what we do
- ALIGNMENT: All groups working together and communicating
- MOVEMENT: How we move the projects. Tasks and Tracking.
- FOCUS: Getting rid of the clutter.

North Carolina Main Street Statistical Summary: FY11-12

WASHINGTON																
	Façades Redone	Bldg. Renovs.	New Jobs	Jobs Lost	Net Job Gain	New Business	Business Closed	Net Business Gain	Business Expansion	\$ Value of New Investment PUBLIC	\$ Value of New Investment PRIVATE	\$ Value of New Investment TOTAL	Number Public Improvement Projects	Number New Construction Projects	Volunteer Hours	
Current Figures	5	3	64	24	40	13	8	5	1	\$997,161	\$860,900	\$1,858,061	5	0	2,994	
Previous Cumulative	118	30	329	96	233	113	33	80	14	\$2,320,440	\$7,998,561	\$10,319,001	3	1	2,300	
NEW CUMULATIVE	123	33	393	120	273	125	41	84	15	\$3,317,601	\$8,859,461	\$12,177,062	8	1	5294	

PROGRAM HIGHLIGHTS
 Found buyer for Old City Hall built in 1884, empty since 1980.
 Awarded MSSF Grant for \$200,000 to renovate Old City Hall and develop a new destination type restaurant.
 Created Maritime team under ER committee to serve City Council and recommend ways for Washington waterfront to benefit the economic development of downtown.
 Arranged for 72 foot schooner the Jeannie B to make Washington its homeport and provided cruises to the public.
 Assisted Planning dept. in the design of new iconic boater bathroom facility on west end of waterfront docks. Waiting for release of CAMA funds to start project.
 Published Wedding Guide to promote Washington as a wedding destination.
 Created an American Flag display project.
 Commissioned Phase One of a hotel feasibility report.
 Created a music CD to promote signature event, Music in the Streets and local musicians.
 Raised \$45,400 in sponsor donations.
 Created new program that celebrates Washington's past by hanging large window displays in the vacant buildings downtown.
 Participated in Branding initiative for Washington.
 Hosted NCDDA Eastern Spring Conference.
 Updated WHDA by-laws.
 Successfully transitioned from long term President to new President and Vice-President.

FINANCIAL REPORTS (emailed as available)

Councilman Mercer requested that the line items regarding gasoline, tires and lubricant be adjusted to show realistic numbers inclusive of reimbursables and encumbrances.

JASON BRILEY – NORTHGATE QUARTERLY UPDATE

Jason Briley distributed information regarding Northgate Subdivision. He explained that as of August 8, 2012 twenty-eight homes have been sold to Low to Moderate Income persons. This leaves a total of four remaining to be sold by December 31, 2012. Mr. Briley noted he would update Council again before the end of December.

APPOINTMENTS – TO VARIOUS BOARDS, COMMISSIONS, AND COMMITTEES
Historic Preservation Commission

Mayor Jennings requested to continue this item until September 10th. Councilman Mercer requested that the appointments to the Historic Preservation Commission be made in September as this board is down to a minimum number of members and has to have a unanimous vote in order to pass any request that comes before them.

Washington Electric Utilities Advisory Commission

By motion of Councilman Pitt, seconded by Councilman Moultrie, Council appointed James Gaynor to the Washington Electric Utilities Advisory Commission to fill the expired term of Benjamin Davis (inside), term to expire June 30, 2015.

By motion of Councilman Pitt, seconded by Councilman Brooks, Council appointed John O’Neill to the Washington Electric Utilities Advisory Commission to fill the expired term of Lloyd May (inside) term to expire June 30, 2015.

By motion of Councilman Pitt, seconded by Councilman Brooks, Council appointed Pearson Chrismon to the Washington Electric Utilities Advisory Commission to fill the vacant position representing Bath, term to expire June 30, 2015, in concurrence with the Bath Town Board.

APPROVE – CITY OF WASHINGTON LOGO

City Manager, Josh Kay explained that the City of Washington, the Washington Tourism Authority, the Washington Harbor District Alliance, and the Washington/Beaufort County Chamber of Commerce partnered together to undergo a branding initiative and contracted with Eye Integrated. Council approved the expenditure of \$2000 to go towards the branding initiative. One of the deliverables of this process is the development of a logo for each partner that allows for an identity that provides cohesion among the four partners. The City of Washington will be the “keeper” of the logo/artwork and will be responsible for managing this artwork through partnerships.

Mr. Kay noted the new logo is a “W” that looks like a wave. Councilman Mercer expressed concerns with the shading of the logo stating that instead of it looking like a “W” the logo looks like three “S’s”. He suggested that possibly more shading could eliminate that issue.

By motion of Councilman Moultrie, seconded by Mayor Pro tem Roberson, Council approved the new City of Washington logo and authorized the City Manager to begin the implementation of its use.

The logo will need additional shading or tweaking to eliminate the appearance of three “S”s’.



ACCEPT/ADOPT – PLANNING BOARD RECOMMENDATION AND ADOPT AN ORDINANCE TO AMEND ARTICLE V, HOUSING, OF THE CODE OF ORDINANCES TO UPDATE THE MINIMUM HOUSING CODE

Mr. Kay stated the request was presented to Council in June and Council in-turn asked for some revisions to be made. Councilman Mercer noted that most of his concerns have been addressed with the revisions and he is prepared to make a motion to accept the recommendation of the Planning Board and adopt the amendment.

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council accepted the recommendation of the Planning Board and approved the Ordinance to amend Article V Housing, in order to update the Minimum Housing Code.

ORDINANCE AMENDING CHAPTER 6, ARTICLE V, HOUSING, OF THE CODE OF ORDINANCES OF THE CITY OF WASHINGTON

WHEREAS, NCGS 160A-441 authorizes local governments to amend ordinances regulating the existence and occupation of dwellings within their jurisdiction that are unfit for human habitation; and

WHEREAS, the amendment set out below is intended to promote the public health, safety, and welfare by amending the City Code to define and regulate unfit dwellings and to add prescribed conditions for such uses.

BE IT ORDAINED by the City Council of the City of Washington that:

Section 1: Article V of Chapter 6, Housing of the Code of Ordinances be and is hereby repealed in its entirety and a new Article V, inserted as follows:

ARTICLE V. HOUSING

DIVISION 1. GENERAL PROVISIONS

Sec. 6-109. General.

These regulations shall be known as the City of Washington Minimum Housing Code, hereafter referred to as “this Article.”

Sec. 6-110. Finding; Purpose.

(a) Pursuant to G.S. 160A-441, it is hereby found and declared that there exist in the City of Washington dwellings which are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents, or other calamities; lack of ventilation, light, or sanitary facilities; or other conditions rendering such dwellings unsafe, unsanitary, dangerous, or detrimental to the health and safety, or otherwise inimical to the welfare, of the residents of the City.

(b) In order to protect the health, safety, and welfare of the residents of the City as authorized by G.S. 160A Article 19, Part 6, it is the purpose of this Article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160A-444.

(c) The current edition of the North Carolina State Residential Building Code, as amended from time to time, is hereby adopted by reference as if fully set forth in this Article as the Housing Code of the City.

Sec. 6-111. Scope.

(a) The provisions of this Article shall apply to any existing dwelling or structure and to all dwellings or structures hereafter constructed, altered, or repaired within the City. Portable, mobile or modular buildings or structures, including trailers, when used or intended for use as a dwelling within the City, shall be subject to the applicable provisions of this Article.

(b) The provisions of this Article shall be applicable within the corporate limits of the City and extend one (1) mile into its extraterritorial planning jurisdiction.

Sec. 6-112. Definitions.

The following definitions shall apply in the interpretation and enforcement of this Article. *Abandoned Structure.* Any structure, whether designed or intended for residential or other uses, which is vacant or not in active use, regardless of purpose or reason, for the previous one-year period and which is determined by the Code Official or City Council,

as more specifically provided for herein, to be unfit for human habitation or occupancy based upon the standards as set forth in this Article.

Basement. A portion of a dwelling which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

Cellar. A portion of a dwelling, which is located partly or wholly underground, having inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

Certificate of Occupancy. Written certification by an inspector that a dwelling or dwelling unit complies with the requirements of this Article and all other applicable provisions of the Washington City Code and North Carolina General Statutes.

Code Official. The person duly designated by the City Council to administer and enforce this Article.

