



DECEMBER 13, 2010
5:30 PM

Opening of Meeting

Nondenominational Invocation

Roll Call

Approval of minutes from November 4, November 8, November 16, and
November 22, 2010 **(page 5)**

Approval/Amendments to Agenda

PRESENTATIONS: Retirement and Memorial Resolutions
Certified Municipal Clerk Designation
North Carolina Certified Finance Officer

I. Consent Agenda:

- A. Approve – Purchase Orders over \$20,000 **(page 34)**
- B. Accept & Adopt – ARRA Funded Lighting Retrofit Grant (\$259,979)
(page 38)
- C. Approve – Departmental Roster for Calendar Year 2011**(page 42)**
- D. Adopt – Budget Ordinance Amendment Powell Bill allocation
(page 48)
- E. Amend – Storm Water Capital Project Ordinance **(page 51)**

II. Comments from the Public:

III. Public Hearing on Zoning: **6:00 PM**

- A. Adopt - Ordinance to amend Chapter 40 Section 40-93, Table of
Uses of the Code of Ordinances by adding Commercial Marinas
with Drystack Storage as a Special Use in the Office & Institutional
Zoning District **(page 54)**
- B. Adopt - Ordinance to amend Chapter 40 Section 40-93, Table of
Uses, by adding Electronic Gaming Operations (Internet
Sweepstakes) as a Special Use in the I-2 (Light Industrial) Zoning
District **(page 61)**



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IV. Public Hearing – Other:

- A. Adopt – [Beaufort County Multi-Jurisdictional Hazard Mitigation](#) Plan Update as recommended by the Hazard Mitigation Advisory Committee **(page 68)** view entire plan at: www.washingtonnc.gov
- B. Accept – Recommendation of the Planning Board **and** Approve the preliminary subdivision plat of George E's Place Subdivision located off Keysville Road (SR 1506) **(page 73)**

V. Scheduled Public Appearances:

- A. James Potter – Utilities
- B. Tim Prichard – Parking & Traffic on North Academy Street **(page 81)**
- C. Martin-Starnes & Associates, CPAs, P.A. – Audit Presentation **(page 87)**
- D. Tom Stroud – Adopt Resolution on behalf of the Partnership for the Sounds and the North Carolina Estuarium **(page 95)**

VI. Correspondence and Special Reports:

- A. Discussion – Status of current grants (2010 Departmental American Recovery and Reinvestment Act (ARRA) and Non-ARRA funding opportunities) **(page 96)**

VII. Reports from Boards, Commissions and Committees:

- A. Human Relations Council **(page 97)**
- B. Tourism Development Authority **(page 98)**
- C. Financial Reports **(as available)**

VIII. Appointments:

- A. Appointment – Economic Development Commission **(page 99)**



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IX. Old Business:

- A. Authorize – City Manager to enter into an additional 90 day lease extension with Impressions Marketing Group, Inc. for the Property located at 234 Springs Road **(page 100)**
- B. Adopt – Resolution Authorizing the Lease of Certain Real Property to Martin County Community Action for the Weatherization Assistance Program Resource Coordinator’s office space **and** Authorize the Interim City Manager to execute the Lease Agreement **(page 102)**
- C. Authorize – Manager to sign a construction contract with T.A. Loving Company for stormwater (\$3,800,902) **(page 113)**
- D. Approve and Authorize – Director of Parks and Recreation to execute Waterfront Docking for NC Estuarium River Rover **(page 120)**
- E. Memo – Load Management Device Report **(page 128)**
- F. Memo – Report set up for Load Management Department in the Electric Fund and reallocation of \$300,000 funding from Substation Department to Load Management **(page 129)**
- G. Memo – IT Managed Services **(page 130)**
- H. Authorize – City Manager to enter into a one year Maximum Exposure and Webcam Agreement with WITN **(page 137)**
- I. Approve – Strategic Budget Planning Session **(page 140)**

X. New Business:

- A. Memo – Request for Proposals for Fleet Maintenance **(page 142)**
- B. Memo – Request for Residential Solid Waste Services **(page 143)**
- C. Authorize – Manager to sign Notice of Landing Area Proposal in order to close runway 11-29 **(page 145)**



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- D. Approve and Authorize – City Manager to execute the Contract for Site Management Services at the “Festival” Park site with Mark Smith Architect (\$19,350) **(page 149)**
- E. Authorize – Mayor to execute Withdrawal of Deed of Easement and Reconveyance and execute new Deed of Easement with the Partnership for the Sounds Inc. **(page 164)**
- F. Award – Contract for Energy and Demand Reduction Technologies (\$20,000) **(page 172)**
- G. Memo – Draft Minimum Housing Code **(page 174)**
- H. Memo – Lease Agreement with Moss Property Partners, LLC **(page 197)**
- XI. Any Other Items From City Manager:
 - A. None
- XII. Any Other Business from the Mayor or Other Members of Council
 - A. Discuss – North Carolina’s Electronics Recycling Law and Overview of Provisions Affecting Local Governments in Senate Bill 887 (Councilman Pitt) **(page 209)**
- XIII. Closed Session – Under NCGS 143-318.11(a)(3) Attorney/Client Privilege, Dekevon Roulhac et. al, v. City of Washington et. al, BCSC 09-CVS-1129, under NCGS 143-318.11(a)(6) Personnel and 143-318.11(a)(3) Attorney/Client Privilege
- XIV. Adjourn - Until December 16, 2010 at 5:00 pm, in the Council Chambers at the Municipal Building.

**CITY COUNCIL MINUTES
WASHINGTON, NORTH CAROLINA**

November 4, 2010

The Washington City Council met in a special session on Thursday, November 4 2010 at 5:00pm in the City Council Chambers at the Municipal Building. Present were: Bobby Roberson, Mayor Pro tem; Doug Mercer, Councilman; Ed Moultrie, Councilman; William Pitt, Councilman; Franz Holscher, City Attorney and Cynthia Bennett, City Clerk. Mayor Jennings entered the meeting at 5:15pm while Councilman Gil Davis was absent and excused from the meeting.