Deteriorated. A dwelling that is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this Article at a cost not in excess of fifty percent (50%) of its value, which cost and value shall be determined by findings of the Code Official as more specifically provided for hereinafter.

Dilapidated. A dwelling that is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this Article except at a cost in excess of fifty percent (50%) of its value, which cost and value shall be determined by findings of the Code Official as more specifically provided for hereinafter.

Dwelling. Any building, structure, or manufactured or mobile home or part thereof which is wholly or partly used or intended to be used for living, sleeping or habitation by human occupants, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. Temporary housing, as defined in this section, shall not be regarded as a dwelling. The term shall include within its meaning the terms "rooming house" and "rooming unit", as defined in this section.

Dwelling Unit. Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

Extermination. The control and elimination of insects, rodents or other pests by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating or trapping; or by any other recognized and legal pest elimination method approved by the Code Official.

Family. An individual living alone; two (2) or more persons related by blood, adoption, or marriage living together in a dwelling unit; or a group of not more than four (4) unrelated persons living together as a single housekeeping unit in a shared dwelling unit.

Garbage. The waste material resulting from the handling, preparation, cooking and consumption of food or trash.

Habitable Room. A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers or connecting corridors, closets and storage spaces.

Habitable Structure. Any structure used for living, sleeping, cooking or eating purposes for extended periods or on a regular basis or designed for living, sleeping, cooking or eating purposes for extended periods or on a regular basis.

Imminent Danger. A condition which would cause serious or life-threatening injury or death at any time.

Infestation. The presence, within or around a dwelling, of any insects, rodents, bats or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants of the dwelling or the public.

Inspections Division. The Inspections Division of the Planning and Development Department of the City of Washington.

Manufactured or Mobile Home. A structure, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width, or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974. For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semi-permanent foundation having a measurement of over thirty-two (32) feet in length and over eight (8) feet in width. "Manufactured home" also means a double-wide manufactured home, which is two (2) or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semi-permanent foundation having a measurement of over thirty-two (32) feet in length and over eight (8) feet in width.

Multiple (Multi-Family) Dwelling. Any dwelling containing more than two (2) dwelling units.

Occupant. Any person over one (1) year of age, living, sleeping, cooking or eating in or having actual possession of a dwelling, dwelling unit or rooming unit.

Operator. Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

Owner. Any person who alone, jointly or severally with others:

- (a) Shall have title to any dwelling, dwelling unit or rooming unit, with or without accompanying actual possession thereof;
- (b) Shall be a mortgagee of record for any dwelling, dwelling unit or rooming unit; or
- (c) Shall have charge, care or control of any dwelling, dwelling unit or rooming unit, as owner or agent of the actual owner, or as executor, executrix, administrator, trustee or guardian of the estate of the actual owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this Article, and with the rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner.

Party or Parties in Interest. All persons who have interests of record in a dwelling, dwelling unit or rooming unit, and any persons who are in possession thereof.

Person. Any individual, corporation, firm, partnership, association, organization or other legal entity.

Plumbing. All of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinders), sewage disposal pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

Public Authority. Any housing authority or any officer who is in charge of any department or branch of the government of the City, the county or the State relating to health, fire, building regulations or other activities concerning dwellings in the City.

Rooming or Boarding House. Any dwelling, or that part of any dwelling, containing one (1) or more rooming units, in which space is let by the owner or operator to three (3) or more persons who are not husband or wife, son or daughter, mother or father or brother

or sister of the owner or operator.

Rooming Unit. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Rubbish. The term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass and dust.

Supplied. Paid for, furnished or provided by or under the control of the owner or operator.

Temporary Housing. Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utility system on the same premises for more than thirty (30) consecutive days.

Unfit for Human Habitation. Conditions existing in a dwelling, dwelling unit, rooming house or rooming unit which violate or do not comply with one (1) or more of the minimum standards of fitness, or one (1) or more of the requirements, established by this Article.

Vacant Dwelling. Any dwelling that has not been occupied or otherwise inhabited for a period of six (6) months. In the case of rental property, "vacant dwelling" shall also refer to any dwelling unit or rooming unit that is currently unoccupied and not being leased or rented to any person.

Water Closet. A water closet is a room which contains a flush toilet, usually accompanied by a wash bowl or sink.

Words Having Certain Meaning. Whenever the words "dwelling," "dwelling unit", "rooming house", "rooming unit", or "premises" are used in this Article, they shall be construed as though they were followed by the words "or any part thereof."

DIVISION 2. MINIMUM HOUSING STANDARDS

Sec. 6-113. Minimum Standards of Fitness for Dwellings and Dwelling Units.

Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all the minimum standards of fitness for human habitation and all of the applicable requirements of this Article. No person shall occupy as owner or occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all the minimum standards of fitness for human habitation. Only approved building materials for specific purposes may be used in making necessary repairs to a dwelling or dwelling unit.

Sec. 6-114. Dwelling Unfit for Human Habitation.

The Code Official shall determine that a dwelling is unfit for human habitation if he finds that any one of the following conditions exist in such dwelling.

(a) Interior walls or vertical studs which seriously list, lean or buckle to such an extent as to render the dwelling unsafe.

(b) Supporting member or members which show thirty-three percent (33%) or more damage or deterioration, or nonsupporting, enclosing or outside walls or covering which shows fifty percent (50%) or more of damage or deterioration.

(c) Floors or roofs which have improperly distributed loads, which are overloaded or which have insufficient strength to be reasonably safe for the purpose used.

(d) Such damage by fire, wind or other causes as to render the dwelling unsafe.

(e) Dilapidation, structural defects, decay, unsanitary conditions, uncleanness, or disrepair which are dangerous to the health, safety or welfare of the occupants or other people in the City or the City's jurisdiction.

(f) Inadequate facilities for egress in case of fire or panic.

(g) Defects increasing the hazards of fire, accident or other calamities.

(h) Lack of adequate ventilation, light, heating or sanitary facilities to such extent as to endanger the health, safety or general welfare of the occupants or other residents of the City.

(i) Lack of proper electrical, heating or plumbing facilities required by this Article which constitutes a health or safety hazard.

(j) Lack of connection to a potable water supply and/or to the public sewer or other approved sewage disposal system, the lack of either one of which renders a dwelling unfit for human habitation. For the purpose of this standard, a dwelling is not connected to a potable water supply if the water supply has been "cut off" because of non-payment of the water bill or otherwise, or if the system for any reason is not receiving a flow of potable water to the tap.

(k) Any other condition that exists in a dwelling or dwelling unit that renders it dangerous or injurious to the health, safety, or welfare of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the City.

Sec. 6-115. Minimum Standards for Exterior Property Areas.

(a) All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

(b) All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon. Lots shall also be properly graded to prevent surface water run-off from being directed onto adjoining properties.

(c) All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions.

(d) All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

(e) Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

(f) All accessory structures, including detached garages, fences and walls, shall be maintained in a structurally sound manner and in good repair.

(g) No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

Sec. 6-116. Minimum Standards for Structural Condition.

(a) Foundation.

(1) A foundation wall system shall support the building at all points and shall be free of holes, cracks, and loose mortar or masonry which would admit rodents, water or dampness to the interior of the building or which lessen the capability of the foundation to support the building.

(2) Crawl space shall be graded so as to prevent any standing water.

(3) Foundation walls and footings shall be free of defects such as cracks, holes and loose mortar.

(4) Piers shall be sound with no loose mortar or masonry.

(b) Floors.

(1) There shall not be decayed, termite-damaged, fire-damaged, broken, overloaded or sagging sills that adversely affect the structural integrity of the building framing system.

(2) Joists shall not be decayed or broken so as to adversely affect the structural integrity of the floor framing system.

(3) Flooring shall be weather-tight without holes or cracks which permit excessive air to penetrate rooms.

(4) There shall be no loose flooring.

(5) Bathroom and kitchen flooring surfaces shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such flooring to be easily kept in a clean and sanitary condition.

(6) All floor coverings shall be constructed and maintained so as not to constitute a trip hazard and kept in a clean and sanitary condition.

(7) There shall be no use of the ground for floors or wood floors on the ground.

(c) Exterior Walls.

(1) There shall be no broken, cracked or fire damaged structural members.

(2) All siding shall be weather-tight, with no holes or excessive cracks or decayed boards which permit excessive air or moisture to penetrate rooms.

(3) There shall be no loose siding.

(4) Exterior surfaces not inherently resistant to deterioration shall be treated with protective, appropriate siding or painted and maintained in good repair to prevent deterioration.

(d) Interior Walls.

(1) The interior finish shall be free of holes and cracks.

(2) All interior walls shall be treated, painted and maintained so as to be easily kept in a clean and sanitary condition.

(3) No loose plaster, loose boards or other loose wall materials shall be allowed.

(4) There shall be no decayed or termite-damaged studs.

(5) There shall be no broken or cracked studs or other broken or cracked structure members.

(e) Ceilings.

(1) There shall be no joists which are decayed or broken, sagging, or improperly supported.

(2) There shall be no holes or excessive cracks which permit air to penetrate rooms.

(3) There shall be no loose plaster, boards, gypsum wall board, or other ceiling finish.

(4) There shall be no evidence of water damage.

(f) Roof.

(1) There shall be no rafters which are decayed or broken.

(2) No rafters shall be damaged by fire.

(3) Sheathing shall not be loose.

(4) No loose roof covering shall be allowed, nor shall there be any holes or leaks which could cause damage to the structure.

(5) There shall be proper flashing at walls and roof penetrations.

(6) There shall be no chimneys or part thereof which are defective, deteriorated or in danger of falling, or in such condition to constitute a fire hazard.

Sec. 6-117. Minimum Standards for Basic Equipment and Facilities

(a) Plumbing system.

(1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewer disposal system.

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet and an adequate supply of both cold and hot water.

(3) All plumbing fixtures shall meet the standards of the North Carolina Plumbing Code and shall be maintained in a state of good repair and good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(5) Water closets shall be functional and free of leaks.

(6) Water closets shall not be loose from floor or leaking.

(7) Tub and shower stall floors and walls shall be watertight.

(8) Fixtures shall not be cracked or broken and shall function as designed.

(9) Sewer and water lines shall be properly supported, with no broken or leaking lines.

(b) Heating system.

(1) Every dwelling and dwelling unit shall provide central heat or other approved permanent source of heating.

(2) *Central and electric heating system.* Every central or electric heating system shall be of sufficient capacity so as to heat at least one habitable room, excluding the kitchen, in every dwelling unit to which it is connected a minimum temperature of

68 degrees Fahrenheit measured at a point three (3) feet above the floor during ordinary winter conditions.

a. All ducts, pipes and tubes should be free of leaks and functioning properly.

(3) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances are connected so as to heat at least one habitable room, excluding the kitchen, with a minimum temperature of sixty-eight (68) degrees Fahrenheit measured at a point three (3) feet above the floor during ordinary winter conditions.

a. All floor, wall or room heaters must comply with the standards of the North Carolina State Building Code.

b. Chimneys shall have no loose bricks or mortar and shall have a flue.

c. Flues shall have no holes.

d. Open masonry fireplaces shall only be used as supplemental heat and not as a primary source of heating.

e. No portable kerosene space heater may be used as a primary source of heat.

f. If the fireplace opening is closed, the closure shall be of noncombustible material and airtight.

g. No hanging chimneys shall be allowed.

(c) Electrical System.

(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two (2) floor or wall-type electric convenience receptacles, connected in such manner as determined by the North Carolina Electric Codes. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one (1) supplied ceiling or wall type electric fixture for lighting. In the event wall or ceiling light fixtures are not provided in any habitable room, then such habitable room shall contain at least three (3) floor or wall type electric convenience receptacles.

(2) Every common hall and stairway in every multiple dwelling shall have adequate lighting by electric lights at all times when natural lighting is not sufficient.

(3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair and installed in accordance with the North Carolina Electric Codes and any new provisions correlating with new provisions of the North Carolina Building Code.

(4) All receptacles shall have outlet covers installed.

(5) All light switches shall have covers installed.

(6) Each dwelling unit shall have electric service from a separately metered delivery system provided by a licensed utility company. No drop cords, extension cords or similar wiring mechanism may be utilized in any fashion other than in conformance with the purposes for which it was designed.

Sec. 6-118. Minimum Standards for Smoke Detectors.

Every owner of a dwelling unit shall have UL approved smoke detectors installed, mounted on or near the ceiling on every level, at a point centrally located in the corridor or area giving access to each group of rooms used for sleeping purposes. Where bedrooms are not centrally located, more than one smoke detector may be required.

Sec. 6-119. Minimum Standards for Ventilation.

(a) All habitable rooms shall be provided with aggregate glazing area of not less than eight percent (8%) of the total floor area of such rooms. One-half (1/2) of the required area of glazing shall be openable. For the purpose of determining the light and ventilation requirement, any room may be considered as a portion of an adjoining room when one-half (1/2) of the area of the common wall is open and unobstructed and provides an opening of not less than one-tenth (1/10) of the floor area of the interior room or twenty-five (25) square feet, whichever is greater. Exceptions to this standard are as follows.

(1) The glazed areas need not be openable where the opening is not required by Section 310 of Volume VII of the North Carolina Building Code and an approved mechanical ventilation system is provided capable of producing 0.35 air change per hour in the room or a whole-house mechanical ventilation system is installed capable of supplying outdoor ventilation air of fifteen (15) cubic feet per minute (cfm) (7.08 L/s) per occupant computed on the basis of two (2) occupants for the first bedroom and one (1) occupant for each additional bedroom.

(2) The glazed areas may be omitted in rooms where the opening is not required by Section 310 of Volume VII of the North Carolina Building Code and an approved mechanical ventilation system is provided capable of producing 0.35 air change per hour in the room or a whole-house mechanical ventilation system is installed capable of supplying outdoor ventilation air of fifteen (15) cubic feet per minute (cfm) (7.08 L/s) per occupant computed on the basis of two occupants for the first bedroom and one occupant for each additional bedroom, and artificial light is provided capable of producing an average illumination of six (6) foot candles (6.46 L/s) over the area of the room at a height of thirty (30) inches above the floor level.

(b) All exterior windows and doors shall be reasonably weather-tight, shall have no broken glass, and shall have adequate operable locks and hardware.

(c) All interior windows and hardware shall be in good repair.

(d) Required glazed openings shall open directly onto a street or public alley, or a yard or court located on the same lot as the building.

(e) Bathrooms, water closet compartments and other similar rooms shall be provided with aggregate glazing area in windows of not less than three (3) square feet, one-half (1/2) of which must be openable. An exception to this standard is as follows.

(1) The glazed areas shall not be required where artificial light and an approved mechanical ventilation system capable of producing a change of air every twelve (12) minutes are provided. Bathroom exhausts shall be vented directly to the outside.

Sec. 6-120. Minimum Standards for Space, Use and Location.

(a) Room Size.

(1) Every dwelling unit shall have at least one (1) habitable room which shall have not less than one hundred fifty (150) square feet of floor area. Other habitable

rooms shall have an area of not less than seventy (70) square feet. Every kitchen shall have not less than fifty (50) square feet of floor area. Habitable rooms, except kitchens, shall be not less than seven (7) feet in any horizontal dimension.

(2) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.

(b) Ceiling Height.

(1) Habitable rooms, except kitchens, shall have a ceiling height of not less than seven (7) feet six (6) inches for at least fifty (50) percent of their required areas. Not more than fifty (50) percent of the required area may have a sloped ceiling less than seven (7) feet six (6) inches in height with no portion of required areas less than five (5) feet in height. If any room has a furred ceiling, the prescribed ceiling height is required for at least fifty (50) percent of the area thereof, but in no case shall the height of the furred ceiling be less than seven (7) feet. A portion of a room with a sloping ceiling measuring less than five (5) feet zero (0) inches or a furred ceiling measuring less than seven (7) feet zero (0) inches from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required habitable area for that room. Exceptions to this standard are as follows.

a. Beams and girders spaced not less than four (4) feet on center may project not more than six (6) inches below the required ceiling height.

b. All other rooms including kitchens, baths and hallways may have a ceiling height of not less than seven (7) feet measured to the lowest projection from the ceiling.

c. Ceiling height in basements without habitable spaces may not be less than six (6) feet eight (8) inches clear except for under beams, girders, ducts or other obstructions where the clear height shall be six (6) feet four (4) inches.

(c) Cellar.

(1) No cellar shall be used for living purposes.

(d) Basements.

(1) No basement shall be used for living purposes unless:

a. The floor and walls are substantially water-tight;

b. The total window area, total openable window area, and ceiling height are equal to those required for habitable rooms; and

c. The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well, or access way.

Sec. 6-121. Minimum Standards for Means of Egress.