Also present was Mike Voss, of the Washington Daily News.

Mayor Pro tem Roberson called the meeting to order and Councilman Moultrie delivered the invocation.

**CLOSED SESSION – UNDER NCGS 143-318.11(A)(6) PERSONNEL AND
NCGS 143-318.11(A)(3) ATTORNEY-CLIENT PRIVILEGE,.**

By motion of Councilman Pitt, seconded by Councilman Moultrie, Council entered into Closed Session under NCGS 143-318.11(a)(6) Personnel and (a)(3)Attorney Client Privilege.

ADJOURN

By motion of Mayor Pro tem Roberson, seconded by Councilman Pitt, Council adjourned the meeting at 6:15pm until November 8, 2010 at 5:30 pm in the Council Chambers at the Municipal.

(subject to approval of City Council)

**Cynthia S. Bennett
City Clerk**

**CITY COUNCIL MINUTES
WASHINGTON, NORTH CAROLINA**

November 8, 2010

The Washington City Council met in a regular session on Monday, November 8, 2010 at 5:30pm in the City Council Chambers at the Municipal Building. Present were: Archie Jennings, Mayor; Bobby Roberson, Mayor Pro tem; Doug Mercer, Councilman; Ed Moultrie, Councilman; William Pitt, Councilman; Gil Davis, Councilman; Franz Holscher, City Attorney and Cynthia Bennett, City Clerk.

Also present were: Matt Rauschenbach, Chief Financial Officer; Robbie Rose, Fire Chief; Allen Lewis, Public Works Director; John Rodman, Planning Director; Keith Hardt, Electric Director; Mick Reed, Police Chief; David Carraway, Information Technology Department; Susan Hodges, Human Resource Director; Mike Voss, of the Washington Daily News and Delma Blinson, of the Beaufort Observer.

Representing Boy Scout Troop 99 working toward the Citizenship in the Community Merit Badge were Charles Pfeiffer and Brad Miller.

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

APPROVAL OF MINUTES

Councilman Mercer suggested the City Clerk leave the attachments out of the minutes presented for approval but include them in the final set placed in the minute book.

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council approved the minutes from October 11th as presented.

APPROVAL/AMENDMENTS TO AGENDA

Councilman Mercer requested moving the following items:

1. Consent Agenda Item E. Approve – Load Management Technician Position **moved to E.1 under Old Business**
2. Old Business Item A. Approve – Legally Binding Commitment (LBC) between the City of Washington and Washington Housing Inc. (WHI) **moved to the Consent Agenda**
3. Old Business Item F. Adopt – Ordinance Amendment for Chapter 38- Water and Wastewater, to add Sections 38-400 – 38-411 – Water Shortage Response Plan **moved to the Consent Agenda**
4. Old Business Item G. Approve – LWCF Conversion **moved to the Consent Agenda**
5. New Business Item A. Award – Contract for Electric Relocation Project for NCDOT **moved to the Consent Agenda**
6. New Business Item D. Authorize – Chief Financial Officer to act as the Authorized Agent for the NC Department of State Treasurer, Local

Government Commission (LGC) application for approval of installment purchase contract **moved to the Consent Agenda**

7. New Business Item K. Award – Contract for Banking Services **moved to the Consent Agenda**

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

CONSENT AGENDA

By motion of Councilman Mercer, seconded by Councilman Moultrie, Council approved the Consent Agenda as amended.

CONSENT AGENDA:

- A. Adopt – Budget Ordinance to appropriate \$10,000 for Brown Library part-time salaries to expand library hours to include Sundays, from 1-6 pm(**copy attached**)
- B. Adopt – Budget Ordinance Amendment for Sewer Improvements along Pennsylvania Avenue (**copy attached**)
- C. Adopt – Budget Ordinance Amendment to reimburse the Washington Harbor District Alliance for the purchase of holiday lighting for all trees on downtown Main Street (\$3,000) (**copy attached**)
- D. Approve – Purchase Orders in excess in \$20,000 (**copy attached**)
- E. Moved to Old Business E.1:Approve – Load Management Technician Position
- F. Accept – 2010 Edward Byrne Memorial Justice Assistance Grant \$12,852(**copy attached**)
- G. (Old Business Item A) Approve – Legally Binding Commitment (LBC) between the City of Washington and Washington Housing Inc. (WHI) **moved to the Consent Agenda(copy attached)**
- H. (Old Business Item F) Adopt – Ordinance Amendment for Chapter 38- Water and Wastewater, to add Sections 38-400 – 38-411 – Water Shortage Response Plan **moved to the Consent Agenda(copy attached)**
- I. (Old Business Item) Approve – LWCF Conversion **moved to the Consent Agenda(copy attached)**
- J. (New Business Item A) Award – Contract for Electric Relocation Project for NCDOT **moved to the Consent Agenda(copy attached)**

- K. (New Business Item D) Authorize – Chief Financial Officer to act as the Authorized Agent for the NC Department of State Treasurer, Local Government Commission (LGC) application for approval of installment purchase contract **moved to the Consent Agenda (copy attached)**
- L. (New Business Item K) Award – Contract for Banking Services **moved to the Consent Agenda**

**RACHEL MILLS – HISTORY ROOM RENOVATIONS –
FRIENDS OF BROWN LIBRARY**

Gloria Moore, Director of Brown Library introduced Ms. Rachel Mills, representing Friends of Brown Library. Ms. Mills stated last year the Friends of the Library received a \$20,000 gift from the Wilkerson Estate to support and expand the history room. Rather than move the History Room it would be better to expand the room into a small office. This would require a wall to be removed and the installation of new bookcases. Two hexagonal computer tables with 6 computer stations will be installed. The total cost for the renovations will be \$12,600 and will be completed by Mr. Gene Edwards who was the low bidder and has completed work for the library on previous occasions.

A. G. SWANNER

Mr. A.G. Swanner came forward to notify Council of his intent to expand Blackbeard's Restaurant. Council advised Mr. Swanner that he needed to contact John Rodman, Planning Director to begin the permitting process for the expansion.

**BOB GARY – ENERGY REDUCTION TECHNOLOGIES UPDATE
(FORMALLY BREEZEPLAY)**

Bob Gary and Rick Savage with Energy Reduction Technologies (e-dux) made a presentation to Council regarding their company. The following points were presented:

- Over 70% of the cost structure for electricity is made up of direct costs
- Energy rates and usage have the potential to become a political issue
- Ways to assist customer
- Education and conservation
- Reduce peak demand with Demand Response Technologies

Mayor Jennings suggested this presentation be made at the next meeting of the Electric Advisory Board to allow them time to focus on this topic.

Public Hearing: Authorize – To Provide and Receive Information and Public Comments Concerning the Closeout of the 2008 Community Development Block Grant (CDBG) – Infrastructure Project

Mayor Jennings opened the public hearing. Allen Lewis, Public Works Director came forward and explained the purpose of this public hearing is to provide and receive information and public comment concerning a 2008 Community Development Block Grant-Infrastructure grant as administered by the North Carolina Department of Commerce through the Division of Community Assistance. The project included the extension of 900 linear feet of 24-inch gravity sewer along Pennsylvania Avenue near

the Pennsylvania and Havens pump station and associated street repairs and related construction. The total cost of the project is \$506,923 with the grant covering \$466,923 of the total project cost. The \$40,000 match from the City covered the cost in the difference of installing 8-inch gravity line sewer with 24-inch gravity line sewer. An 8-inch line would not work as the lines that were being replaced were 12-inch lines and significantly undersized.

Kevin Richards, Mid-East Commission stated the project was to assist low to moderate income areas. A total of 9 households were assisted of which 7 were LMI, which is a 78% LMI ratio. All CDBG grants require Fair Housing Plans. The City of Washington enforces the Fair Housing Act and other Federal Laws that prohibit the discrimination and the intimidation of people in their homes, and nearly all housing transactions including the rental and sale of housing and the provision of mortgage loans. The grant was monitored by the State on May 24, 2010 and the project is complete and ready to be closed out.

There being no comments from the public, Mayor Jennings closed the public hearing.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council authorized staff to proceed with the project closeout submittals for the formal closeout of the 2008 CDBG infrastructure grant which included the extension of 900 linear feet of 24-inch sewer line along Pennsylvania Avenue.

**PUBLIC HEARING: ADOPT – FY08 CDBG - CAPACITY BUILDING GRANT
CLOSEOUT**

Mayor Jennings opened the public hearing.

Bianca Gentile, Special Projects stated this is the FY08 CDBG- Capacity Building project in conjunction with Washington Housing Incorporated. This grant laid the foundation for the WHI-Housing Development Project which is just beginning to take off. The grant also assisted WHI in becoming a HUD certified housing counseling agency, which is one of the only agencies in eastern North Carolina. The grant also offered administrative support to the organization over the last two years. This required no administrative dollars from the City of Washington. All funds have been expended and approved activities are complete. The City would like to begin close out procedures, an action consistent with the originally proposed project timeline.

There being no comments from the public, the public hearing was closed.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council authorized staff to proceed with the project closeout submittals for the formal closeout of the FY08 CDBG Capacity Building Grant.

JASON BRILEY – REPORT ON NORTHGATE, SUBDIVISION

Jason Briley provided Council with an update on Northgate Subdivision. As of today, 76 houses have been sold. A total of 22 low-to-moderate income homes have been sold. There is also one additional pending and awaiting the 2010 tax returns. Mr. Briley is required to sell 32 homes to LMI purchasers by December 31, 2010. Mayor Pro tem Roberson discussed the Letter of Credit. Mr. Briley is asking the NC Redevelopment Commission for an additional extension or reduction in the number of lots. Mayor Jennings stated the Council is willing to work with Mr. Briley, but we will execute our line of credit if needed.

COMMENTS FROM THE PUBLIC

Scott Campbell and Bill Sykes came forward to discuss the potential of the Wildlife Resources Commission taking over the Havens Gardens Boat Ramp area that is on the agenda later tonight. Mr. Campbell asked Council to postpone taking action on this item tonight to allow time for public comment and review of the proposal. Mr. Sykes also noted the need for a public comment period regarding this issues as well as the need for single car parking and a kayak launch at this boat ramp.

DISCUSSION – STATUS OF CURRENT GRANTS (2010 DEPARTMENTAL AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) AND NON-ARRA FUNDING OPPORTUNITIES)

Bianca Gentile, Special Projects explained the status of current grants.

Notifications and Awards:

- **Energy Efficiency in Government Buildings Grant** (Government Round 2). \$259,972 AWARDED The North Carolina State Energy Office (SEO) re-released its solicitation for proposals from local governments, public K-12 schools and community colleges for energy efficiency upgrade projects. The focus of this grant is to reduce energy consumption and provide jobs or retain existing jobs. Funds come from the American Recovery and Reinvestment Act of 2009. Institutions must follow competitive bid process requirements for proposed projects. The City of Washington submitted a proposal to upgrade lighting in seven municipal buildings. Proposed actions:
 - Replace light bulbs (switching T-12 to T-8 or T-5) and ballasts;
 - Install lighting control technology, including occupancy sensors;
 - Install a direct fire gas heating system in the Impressions Building

Submittals:

- **NC Emergency Management: Critical Facility Acquisition/Demolition** (Police Department). Submitted to NC Emergency Management. Total project \$1,182,000