(a) Every dwelling shall have safe, unobstructed means of egress with a minimum ceiling height of seven (7) feet leading to a safe and open space at ground level.

(b) Every exterior, cellar and basement door or hatchway shall be substantially weathertight

and rodent proof, and shall be kept in sound working condition and good repair.

(c) Every exterior door shall be provided with properly installed hardware that is maintained to ensure reasonable ease of operation to open, close and secure as intended by the manufacturer of the door and attached hardware.

(d) Exterior door frames shall be properly maintained and shall be affixed with weatherstripping and thresholds as required to be substantially weather-tight, watertight and rodent and insect resistant when the door is in a closed position.

(e) Exterior door jams, stops, headers and molding shall be securely attached to the structure, maintained in good condition without splitting or deterioration that would minimize the strength and security of the door in a closed position.

(f) All exterior doors shall have manufactured locks specifically designed for use with exterior doors requiring a key to be unlocked from the outside.

(g) Every sleeping room shall have at least one (1) openable window or exterior door approved for emergency egress or rescue. The units must be operable from the inside to a full clear opening without the use of a key or tool. Where windows are provided as a means of egress or rescue they shall have a sill height of not more than forty-four (44) inches above the floor.

(h) All egress or rescue windows from sleeping rooms must have a net clear opening of four (4.0) square feet. The minimum net clear opening height shall be twenty-two (22) inches. The minimum net clear opening width shall be twenty (20) inches. Each egress window from sleeping rooms must have a minimum total glass area of not less than five (5.0) square feet in the case of a second story window.

(i) Bars, grills, screens or other obstructions placed over emergency escape windows shall be releasable or removable from the inside without the use of a key or tool.

Sec. 6-122. Minimum Standards for Porches or Raised Platforms.

(a) Foundation floorings, ceilings and roofings for porches and raised platforms shall be equal to the standards set forth in Section 6-116, except sills and joists need not be level if providing drainage for a floor and floors need not be weather-tight.

(b) Roof posts and attached railings shall be structurally sound.

(c) Every porch terrace or raised platform located at least thirty (30) inches above the adjacent finished grade shall be equipped with guardrails not less than thirty-six (36) inches high. Open guardrails shall have intermediate rails such that a six (6) inch sphere cannot pass through any opening.

Sec. 6-123. Minimum Standards for Stairs and Steps.

(a) Stairs and steps shall not be decayed and shall be in good repair.

(b) Every rail shall be firmly fastened and maintained in good condition.

(c) No flight of stairs more than one (1) inch out of its intended position or pulled away from supporting or adjacent structures shall be allowed.

(d) Supports shall be structurally sound.

(e) Steps and stairs requiring replacement due to deterioration shall be constructed in compliance with North Carolina State Building Code standards.

(f) Stairways having four or more risers above a floor or finished ground level shall be equipped with handrails located not less than thirty (30) inches nor more than thirtyeight

(38) inches above the leading edge of a tread. An exception from this standard is that handrails that form part of a guardrail may be forty-two (42) inches high.

(g) Gripping surfaces shall be continuous without interruption.

Sec. 6-124. Minimum Standards for Control of Insects, Rodents and Infestations.

(a) *Screens.* In every dwelling unit for which an air conditioner is not provided, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device for protection against mosquitoes, flies, and other insects. Every window or other device with openings to outdoor space shall be supplied with screens, in every dwelling unit for which an air conditioner is not provided.

(b) *Rodent Control.* Every basement or cellar window used or intended to be used for ventilation and every other opening to a basement which might provide an entry for rodents shall be supplied with screens installed or such other approved device as will effectively prevent their entrance.

(c) *Infestation.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination or removal of any insects, rodents, bats or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be responsible for such extermination or removal whenever his or her dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonable insect proof condition, extermination or removal shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units in any structure or in the shared or public parts of any structure containing two (2) or more dwelling units, extermination or removal shall be the responsibility of the owner.

(d) *Garbage storage and disposal.* Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers as required by the Washington City Code and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of garbage. At least one (1) ninety-five (95) gallon outside garbage can shall be required for single family residences.

Sec. 6-125. Minimum Standards Applicable to Rooming Houses; Exceptions.

All of the provisions, minimum standards, and requirements of this Article shall be applicable to rooming houses and to every person who operates a rooming house or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following subsections.

(a) *Water closets, hand lavatories and bathing facilities.* At least one (1) water closet, lavatory basin, and bathtub or shower, properly connected to an approved water system and sewer system and in good working condition, shall be supplied for each four (4) rooms within a rooming house wherever said facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one (1) story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(b) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age or older and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.

(c) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin, bathtub, or shower required by subsection (a) of this section shall be located within the rooming house and within a room or rooms which afford privacy, are separate from habitable rooms, and are accessible from a common hall without going outside the rooming house or through any other room therein.

(d) *Sanitary conditions.* The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings; every other part of the rooming house; and the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.

Sec. 6-126. Responsibilities of Owners and Occupants.

(a) Every owner of a dwelling containing two (2) or more dwelling units shall be responsible for maintaining the shared or public areas of the dwelling and the premises thereof in a clean and sanitary condition.

(b) Every occupant of a dwelling or dwelling unit shall keep that part of the dwelling or dwelling unit and the premises thereof which he occupies or controls in a clean and sanitary condition.

(c) No owner or owner's agent shall lease or rent to any other person any vacant dwelling unit unless it complies with the provisions of this Article and is reasonably clean, sanitary and fit for human occupancy.

Sec. 6-127. Special Historic Buildings and Districts.

All exterior alterations or repairs required by the provisions of this Article to structures that are identified and classified by the City Council as a designated landmark or being within a local historic district must meet the requirements of the City of Washington as administered by the Historic Preservation Commission.

DIVISION 3. ADMINISTRATION AND ENFORCEMENT

Sec. 6-128. Duties of the Code Official.

The Director of Planning and Development (or his designee) is hereby designated as the Code Official to administer and enforce the provisions of this Article and to exercise the duties and powers herein prescribed. It shall be the duty of the Code Official:

(a) To investigate the dwelling conditions in the City and to inspect dwellings as well as dwelling units located in the City in order to determine which dwellings and dwelling units are unfit for human habitation and for the purpose of carrying out the objectives of this Article with respect to such dwellings and dwelling units;

(b) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effectuate the rehabilitation of housing which is deteriorated;

(c) To keep a record of the results of inspections made under this Article and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed; and

(d) To perform such other duties as may be prescribed herein.

Sec. 6-129. Powers of the Code Official.

The Code Official is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this Article, including the following powers in addition to others granted herein:

- (a) To investigate the dwelling conditions in the City in order to determine which dwellings therein are unfit for human habitation;
- (b) To administer oaths and affirmations, examine witnesses and receive evidence;
- (c) To enter upon premises for the purpose of making examinations and inspections; provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession; and
- (d) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this Article.

Sec. 6-130. Inspections: Right of Entry

For the purpose of making inspections, the Code Official is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling unit or rooming unit, or the person in charge thereof, shall give the Code Official free access to such dwelling, dwelling unit or rooming unit, and its premises at all reasonable times for the purposes of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to affect compliance with the provisions of this Article or with any lawful order issued pursuant to the provisions of this Article.

(Code 1972, § 9-6; Code 1993, § 4-89)

Sec. 6-131. Housing Appeals Board.

The Board of Adjustment, provided for under Chapter 40, shall serve as the Housing Appeals Board, to which appeals may be taken from any decision or order of the Code Official, as more specifically provided for by Section 40-510. Such Housing Appeals Board shall perform the duties prescribed by Section 40-512, shall have the power to adopt rules of procedure relative to its duties under this Article and shall keep an accurate record of all its proceedings.

(Code 1972, § 9-12; Code 1993, § 4-90)

Sec. 6-132. Procedure for Enforcement.

(a) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the Code Official by a public authority or by at least five (5) residents of the City charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Code Official (on his own motion) that any dwelling or dwelling unit is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Code Official (or his designated agent) at a place within the City, therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of such complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one (1) of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Code Official.

(1) During said hearing, the Code Official shall, among other things, determine and establish the estimated cost to repair, alter, or improve the dwelling in order to

render it fit for human habitation and the estimated value of the dwelling using available information, including but not limited to tax valuations and any relevant evidence presented.