Special Project grant awards

Total ARRA funding to date:

- Grants: \$ 521,514 (Two Department of Justice grants and two Department of Energy grants- please note: none of these awards require a local cash match)
- Loan: \$ 3,000,000 (USDA)

Non-ARRA grant awards:

- CDBG Housing Development: \$ 227,700 (no local cash match)
- Department of Justice: \$12,852 (no local cash match)

Pending notification:

- FEMA: \$184,000 – Old Health Department (no local cash match, administrative dollars requested)
- FEMA: 1,182,062- Demolition of Public Structure, Police Department (25% cash match)
- Main Street Energy Fund: \$71,000, upgrade downtown building efficiencies

Total Impact of Special Projects position: \$5,199,128

UPDATE – QUARTERLY – WEATHORIZATION ASSISTANCE PROGRAM

Bianca Gentile stated the report was presented in the Council packet. (being report) Respectfully submitted is a quarterly update on Martin County Community Action Agency's efforts to weatherize 200 homes or 25 per quarter. To date, MCCA has weatherized an astonishing 93 homes. Recent changes to state/federal program mandates decreased the required total number of homes from 200 to 134. However, this change increased the average cost per unit (amount invested in weatherizing home) from \$4,000 to \$6,000.

Report from Martin Community Action, Inc.

Update from last meeting:

1. Our agency received a budget amendment that increased the average cost per unit from \$4,000 to \$6,000. As a result of this change our current number of homes to serve in Beaufort is 134.
2. The WAP Coordinator, Mr. Barnville strategically planned a concentrated effort to deploy our auditors and crew in the county. This effort yielded a substantial increase in the number of homes we were able to complete over the past months. ARRA-WAP increased from 24 homes as of June 14 to 93 as of October 29, 2010.
3. We are now seeking to employ two new auditors and four new carpenter assistants to expand our production capacity. These additions will increase the number of jobs created by ARRA-WAP to thirty six.
4. Three sub-contractors have completed all training and certification requirements and are assisting with the weatherization of the homes we serve.
5. Multi-family homes are still pending additional guidance.

Most Recent Updates:

1. Our energy auditors are metering 100% of all refrigerators in client homes. Consequently more than 90% are receiving new energy efficient refrigerators that are purchased from Lowes or Sears.
2. The average cost per unit in Beaufort County is \$3,715.31. This has increased by \$1,218.23 due to an increase in materials and measures.
3. Approximately 65% of our clients need heating and air replacements. For clients who are not eligible for HARRP units are replaced through Health & Safety funds which are not included in the average cost per unit. Some homes require costly knob and tubing electrical upgrades. This cost is extracted from Health & Safety also and is not reflected in the average cost per unit.

Upcoming: Our agency has been awarded a Housing Preservation Grant by the USDA to further assist 30 families over the next two years in Beaufort and Martin counties. These funds will be

supplementary for walkaway cases(a project that is not allowed to be initiated due to conditions in the home that prevent it from being weatherized, such as a hole in the roof). (end report)

HUMAN RELATIONS COUNCIL

1. Appointments: Mr. Galen Derick Davis and Ms. Nattalie Castro
2. Update Ed Peed commemoration
 - Price quote for 21' x 29' x 4" flat marker of \$290
 - Location- on top of hill beside Mr. Beebe
 - Suggested a price quote for 14' x 15' x 7" stand-up type
3. Joint meeting with Pitt/Greenville HRC Traveled to Greenville on November 3, 2010
4. Update April Corbett, Project Next Step (PNS) Coordinator addressed the following:
 - Project Next Step
 - Pill Drop
 - D.R.E.A.M. camp
 - National Night Out
 - Teen Pregnancy Program
 - Crime Prevention Month

WASHINGTON HARBOR DISTRICT ALLIANCE

Beth Byrd reviewed the "Friends of Alliance" campaign as a fundraising event for WHDA. As a "Friend of the Alliance" one will receive:

- Special offers from downtown merchants
- Invitations to Friends of the Alliance social events
- WHDA's newsletter twice a year
- Entered into a contest for two tickets to Pickin' on the Pamlico to be held August 2011
- Window decal

FINANCIAL REPORTS (approved as presented via e-mail)

APPROVE – LEGALLY BINDING COMMITMENT (LBC) BETWEEN THE CITY OF WASHINGTON AND WASHINGTON HOUSING INC. (WHI)

Moved to Consent Agenda.

UPDATE – REPORT, KEYS LANDING SUBDIVISION

John Rodman, Planning Director updated Council on the Keys Landing Subdivision project. Mr. Rodman explained the City of Washington was awarded a Community Development Block Grant for Housing Development from the Division of Community Assistance (DCA) for acquisition of property and to construct street and utility improvements to Keys Landing Subdivision located off Keysville Road. The grant was awarded during fiscal year 2005. The application for the grant was originally proposed for a parcel of property located on Keysville Road and would contain 15 lots to sell for construction of affordable housing. Due to difficulties in securing title from multiple heirs to the property, the application was subsequently changed to include a different parcel of property in close proximity to the original location and the number of lots was reduced to 12.

Following several delays in the execution of the grant caused by right-of-way acquisitions, reengineering the project and bid documentation, the subject grant is under review by the Division of Community Assistance. DCA's chief concern is the project's lack of a new Environmental Review. DCA feels this oversight is serious enough to impact the future of the project. DCA submitted a letter to the City stating because this oversight has resulted in a violation of 24 CFR 58.22, DCA is required to disqualify the entire project. The \$135,542.92 in remaining funds will be de-obligated and the City is required to return the \$114,457.08 already expended in the project. Funds should be returned to DCA no later than December 31, 2010, with the check payable to the Department of Commerce Division of Community Assistance. The City is working in conjunction with Holland Consulting Planners and Metropolitan Housing to take the necessary steps to satisfy DCA's concerns and bring the project into compliance. A letter has been prepared to send to DCA explaining why the Environmental Review has been delayed. A meeting will be coordinated with all parties involved.

Councilman Mercer voiced concern over the Environmental Review not being submitted to DCA. Mr. Smith stated the new DCA representative advised the City not to submit the revised Environmental Review.

**MEMO – LAND RELEASE REQUEST TO FEDERAL AVIATION
ADMINISTRATION**

(memo from Mick Reed, Chief of Police) As directed, this memo is to update Council on the progress of the Land Release process. Pursuant to FAA guidelines regarding the Land Release Request, the FAA requires a commitment from the Airport owner (City) to use the "proceeds" from the release of the property exclusively for the airport improvement program (see Section H of the Land Release Request). In order to determine the value of those "proceeds," staff has taken the following steps.

- A. An appraisal of the tract of land designated for the Police facility was ordered and conducted by Grantham Appraisal and Realty. As FAA requires, a review of this appraisal was conducted by a second appraiser, in this case C.P. Shaw Associates, Limited. The appraised value of the designated land was identified as \$355,500.00. Upon staff review, it was felt that this appraisal was unrealistic for a variety of reasons (see section C of Land Release Request). Therefore, it was decided that a second appraisal was advisable for the City of Washington.
- B. S. Ann McRoy of the Appraisal Group conducted a second appraisal of the designated land and provided an appraised value of \$100,000.00, which staff felt was a much more realistic value. As stated above, FAA requires a review of the appraisal to be completed and a review of this appraisal is in progress. This review is anticipated to be completed by November 5th and will be included in Council packet if available. FAA representatives have directed that the City provide both appraisals and reviews to FAA for consideration.(end memo)

Councilman Mercer expressed concern with the increase in the required lot size from approximately 4 acres to 5 acres. John Rodman, Planning Director explained that when a parcel of land is subdivided in the Airport Zoning district, the minimum lot size has to be 5 acres. Franz Holscher, City Attorney stated that at some point in time, Council needs to grant authority to staff to submit the land release request application.

By motion of Mayor Pro tem Roberson, seconded by Councilman Davis, Council authorized the City Manager and City Attorney to proceed with the Land Release Request and file the application with the Federal Aviation Administration.

**MEMO – ASSIGNMENT OF CLASSES TO GRADES AND RANGES FOR
2010-11**

(memo from Susan Hodges, Human Resources Director) At the City Council meeting on October 11, 2010, a request was made to increase the salary ranges for City positions from a 48% to 50% spread from beginning (hiring rate) to maximum based on salary data collected by the MAPS Group which reflected a prevailing average for salary ranges of 50%. This change in the City's salary schedule was requested to be retroactive. By making the change effective at the beginning of the fiscal year, July 1, 2010, it would insure pay equity among City employees in regards to qualifying for job maturity and merit pay adjustments.

As discussed, the impact of this proposed change in the pay plan is an increase in the job rate by .67% and in the maximum by 1.35% for each salary grade. Twenty one employees would be affected by the change in job rate with a total financial impact of \$2,661 for the current fiscal year. Because employees at the maximum receive a merit bonus in lieu of salary adjustment, no additional funds would be required this year.

Although the financial impact of this proposed change is minimal, given consideration to the fact that we are almost halfway through the current fiscal year, it would be our recommendation that we postpone implementation of the salary schedule revision until next fiscal year. This will improve our ability to accurately plan for the fiscal year 2011 -2012 budget.(end memo)

UPDATE – ELECTRIC LOAD MANAGEMENT PROGRAM

(memo from Keith Hardt, Electric Utilities Director)

- The full shipment of load management switches has been received from the manufacturer and programming is complete.
- The new load management program marketing plan is being developed by Electricities of North Carolina. We will have a draft plan completed by November 12th.
- The City's contracted load management installer has begun their work. The first group of service orders and installation units has been accepted by the contractor and they are proceeding with installations.
- A cost separate load management budget cost center will be created within the City's general ledger. This new budget cost center will allow for tracking of contract and force account labor, materials, and equipment for load management functions.
- As of the date of this memorandum one application has been received for the

City's Electric Load Management Technician position currently being advertised. The closing date for applications for this position is Friday, November 5th.

LOAD MANAGEMENT TECHNICIAN POSITION

Keith Hardt, Electric Utilities Director explained that the City must obtain an electrical contractor's license for the installation of load management switches by City staff. An employee will be hired that has a license that can be conveyed to the City. The position is a pay grade 16 with a salary range of \$29,041 to \$42,981. This position was included in the \$300,000 budget for the load management project. The advertisement closed on Friday with three applicants that were qualified for the position.

Ed Pruden, Electric Dept. stating he is keeping a record of the load management switches that are being installed and this will be used as part of a regular report to the advisory board.

Councilman Mercer voiced opposition to adding additional staff at this time. He suggested waiting until February when a staff person retires. Mr. Smith stated in order to move ahead with the load management program, we must have a person on staff to install the switches. Mr. Smith further noted the salary for this position will come from the \$300,000 that Council allocated for this program.

By motion of Councilman Moultrie, seconded by Councilman Pitt, Council approved the addition of a load management technician to the City's full time budgeted employees. Councilman Mercer opposed the motion. Motion carried 4-1.

ADOPT – ORDINANCE AMENDMENT FOR CHAPTER 38- WATER AND WASTEWATER, TO ADD SECTIONS 38-400 – 38-411 – WATER SHORTAGE RESPONSE PLAN -Moved to Consent Agenda.

APPROVE – LWCF CONVERSION - Moved to Consent Agenda.

RECESS – 7:00pm-7:15pm

AWARD – CONTRACT FOR ELECTRIC RELOCATION PROJECT FOR NCDOT Moved to Consent Agenda.