(b) *Procedure after hearing.* If, after such notice and hearing, the Code Official determines that the dwelling or dwelling unit in question is unfit for human habitation, he shall state in writing his findings of fact in support of such determination, including his conclusion as to whether the dwelling or dwelling unit is deteriorated or dilapidated, and issue and cause to be served upon the owner thereof one of the following orders that includes his findings and conclusion.

(1) *Deteriorated dwelling.* If the Code Official determines that the dwelling or dwelling unit is deteriorated, he shall issue an order requiring the owner, within the time specified in the order, to repair, alter, or improve such dwelling in order to render it fit for human habitation. The order may also require the owner to vacate and close the dwelling or dwelling unit until the repairs, alterations and improvements have been made if continued occupancy during the time allowed for repair, alteration, or improvement will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of eighteen (18) or occupants with physical and mental disabilities. The order shall also state that the failure to make timely repairs, alterations or improvements as directed in the order shall make the dwelling subject to the issuance of an unfit order under subsection (d)(1) of this section.

(2) *Dilapidated dwelling.* If the Code Official determines that the dwelling or dwelling unit is dilapidated, he shall issue an order requiring the owner, within the time specified in the order, to remove or demolish such dwelling. If the dwelling is located in the historic district of the City and the Historic Preservation Commission determines, after a public hearing as provided by the City Code, that the dwelling is of particular significance or value toward maintaining the character of the historic district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. 160A-400.14(a).

(c) Whenever the Code Official issues an order under this section that a dwelling must be vacated and closed or removed or demolished, notice of the order shall be given by first class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of forty-five (45) days from the mailing of such notice shall be given before removal or demolition by action of the Code Official, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The Code Official or clerk shall certify the mailing of the notices and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the Code Official to wait forty-five (45) days before causing removal or demolition.

(d) *Failure to comply with order.* The following remedies are available upon the failure of an owner to comply with any order issued under this section.

(1) If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Code Official to repair, alter or improve or vacate and close the dwelling, the Code Official may submit an ordinance to the City Council, which ordinance, if adopted by City Council, may authorize the Code Official to cause the dwelling to be repaired, altered, or improved or to be vacated and closed, and shall authorize the Code Official to post on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human

habitation; the use or occupation of this building for human habitation is prohibited and unlawful.” Occupation of a building so posted shall constitute a Class 1 misdemeanor. Any such ordinance adopted pursuant hereto by City Council shall be recorded in the Office of the Register of Deeds of Beaufort County and shall be indexed in the name of the property owner in the grantor index.

(2) If the owner of any dilapidated dwelling or dwelling unit shall fail to comply with an order of the Code Official to remove or demolish the dwelling, the Code Official may submit an ordinance to the City Council, which ordinance, if adopted by City Council, may authorize the Code Official to cause the dwelling to be removed or demolished, or vacated and closed. Any such ordinance adopted pursuant hereto by City Council shall be recorded in the Office of the Register of Deeds of Beaufort County and shall be indexed in the name of the property owner in the grantor index.

(3) If any occupant fails to comply with an order to vacate a dwelling or dwelling unit, the Code Official may file a civil action in the name of the City to remove such occupant utilizing the procedures prescribed by G.S. 160A-443(7).

(e) *Appeals from orders of the Code Official.* An appeal from any decision or order of the Code Official may be taken by any person aggrieved thereby or by any public officer, board or commission of the City. Any appeal from the Code Official shall be taken within ten (10) days from the rendering of the decision or service of the order, and shall be taken by filing with the Code Official and with the Housing Appeals Board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Code Official shall forthwith transmit to the Housing Appeals Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Code Official refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the Code Official requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Housing Appeals Board, unless the Code Official certifies to the Housing Appeals Board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of the requirement would cause imminent peril to life or property; in which case, the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one (1) day written notice to the Code Official, by the Housing Appeals Board or by a court of record upon petition made pursuant to G.S. 160A-446(f) and subsection (f) of this section.

(1) The Housing Appeals Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person, by agent or by attorney before the Housing Appeals Board. The Housing Appeals Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Code Official, but the concurring vote of four (4) members of the Housing Appeals Board shall be necessary to reverse or modify any decision or order of the Code Official. The Housing Appeals Board also shall have the authority in passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of this Article, to adapt the application of this Article to the necessities of the case to the end that the spirit of this Article shall be observed, public safety and welfare secured, and substantial justice done.

(2) Every decision of the Housing Appeals Board shall be subject to review by proceedings in the nature of certiorari instituted within fifteen (15) days of the decision of the Housing Appeals Board, but not otherwise.

(f) *Petition to Superior Court by owner.* Any person aggrieved by an order issued by the Code Official or a decision rendered by the Housing Appeals Board may, within thirty (30) days after issuance of the order or the rendering of the decision, petition the Superior Court for an injunction restraining the Code Official from carrying out the order or decision and the Court may, upon such petition, issue a temporary injunction restraining the Code Official, pending a final disposition of the cause, as more specifically provided for by G.S. 160A-446(f).

Sec. 6-133. Methods for Service of Complaints and Orders.

(a) Complaints or orders issued by the Code Official pursuant to this Article shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the Post Office within ten (10) days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(b) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Code Official in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail, and the Code Official makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the City at least once no later than the time at which personal service would be required under the provisions of this Article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

Sec. 6-134. Abandonment of Property

(a) If the Code Official has issued an order pursuant to Section 6-132(b)(1) of this Article or if the City Council has adopted an ordinance pursuant to Section 6-132(d)(1) or Section 6-132(d)(2) of this Article, ordering a dwelling or dwelling unit to be repaired, altered, or improved, or vacated and closed, and if the dwelling or dwelling unit has been vacated and closed for a period of one (1) year pursuant to the order or ordinance, then if the City Council shall find that:

(1) The owner has abandoned the intent and purpose to repair, alter or improve the dwelling or dwelling unit in order to render it fit for human habitation and that

(2) The continuation of the dwelling in its vacated and closed state (i) would be inimical to the health, safety, and welfare of the municipality in that the dwelling would continue to deteriorate; would create a fire and safety hazard; would be a threat to children and vagrants; would attract persons intent on criminal activities; or would cause or contribute to blight and the deterioration of property values in the area; and (ii) would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State; then in such circumstances, the City Council may, after the expiration of such one year period, enact an ordinance and serve such ordinance on the owner, containing the following:

a. If the repair of the dwelling to render it fit for human habitation can be made at a cost not in excess of fifty percent (50%) of its value, an order requiring the owner to repair or demolish and remove the dwelling with ninety (90) days; or

b. If the repair of the dwelling to render it fit for human habitation cannot be made except at a cost in excess of fifty percent (50%) of its value, an order

requiring the owner to demolish and remove the dwelling within ninety (90) days.

(b) Any such ordinance adopted pursuant to Section 6-134(a) by City Council shall be recorded in the Office of the Register of Deeds of Beaufort County and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with such an ordinance, the Code Official shall effectuate the purpose of the ordinance.

Sec. 6-135. Liens for Costs of Repairs, Alterations, etc.

(a) As provided by G.S. 160A-443(6), the amount of the cost of repairs, alterations or improvements; vacating and closing; or removal or demolition caused to be made or done by the Code Official pursuant to this Article, shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. 160A, Art. 10 (G.S. 160A-216 et seq.).

(b) If the real property upon which the cost was incurred is located in the City, then the amount of the cost is also a lien on any other real property of the owner located within the City limits or within one (1) mile thereof except for the owner's primary residence. The additional lien provided in this subsection is inferior to all prior liens and shall be collected as a money judgment.

(c) If the dwelling is removed or demolished by the Code Official, he shall sell the materials of the dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court by the Code Official, shall be secured in a manner directed by the Court, and shall be disbursed by the Court to the persons found to be entitled thereto by final order or decree of the Court. Nothing in this Article shall be construed to impair or limit in any way the power of the City to define and declare nuisances and to cause a removal or abatement by summary proceedings, or otherwise.

Sec. 6-136. Alternative Remedies.

Nothing in this Article shall be construed to abrogate or impair the powers of the Courts or of any department of the City to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this Article shall be in addition and supplemental to the powers conferred by any other law.

Sec. 6-137. Conflict With Other Provisions.

In the event any provision, standard or requirement of this Article is found to be in conflict with any provision of any other ordinance or Code of the City, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the City shall prevail.

Sec. 6-138. Penalties and Violations.

(a) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter, or improve the same; vacate or close the same; or remove or demolish the same, upon order of the Code Official or ordinance of the City Council duly made and served as herein provided, within the time specified in such order or ordinance, and each day that any such failure, neglect or refusal to comply with such order or ordinance continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit with respect to which an

order or ordinance has been issued pursuant to this Article, to occupy or permit the occupancy of the same after the time prescribed in such order or ordinance for its repair, alteration or improvement; vacating or closing; or removal or demolition and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(b) The violation of any provision of this Article shall constitute a misdemeanor, as provided by G.S. 14-4.

Sec. 6-139 – 6-150. Reserved.

Section 2. This Ordinance shall become effective upon its adoption.

Section 3. All Ordinances or parts in conflict herein are repealed.

Adopted this 13th day of August, 2012.

Attest:

s/Cynthia S. Bennett, CMC
City Clerk

s/N. Archie Jennings, III
Mayor

**ADOPT – FINAL BUDGET ORDINANCE AND PROJECT/GRANT ORDINANCE
AMENDMENTS FOR FY 11/12**

Mr. Kay explained that in order to true up the financial records for the fiscal year, funding needs to be reallocated among the various funds, departments, and line items in order to keep certain cost centers from being overspent at year end. This item was originally presented to Council in June and was tabled for clarification reasons regarding cemetery and library trust funds.

By motion of Councilman Moultrie, seconded by Mayor Pro tem Roberson, Council adopted the final budget ordinance and project/grant ordinance amendments for FY 11/12.

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE AND CAPITAL
PROJECT/GRANT ORDINANCES OF THE CITY OF WASHINGTON, NC
FOR THE FISCAL YEAR 2011-2012**

BE IT ORDAINED by the City Council of the City of Washington, North Carolina:

Library Trust Fund

Section 1. That the following account in the Library Trust Fund appropriations budget be increased in the amount shown to allow for a transfer of interest earnings to the General Fund:

11-40-6300-9200	Adm. Charges to General Fund	\$150
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Section 2. That the following revenue in the Library Trust Fund be increased in the amount shown:

11-40-3831-0000	Interest Earned – Library Trust	\$150
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Cemetery Trust Fund

Section 3. That the following account in the Cemetery Trust Fund appropriations budget be increased in the amount shown to allow for a transfer of interest earnings to the Cemetery Fund:

12-30-6400-9205	Adm. Charges to Cemetery Fund	\$600
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Section 4. That the following revenue in the Cemetery Trust Fund be increased in the amount shown:

12-30-3831-0000	Interest Earned – Cemetery Trust	\$600
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Airport Fund

Section 5. That the following account in the Airport Operations portion of the Airport Fund appropriations budget be increased in the amount shown to cover anticipated expenses for FY 11/12:

37-90-4530-3101	Fuel Purchases	\$91,600
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Section 6. That the following revenue in the Airport Fund be increased in the amount shown to cover anticipated expenses for the remainder of FY 11/12:

37-90-3453-0000	Fuel Sales	\$66,000
37-90-3991-9910	Fund Balance Appropriated	25,600

Gang Investigator Grant Fund

Section 7. That the following accounts in the Gang Investigator Grant Fund appropriations budget be increased or decreased in the amounts shown:

53-10-4310-0200	Salaries	\$18,347
53-10-4310-0201	Salaries – Overtime	(17,955)
53-10-4310-0205	Longevity	325
53-10-4310-0500	FICA	(329)
53-10-4310-0600	Group Insurance	3256
53-10-4310-0700	Retirement Contribution	1015
53-10-4310-0702	401 K Contributions – Police	286
53-10-4310-1100	Telephone	(277)
53-10-4310-1400	Employee Development	(843)
53-10-4310-3300	Supplies	(30)
53-10-4310-5402	Worker’s Comp Insurance	(3,700)
53-10-4310-7400	Capital Outlay – Equipment	<u>(95)</u>
		0

Section 8. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 9. This ordinance shall become effective upon its adoption.

Adopted this the 13th day of August, 2012.

Attest:

s/Cynthia S. Bennett, CMC
City Clerk

s/N. Archie Jennings, III
Mayor

APPROVE – REQUEST TO WAIVE ELIZABETH II DOCK FEES

The Elizabeth II has selected Washington for its fall voyage for 2012. The reproduction merchant vessel rarely leaves its homeport of Roanoke Island Festival Park in Manteo. While in Washington, the Elizabeth II will offer interpretative programs to Beaufort County students (Friday) and the general public (Saturday). The selected time frame also corresponds to the annual Smoke on the Water. The last time the Elizabeth II was near the area was in 2005 for the Historic Bath TriCentennial. Several thousand visitors boarded the ship when it was docked in Historic Bath. Mr. Kay noted that we anticipate having even more

visitors when the ship arrives in Washington. It is recommended that the dock fees be waived for the Elizabeth II on October 25-28, 2012 while it is at one of our transient docks. The fees would be no more than \$105(\$51.75 per day after the first 48 hours).

By motion of Mayor Pro tem Roberson, seconded by Councilman Mercer, Council waived the dock fees for the Elizabeth II, October 25-28, 2012.

ADOPT – BUDGET ORDINANCE AMENDMENT FOR STORMWATER IMPROVEMENT PROJECT (\$14,494)

Josh Kay, City Manager stated this project has being on-going since 2010. This is a \$5 million project that deals with stormwater improvements in Smallwood and Jack’s Creek. Roughly, \$243,000 was budgeted in contingency. If council approves the requested action tonight, there would still be approximately \$175,000 remaining in contingency. Mr. Kay continued by reviewing the changes in some of the budget line items.

Councilman Mercer expressed concern with some of the numbers presented and requested a line by line breakdown of funds spent. He further noted that any funds leftover should be spent on drainage issues at Iron Creek. Council continued discussions on where the funds were spent and discussed the expenses incurred for the delay in the work for the Charlotte Street Bridge. Mayor Jennings asked if we are still inside budget and contingency? Allen Lewis, Public Works Director stated yes, we were still inside budget and contingency.

By motion of Councilman Moultrie, seconded by Councilman Brooks, Council adopted a budget ordinance amendment to re-allocate funds for the stormwater improvement project in the amount of \$14,494 and approved the corresponding purchase orders.

**AN ORDINANCE TO AMEND THE CAPITAL PROJECT ORDINANCE FOR THE RECOVERY ZONE BOND STORM WATER PROJECTS
CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2012-2013**

BE IT ORDAINED by the City Council of the City of Washington, North Carolina:

Section 1. That the following accounts in the Storm Water Capital Project be increased or decreased by the following amounts:

58-90-5710-0405	Engineering	\$	11,695
58-90-5710-4500	Construction		2,799
58-90-5710-9900	Contingency		(14,494)
	Total	\$	0

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 13th day of August, 2012.

Attest:

s/Cynthia S. Bennett, CMC
City Clerk

s/N. Archie Jennings, III
Mayor

ADOPT – BUDGET ORDINANCE AMENDMENT FOR THE ELECTRIC FUND

Mr. Kay explained that the request is to approve a revenue and expenditure budget ordinance amendment for the Electric Fund in the amount of \$300,000. The funds are for expenditures that are needed for required electric system upgrades so as to connect a large scale photovoltaic (PV) generating facility to the City’s electric system. All of the expenditures for this project will be reimbursed by the requesting entity. The offsetting revenue is listed in the amendment. In addition to the budget ordinance amendment the recommended motion contains the approval of a purchase order not to exceed \$30,000. This cost is based on a similar purchase last year. The new quote was not available prior to the agenda deadline. The purchase is for a protective breaker required for the safe interconnect and operation of the

PV facility. The delivery time on this device is 12-14 weeks and the developer has requested that all utility upgrades be in place so as to connect the system in December 2012. Due to their timetable it is requested that this purchase order be approved.

By motion of Mayor Pro tem Roberson, seconded by Councilman Brooks, Council adopted a budget ordinance amendment in the amount of \$300,000 and approved a purchase order in the amount not to exceed \$30,000 for the electric fund.

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2012-2013**

BE IT ORDAINED by the City Council of the City of Washington, North Carolina:

Section 1. That the Estimated Revenues in the Electric Fund be increased in the amount of \$300,000 in the account Solar Project 1, account number 35-90-3500-3640.

Section 2. That account number 35-90-7220-0440, Solar Project 1, Electric Director portion of the Electric Fund appropriations budget be increased in the amount of \$300,000.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 13th day of August, 2012.