**ADOPT – POLICY REGARDING CLAIMS PAYMENT POLICY
“FAILURE OF EQUIPMENT”**

Mr. Hardt explained that the City of Washington currently has injury and property damage insurance coverage with the North Carolina League of Municipalities (League). There has been included in prior year's City budgets monies to pay for damages above and beyond those damages covered under the League's insurance coverage. The directive given to the League's adjustors was that any private property damage caused by a "failure of equipment" on the City's electric system was paid in the same manner as all other paid claims made on the City. This insurance payment disparity exists between the electric department and all other departments. In addition, we can find no other City electric department or other public/private electric utility in the State of North Carolina

that has this practice. The new policy will adjust all claims made on the City of Washington in accordance with the insuring agreement between the League and the City of Washington. All claims filed with respect to the City's electric system shall be adjusted in the same manner as all other claims made on the City of Washington.

Proposed policy: Based on the recommendation of the City's insurance carrier and the carrier's adjuster, the City of Washington shall authorize payment for only those sums that the City of Washington becomes legally obligated to pay as compensatory damages because of "bodily injury" or "property damage" to which the policy issued by the insurance carrier applies. This insurance does not apply to punitive damages or exemplary damages. The City of Washington's insurance carrier will have the right and duty to defend the City of Washington against any "suit" seeking those damages. However, insurance carrier shall have no duty to defend the City of Washington against any "suit" seeking damages for "bodily injury" or "property damage" to which the insurance carrier's policy does not apply. The insurance carrier may, at their discretion, investigate any "occurrence" and settle any claim or "suit" that may result.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council approved the revised Claims Payment Policy.

AWARD – CONSTRUCTION FOR STORMWATER IMPROVEMENTS

Allen Lewis, Public Works Director explained that bids were received on November 2, 2010 for the storm water improvements in various parts of the City that have been discussed in previous Council meetings. There were three bids received. T.A. Loving Company was the low bidder with a bid price, including two bid alternates, of \$3,500,774.00. With your permission, we will begin negotiations with T.A. Loving Company and Rivers and Associates to include the Northwood area drainage improvements that were previously identified in a drainage study and further discussed at the October 11, 2010 council meeting. The result of those negotiations will be brought to Council for approval as well.

The project will consist of storm drainage improvements in three (3) areas: the Airport Canal drainage area from Minuteman Lane to Whispering Pines Road, Jack's Creek from Park Drive to 8th Street and the Smallwood area from Keysville Road to Lodge Road. With Council's approval and successful negotiations, the Smallwood improvements should be extended to the Northwood area as well. These projects, once completed should help reduce the frequency and duration of flooding during severe rain events.

Mr. Lewis stated we were directed by Council to spend up to \$400,000 annually for storm water improvements as the Recovery Zone Bonds are 15 years bonds. Costs will be \$5,000,000 for storm water improvements and the associated costs as well as \$40,000 for the roof at Fire Station #1.

Mr. Lewis stated T.A. Loving Company was the low bidder with a bid price, including two bid alternates, of \$3,500,774.00.

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council awarded the construction contract to T.A. Loving Company for stormwater improvements in various parts of the City in the amount of \$3,500,774.00 which includes the additional stormwater improvements at Smallwood(Northwood, Rowan and Eden area) which will not exceed \$400,000.

Storm Water Drainage Project Budget

11/4/2010

\$	Description
3,500,774	Construction bid award
370,000	Northwood improvements
210,000	Electrical relocation
156,449	Contingency 3.8%
75,000	Topographic surveys & easements
308,000	Design fee
117,000	Residential project representative
34,000	Northwood engineering
155,950	Healthplus acquisition
50,000	Healthplus demolition
3,665	Permit Fees
6,512	Geotechnical/environmental surveys(environmental)
<u>12,650</u>	Bond Counsel
5,000,000	

AUTHORIZE – CHIEF FINANCIAL OFFICER TO ACT AS THE AUTHORIZED AGENT FOR THE NC DEPARTMENT OF STATE TREASURER, LOCAL GOVERNMENT COMMISSION (LGC) APPLICATION FOR APPROVAL OF INSTALLMENT PURCHASE CONTRACT

Moved to Consent Agenda.

AWARD – FIANCING BID FOR THE INSTALLMENT PURCHASE CONTRACT OF THE RECOVERY ZONE ECONOMIC DEVELOPMENT BOND (RZEDB)

Matt Rauschenbach, CFO stated in fiscal year 2009-2010 Council authorized the City to apply for \$5,977,984 of RZEDB's that were subsequently allocated. \$4,000,000 of the initial award is included in the 2010-2011 budget. \$42,000 of the \$4,000,000 is for Fire Station #1 roof replacement. Council has expressed interest in expanding the project to include the Northwood section of Smallwood dependant on the outcome of construction and financing bids and the ability to service the debt from \$400,000 per year net revenue generated in the Storm Water Fund.

The storm water project including the Northwood area is \$5,000,000. This debt can be serviced with the Storm Water Fund's \$400,000/year net revenue and available fund balance while maintaining the ability to undertake some additional projects over the life of the debt.

By motion of Mayor Pro tem Roberson, seconded by Councilman Davis, Council awarded a \$5,040,000 installment purchase bid to Bank of America, N.A. for the funding of the RZEDB projects.

By motion of Councilman Mercer, seconded by Councilman Pitt, Council authorized the Chief Financial Officer to enter and execute such documents that are necessary to effectuate the installment purchase financing.