Attest:

s/Cynthia S. Bennett, CMC
City Clerk

s/N. Archie Jennings, III
Mayor

**ACCEPT/AUTHORIZE/ADOPT – GRANT AWARD AND AUTHORIZE CITY MANAGER TO
SIGN GRANT AGREEMENT AND ADOPT PROJECT BUDGET ORDINANCE (\$200,000)**

City Manager, Josh Kay explained that the Division of Community Investment and Assistance has approved the 2011 Community Development Block Grant (CDBG) for Small Business and Entrepreneurial Assistance (SBEA) funds in the amount of \$200,000. The primary purpose of the SBEA program is to provide funding to local governments to jumpstart the growth of existing small businesses by expanding their businesses and creating new jobs. Five (5) local businesses will participate in the program and provide the local match. Those businesses are: Tayloe's Hospital Pharmacy, FRE Plumbing, East Carolina Imports Services, Pamlico Fence Company and Park Boat Company.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council accepted the grant award from the NC Department of Commerce, Division of Community Investment and Assistance for Small Business Assistance, adopted the project budget ordinance in the amount of \$200,000, and authorized the City Manager to sign the Funding Approval and the Grant Agreement. Councilman Mercer opposed, motion carried 4-1.

**A GRANT PROJECT ORDINANCE FOR CDBG COMMUNITY
DEVELOPMENT BLOCK GRANT – JUMPSTART WASHINGTON
GRANT NUMBER 11-N-2340
CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2012-2013**

BE IT ORDAINED by the City Council of the City of Washington, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

Section 1. The project authorized is to provide CDBG funds to local businesses for construction/rehab, machinery and equipment, and working capital in order to promote job creation.

Section 2. The officers of this unit are hereby directed to proceed with the project within the terms of the grant documents.

Section 3. The following amounts are appropriated for the project:

57-60-4930-0400	Administration	\$ 20,000
57-60-4930-0405	Planning	5,000
57-60-4930-4500	Job Creation	<u>175,000</u>
	Total	\$200,000

Section 4. The following revenue is anticipated to be available to complete this project:

57-60-3480-3300	CDBG Grant Funds	\$200,000
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Section 5. The Finance Officer is hereby directed to maintain within the Grant Project Fund sufficient detailed accounting records to satisfy the requirements of the grantor agency and grant agreement.

Section 6. Funds may be advanced from the General Fund for the purpose of making payments that are due. Reimbursement requests should be made to the grantor agency in an orderly and timely manner.

Section 7. The Finance Director is directed to report, on a monthly basis, the financial status of each project element in Section 3 and on the total grant revenues received or claimed.

Section 8. The Budget Officer is directed to include a detail analysis of past and future costs and revenues on this grant project in every budget submission made to the City Council.

Section 9. Copies of this grant project ordinance shall be furnished to the City Clerk, Budget Officer, and Finance Director for direction in carrying out this project.

Section 10. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 11. This ordinance shall become effective upon its adoption.

Adopted this the 13th day of August, 2012.

Attest:

s/Cynthia S. Bennett, CMC
City Clerk

s/N. Archie Jennings, III
Mayor

**ADOPT – AGREEMENT TO PARTICIPATE IN A REGIONAL
HAZARD MITIGATION PLAN**

City Manager Josh Kay explained that Beaufort County has received a request from North Carolina Emergency Management to participate in a regional hazard mitigation plan to include Beaufort, Craven, Carteret, and Pamlico Counties. Each municipality is being asked to sign an agreement as the intent of the municipality to participate in the plan. FEMA will cover all costs involved in the rewrite of the plan and provide funding to Craven County as the lead agency. No funds are required by the City of Washington. The agreement does not mean approval of the regional plan but only to consider the regional approach.

Councilman Mercer discussed that he thought we had already adopted a Regional Hazard Mitigation Plan. John Rodman, Planning Director explained this plan is something different than what was adopted several years ago.

By motion of Mayor Pro tem Roberson, seconded by Councilman Brooks, Council accepted the agreement to participate in the Regional Hazard Mitigation Plan Update as requested by FEMA.

**ADOPT – DECLARATION OF OFFICIAL INTENT TO REIMBURSE FOR FY 12/13
INSTALLMENT PURCHASE EXPENDITURES**

Mr. Kay stated that during the budget process, numerous capital items were discussed that needed to be purchased. Installment financing is budgeted for April 2013. This declaration authorizes the City to reimburse itself for Council approved expenditures prior to the issuance of debt. It is

anticipated that requests will be made for some purchases prior to the issuance of debt due to necessity, the ability to complete this fiscal year, and to avoid price increases.

Councilman Mercer stated he was reluctant to borrow money for maintenance of our facilities, for example decking at the Civic Center and boardwalk repairs. In addition, during the budget discussions there were a number of items that were discussed that he thought were removed from the budget. Items noted: grapple hook and lawnmower request from Parks and Recreation. He would like to review the individual projects before the money is spent. Mayor Jennings said that non-capital items needing installment funding still needs approval from Council.

By motion of Councilman Mercer, seconded by Councilman Moultrie, Council adopted a Declaration of Official Intent to Reimburse for Fiscal Year 2012/2013 installment purchase expenditures incurred prior to the issuance of debt.

Mr. Kay asked if items under \$20,000 still needs to have approval from Council if it has already been approved in the budget? Mayor Jennings said that staff should take the guidance that if the item is not needed, then don't purchase it. Staff will need to report back to Council of how the approved budgeted items may have been altered since some departments have merged together, some items may no longer be needed.

DECLARATION OF OFFICIAL INTENT TO REIMBURSE

This declaration (the "Declaration") is made pursuant to the requirements of the United States Treasury Regulations Section 1.150-2 and is intended to constitute a Declaration of Official Intent to Reimburse under such Treasury Regulations Section.

The undersigned is authorized to declare the official intent of the City of Washington, North Carolina (the "Issuer") with respect to the matters contained herein.

1. **Expenditures to be Incurred.** The issuer anticipates incurring expenditures (the "Expenditures") for budgeted installment purchases (the "Projects").
2. **Plan of Finance.** The issuer intends to finance the costs of the Projects with the proceeds of debt to be issued by the Issuer (the "Borrowing"), the interest on which is to be excluded from gross income for Federal income tax purposes.
3. **Maximum Principal Amount of Debt to be Issued.** The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the Projects is \$1,419,368.
4. **Declaration of Official Intent to Reimburse.** The Issuer hereby declares its official intent to reimburse itself with the proceeds of the Borrowing for any of the Expenditures incurred by it prior to the issuance of the Borrowing.

Adopted this the 13th day of August, 2012

Attest:

s/Cynthia S. Bennett, CMC
City Clerk

s/N. Archie Jennings, III
Mayor

ACCEPT/APPROVE – BID AND APPROVE A RESOLUTION STATING THE INTENT OF THE CITY OF WASHINGTON TO LEASE CERTAIN SURPLUS REAL PROPERTY AT WARREN FIELD AIRPORT LOCATED ON AIRPORT ROAD

Mr. Kay explained that at the last meeting, City Council approved a resolution authorizing the advertisement of an offer to lease certain surplus real property at the airport. The City advertised the bid of \$300 per year, per acre, for 75.63 acres for a total of \$22,689 per year for an initial term of 15 years. No other offers were received. The draft lease and option will come back to Council for final approval.

By motion of Mayor Pro tem Roberson, seconded by Councilman Brooks, Council accepted the bid from Sun Energy 1, LLC and approved a Resolution stating the intent of the City of Washington to lease certain surplus real property at the Warren Field Airport located on Airport Road.

Mayor Jennings commended the City Manager and his staff, City Clerk, Public Works, Electric and City Attorney for their instrumental roles played in this task. The feedback from the party we are engaged with is that we have a top shelf organization with a great deal of expertise. Our ability to respond to this opportunity in the time line that we did, just speaks volumes about our staff capabilities. This could be the turning point for the airport. Mr. Kay noted that should this economic development project become a reality, this is in upwards of \$50 million investment at Warren Field Airport and could create up to 35-40 new jobs in the future.

**RESOLUTION STATING THE INTENT OF THE CITY OF WASHINGTON
TO LEASE CERTAIN SURPLUS REAL PROPERTY
AT THE WARREN FIELD AIRPORT LOCATED ON AIRPORT ROAD**

WHEREAS, North Carolina General Statute § 160A-272(b) authorizes a municipality to lease real property that it owns for more than ten (10) years so long as such leases are "... treated as a sale of property ..." and so long as such leases are "... executed by following any of the procedures authorized for the sale of real property."

WHEREAS, North Carolina General Statute § 160A-269 authorizes a municipality to sell real property it owns through a negotiated offer, advertisement, and upset bid process.

WHEREAS, said negotiated offer, advertisement, and upset bid process as outlined and set forth in North Carolina General Statute § 160A-269 has been followed for a proposed Option to Lease, Ground Lease and Easement Agreement, and Solar Skyway Easement (collectively may be referred to as "Lease") of approximately seventy-five and 63/100s (75.63) acres of property at the Warren Field Airport located on Airport Road, Washington, North Carolina.

WHEREAS, said real property was previously declared by the City Council to be surplus to the needs of the City for the period contemplated by the Lease.

WHEREAS, the required notice for the upset bid process was advertised in the Washington Daily News. The notice described the property to be leased, set out the amount and terms of the original offer and specified the requirements for the submission of a qualifying upset bid.

WHEREAS, the upset bid process having concluded, the final, highest qualifying bid is now being reported to City Council for their consideration.

NOW THEREFORE BE IT RESOLVED: The final, highest qualifying bid for the Lease containing a first option of up to six (6) months, a second option of up to six (6) months, a lease for the sum of \$22,689.00 per year (\$300.00 per acre) with an initial term of fifteen (15) years, and the possibility of up to three extensions at the election of tenant of up to five (5) years each is hereby accepted by the City of Washington. The City Council retains final approval, and must approve and authorize the execution, of the resulting Option to Lease, Ground Lease and Easement Agreement, and/or Solar Skyway Easement for said real property, including any portion thereof.

Adopted this 13th day of August, 2012.

Attest:

s/Cynthia S. Bennett, CMC
City Clerk

s/N. Archie Jennings, III
Mayor

DISCUSSION – BAN THE BOX CAMPAIGN

Councilman Pitt discussed the "Ban the Box Campaign" on City of Washington job applications. The box refers to where an applicant makes a check mark if he or she has been convicted of a criminal offense other than something such as a speeding ticket. On the city's job application, the wording is "Have you ever been convicted of an offense against the law or forfeited a bond?" He said the issue has made its way to the N.C. General Assembly. The campaign suggests that the box on the employment application that states 'Have you been convicted of ...' be removed until such time as the job offer has been made to a potential candidate. This does not mean we're not going to do background checks. It means we will still do the exact same things that we've been doing. However, those people who have been previously incarcerated, once they see this box, they'll be more intimidated than the average citizen

because they pretty well know if they mark 'Yes', they won't be having the same level playing field. He believes removing the box would give someone who's got a criminal past a better piece of mind that he or she has equal chance at getting a job with the city or other municipal or county governments. He explained a similar initiative was approved by Cumberland County and Durham County. The ban-the-box initiative sends a message that a government is willing to do more than just talk about helping rehabilitate criminals seeking to turn their lives around. He continued by saying, "We don't ignore the fact they've committed crimes and done (bad) behavior, but what we're saying is that if you have recovered and done the things that are correct, then we want you to come for our city and we're going to treat you as a fair employee."

Mayor Pro tem Roberson responded by saying, "In essence, what we're doing is shifting the responsibility from the applicant to the Human Resources Department to do a better job, not that they don't do a good job, in researching in more depth the individuals who come into the final selection process. ... I'm not opposed to that. I'm just telling you that's what you're going to look at. In shifting the responsibility from the applicant over to the city to be sure we've got everything, our t's are crossed, our i's are dotted, then there's an opportunity that if we miss one and hire somebody — and they've got some other issues — and then they harm one of our local citizens, then the responsibility comes back on the city, and I understand that." Mayor Pro tem Roberson said he's going to look long and hard on the ban-the-box issue before making up his mind about it.

Councilman Doug Mercer said he concurs with Mayor Pro tem Roberson's view on the matter. When an applicant checks the box indicating he or she was convicted of a crime other than a minor traffic offense, it alerts the Human Resource Department this applicant has something in his or her background the city may need to investigate in the future.

"I see the pros and cons for both sides of (banning) the box," said Councilman Moultrie. Mayor Archie Jennings said as the city considers the ban-the-box movement, it should track what's happening with it in the Legislature.

DISCUSSION – LEGISLATIVE UPDATE 2011/12 AND ANNOUNCEMENT OF VACANCIES OF THE LEAGUE BOARD OF DIRECTORS

Councilman Pitt explained there are currently vacancies on the League Board of Directors. Currently, the seats available are: at-large seat, City Clerk, City Manager and City Attorney. He also reminded Council that the advocacy goals are due August 31st.

DISCUSSION – EXEMPT/NON-EXEMPT STATUS OF EMPLOYEES AT PAY-GRADE 22 AND ABOVE

Councilman Moultrie reminded Council that at the July 23rd Council meeting, the original motion presented was struck down and replaced with the motion made by Councilman Mercer. (Motion from July 23rd: By motion of Councilman Mercer, seconded by Councilman Pitt, Council approved the assignment of classes to grades and ranges for fiscal year 2012-2013 as presented by the City Manager, with the provision that anything grade 22 or higher shall be classified as exempt unless specifically prohibited by the Fair Labor Standards Act and authorized the City Manager to implement the recommended reclassifications effective July 2, 2012. Motion carried 4-1 with Councilman Moultrie opposing the motion.) Councilman Moultrie further stated that he would like to make a motion to rescind the motion that was made by Councilman Mercer on July 23rd and go back to the original motion that was presented by the City Manager. Mayor Jennings noted that the motion will need to be proposed by someone who voted for the motion on July 23rd.

Councilman Brooks stated he would like to propose that this subject be revisited. He felt he was caught off guard by the add-on to the motion and feels he should not have voted for it. Council should have been given time to review this ahead of time in order to determine the effects it would have on our staff. He expressed concern that Council can appropriate money for certain things except when it comes to the employees. He feels this needs to be rectified and asked employees to forgive him for making the mistake of voting for this item.

City Attorney, Franz Holscher discussed the logistics and legalities of revisiting the motion. Councilman Pitt would also like to revisit, on-call, callback time, etc. and suggested “put things back the way they were”. Councilman Mercer stated he was the one that made the motion last month and felt it was an appropriate motion. He suggested that if Council would take the time to look at the pay grades affected, then they meet the criteria for exempt status, but he would abide by the wishes of the Council.

By motion of Councilman Brooks, seconded by Councilman Moultrie, Council reapproved the assignment of classes to grades and ranges for fiscal year 2012-2013 as previously presented by the City Manager at Council’s July 23, 2012 meeting and authorize the City Manager to implement the recommended reclassifications effective July 2, 2012, but rescind or invalidate the clarification or provision that was added at said meeting that was worded as follows: “with the provision that anything grade 22 or higher shall be classified as exempt unless specifically prohibited by the Fair Labor Standards Act.” Motion carried 4-1 with Councilman Mercer opposing the motion.

Mayor Jennings suggested that Human Resources and the City Manager continue to review the positions to insure the correct status is assigned to each pay grade. Mr. Kay stated in the next 12-24 months a new pay and classification study will be presented to Council. Councilman Mercer reviewed salaries from seven cities with a population of 6,000-12,000.

REMINDERS FROM COUNCIL MEMBERS

Councilman Mercer reminded Council that he and Councilman Moultrie were appointed to review the fees charged by the City. They have in-turn asked each Councilmember that is a board liaison to please work with their board and staff and review those fees. The Fire Dept., Police Dept., and Public Works do not have a board so Councilman Mercer agreed to review the fees charged by those departments. Mayor Jennings suggested that staff ask for a representative from each board to review the fees as well. Councilman Mercer noted the suggested deadline is October, but it may take longer than that.

City Manager, Josh Kay reminded Council of National Night Out on August 14th from 4-8pm at BeeBe Memorial Park.

CLOSED SESSION – UNDER § NCGS 143-318.11(A)(6) PERSONNEL

By motion of Councilman Pitt, seconded by Councilman Moultrie, Council entered into close session at 7:30 pm under § NCGS 143-318.11(a)(6) Personnel.

By motion of Councilman Moultrie, seconded by Councilman Pitt, Council came out of closed session at 7:45 pm.

ADJOURN

By motion of Councilman Pitt, seconded by Councilman Brooks, Council adjourned the meeting at 7:50 pm until August 27, 2012 at 5:30pm in the Council Chambers at the Municipal Building.

Cynthia S. Bennett, CMC
City Clerk