ADOPT – RESOLUTION OF SUPPORT IN APPLYING FOR NCDOT BICYCLE COMPREHENSIVE PLAN

Philip Mobley, Parks and Recreation Director stated this is the fourth year the City has applied for this grant. The purpose of this Council Action is for City Council to adopt a resolution of support for a City of Washington Bicycle Comprehensive Plan. This Comprehensive Plan is an important step to developing the Rails to Trails project. The Parks and Recreation Department would like to submit an application to NCDOT for funding to do a Bicycle Comprehensive Plan. The funding amount is \$36,000. Funding is 80% NCDOT and 20% cash by City of Washington. If the City of Washington is awarded the grant, the award committee will make a recommendation to NCDOT in March 2011. Staff will return to City Council for authorization to accept the grant. The Deadline for submitting the application is December 3, 2010.

Mayor Jennings acknowledged that this is a very long, drawn out project. Mr. Mobley stated our project is on the top of the list that is being looked at to be funded for a Bicycle Comprehensive Plan, not for the trail. We have to have the plan in place before we can begin with applying for funding for the trail. Bob Henkle stated we are on a list with no number being assigned to us until we have a comprehensive bicycle plan.

By motion of Councilman Davis, seconded by Councilman Moultrie, Council adopted a Resolution of Support to apply for a NCDOT grant for a Bicycle Comprehensive Plan.

(copy attached)

AUTHORIZE – CITY MANAGER TO SIGN THE AUTHORIZED AGENT CONSENT AGREEMENT TO AMEND THE MAJOR CAMA PERMIT FOR HAVENS GARDENS

Philip Mobley, Parks and Recreation Director explained that Monica Ferrari is heading an initiative to install a kayak dock on the north side of Havens Gardens next to the Havens Gardens Boat Ramp. In order to install this ramp an amendment to the current Major CAMA permit for Havens Gardens is needed. After a presentation by Monica Ferrari, the Recreation Advisory Committee unanimously agreed to support the installation of the kayak launch at Havens Gardens and to amend the CAMA Permit with City Council's Approval. Ms. Ferrari would like to amend the CAMA permit and who group will begin the fundraising efforts to pay for the installation of a kayak launch, of which will cost \$6800. Mr. Mobley stated the current major CAMA permit is for the walkway under the Hwy. 32/Runyon Creek Bridge.

By motion of Mayor Pro tem Roberson, seconded by Councilman Davis, Council authorized the City Manager to sign the Authorized Agent Consent Agreement as the Property Owner, to amend the major CAMA Permit for Havens Gardens.
(copy attached)

APPROVE AND AUTHORIZE – CITY MANAGER TO EXECUTE LEASE AGREEMENT WITH NC WILDLIFE RESOURCES COMMISSION-

Mr. Mobley noted that a citizen came by his office and voiced concern over parking at the boat ramp. There will be no single car parking within the boundaries of the area that Wildlife will maintain. Mr. Mobley spoke with the Wildlife representative and they explained we can change the parameter of the project and would be glad to come to Washington to explain all the options.

Possible options could be:

- changing the footprint of the area Wildlife wants to use, such as the grassy area next the Hwy. 32 and use this area as single car parking.
- Wildlife could come and repair the boat ramp then turn it back over to the City, the only requirements would be that the ramp be opened 24 hours a day, we wouldn't close the ramp unless for maintenance, and never charge for use of the ramp.

Council tabled this item in order to conduct a special meeting with Wildlife Resources Commission. This meeting will be advertised to allow the public the time to make comments and ask questions.

APPROVE AND AUTHORIZE – DIRECTOR OF PARKS AND RECREATION OR HIS DESIGNEE TO EXECUTE THE WATERFRONT DOCKING AGREEMENT FOR NC ESTUARIUM, RIVER ROVER

Mr. Smith stated this agreement would be modeled after the agreement with ECU. The agreement is not complete and will be ready for the December 13th meeting. Council by consensus tabled this item until December 13th.

ADOPT - RESOLUTION - CODE OF ETHICS FOR CITY COUNCIL AS REQUIRED BY NCGS 160A-86-

Council, by consensus tabled this item until the Committee of Whole meeting on November 22nd to allow further review and discussion.

AWARD – CONTRACT FOR BANKING SERVICES

Item moved to Consent Agenda.

ADOPT – A DECLARATION OF OFFICIAL INTENT TO REIMBURSE ITSELF FOR EXPENDITURES RELATED TO BUDGETED INSTALLMENT PURCHASES INCURRED PRIOR TO THE ISSUANCE OF DEBT

Matt Rauschenbach, CFO explained the expenditures will be incurred prior to the issuance of debt for these projects. The intent is to time the debt more closely to its

intended use. This declaration authorizes the City to reimburse itself for these expenditures. Council discussed items that should or should not be included in the self reimbursement, if the reimbursements begin with today's date(11-8-10). An example of such an item was the generator at Cratch's store on HWY 264 West and an IT management group. Mr. Rauschenbach stated he would double check the list and make sure everything is correct. He further stated there is a window for items both before and after this declaration is adopted that can be reimbursable items. Mr. Smith stated there is a new owner at Cratch's and they no longer wish to participate in the program, so that generator will be moved. The other generator is located at the hospital.

By motion of Mayor Pro tem Roberson, seconded by Councilman Pitt, Council adopted a Declaration of Official Intent to Reimburse itself for expenditures related to budgeted installment purchases incurred prior to the issuance of debt.

(copy attached)

**AUTHORIZE – CITY MANAGER TO ENTER AN IT MANAGED SERVICES
CONTRACT AND ADOPT BUDGET ORDINANCE**

Matt Rauschenbach stated this item was discussed earlier with the City Attorney, Mayor and Manager. The City Attorney suggested inserting additional language regarding the non-appropriation clause, there was actually an issue with the term as stated at 3 years, when it is actually 2 ½ years. Ray Midgett, the City's IT Director is retiring December 31, 2010. The City explored a managed services arrangement with three suppliers in lieu of hiring a replacement and selected The SoundSide Group. Reinvesting the personnel savings with this approach enhances our technical skills/knowledge through the availability of multiple resources with varying areas of expertise and 24/7 monitoring support. The group is located in Plymouth, NC and has worked on multiple projects for the City through the years. Annual savings in excess of \$22,000 are anticipated. This year's savings will be \$4,846 due to six months of personnel and related savings offset by the services agreement beginning November 15th to ensure a smooth transition. The IT Department will report to the C.F.O./Assistant City Manager as of January 1, 2011 rather than remaining an independent City Department.

Council thanked Ray Midgett for his service to the City and wished him well on his retirement.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council authorized the City Manager to enter into a managed services support contract with The SoundSide Group, Inc. subject to the necessary revisions suggested by the City Attorney and adopted a corresponding Budget Ordinance.

(copy attached)

ADOPT – BUDGET SCHEDULE FOR FY 2011-2012

By motion of Mayor Pro tem Roberson, seconded by Councilman Mercer, Council adopted the budget schedule for FY 2011-2012 with the stipulation that the schedule can be revised as needed.

(copy attached)

ITEMS FOR PLANNING BOARD REVIEW

TEMPORARY SIGNS-Councilman Mercer expressed concern over temporary signs. He would like the Planning Board to review a possible addition to Chapter 40, Article 16, Section 48-407 by adding a subsection in (a)(5) which would read as follows:

- Signs advertising theatrical events provided that such signs shall not exceed six square feet and be displayed no more than 30 days before the event and will be removed within 5 days after the event.

ENERGY CODE – Mayor Jennings asked for an update from the Planning Board/Dept. on the status of the energy code.

CLOSED SESSION – UNDER NCGS 143-318.11(A)(1) TO DISCUSS CONFIDENTIAL INFORMATION UNDER 143-318.11.10(E) PUBLIC RECORDS ACT; UNDER NCGS 143-318.11(A)(5) ACQUISITION OF PROPERTY OWNED BY FLOYD BANKS LOCATED AT 131 BRIDGE STREET FOR USE IN CONJUNCTION WITH THE LIBRARY; UNDER NCGS 143-318.11(A)(3) ATTORNEY-CLIENT PRIVILEGE, INCLUDING JAMES ALLEN TRIPP V. CITY OF WASHINGTON, 09-CVS-1298; UNDER NCGS 143-318.11(A)(6) PERSONNEL.

By motion of Councilman Pitt, seconded by Councilman Davis, Council entered into Closed Session under NCGS 143-318.11(a)(1) to discuss confidential information under 143-318.11.10(e) Public Records Act; under NCGS 143-318.11(a)(5) Acquisition of Property Owned by Floyd Banks located at 131 Bridge Street for use in conjunction with the Library; under NCGS 143-318.11(a)(3) Attorney-Client Privilege, including James Allen Tripp v. City of Washington, 09-CVS-1298; under NCGS 143-318.11(a)(6) Personnel.

Mayor Pro tem Roberson read the statement regarding the James Tripp settlement.

As required by North Carolina General Statute §143-318.11(a)(3), and to the extent allowed by North Carolina General Statute § 160A-168, the City of Washington announces the terms of the settlement with James A. Tripp. The North Carolina League of Municipalities Interlocal Financing Fund of North Carolina paid Mr. Tripp \$10,000.00 in exchange for a full release of all claims against the City. The City denies any liability to Mr. Tripp. Mr. Tripp filed a Dismissal With Prejudice of the lawsuit captioned James Allen Tripp v. City of Washington in Beaufort County Superior Court File No. 09-CVS-1298.

**CITY COUNCIL MINUTES
WASHINGTON, NORTH CAROLINA**

November 8, 2010

ADJOURN

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council adjourned the meeting at 9:45pm until November 22, 2010 at 5:30 pm in the Council Chambers at the Municipal.

(subject to approval of City Council)

**Cynthia S. Bennett
City Clerk**

DRAFT

**CITY COUNCIL MINUTES
WASHINGTON, NORTH CAROLINA**

November 16, 2010

The Washington City Council met in a special session on Tuesday, November 16, 2010 at 5:00pm in the City Council Chambers at the Municipal Building. Present were: Archie Jennings, Mayor; Bobby Roberson, Mayor Pro tem; Doug Mercer, Councilman; Rev. Edward Moultrie, Councilman; William Pitt, Councilman; Gil Davis, Councilman; James C. Smith, City Manager; and Cynthia Bennett, City Clerk.

Also present were: Philip Mobley, Parks and Recreation Director; Robbie Rose, Fire Chief; John Rodman, Planning Director; Mick Reed, Police Chief; Gloria Moore, Library Director; Lynn Lewis, Tourism Director; Mike Voss, of the Washington Daily News; and Delma Blinson of the Beaufort Observer.

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

DISCUSSION – HAVENS GARDENS BOAT RAMP & DOCK FACILITY

At the City Council meeting of November 8, 2010, Council requested a meeting with the NC Wildlife Resources Commission officials to discuss the boat ramp project and allow time for public input.

Attendees for this meeting included: Parks and Recreation Director, Philip Mobley; Mitch St. Clair of the North Carolina Wildlife Resources Commissioner; Recreation Advisory Board members; staff members from North Carolina Wildlife; and citizens of the community.

Parks and Recreation Director, Philip Mobley introduced Mitch St. Clair of the North Carolina Wildlife Commission to begin the dialogue and noted negotiations has been in the making for approximately four years for this project. Also, Mr. Mobley introduced Eric Christofferson, Chief Engineer with the Wildlife Resource Commission and Mr. Daniel Cabe, Design Team member. Mr. St. Clair noted the following as the reason he was here tonight:

1. To represent North Carolina Wildlife
2. His business is located at the back of Backwater Jack's. Mr. St. Clair stated he supports Backwater Jack's 100% and stated they need the overflow parking.

Mr. St. Clair mentioned the miscommunication between the City of Washington and the Wildlife Commission. Mr. St. Clair and Mr. Christofferson shared another option that would be more beneficial to all concerned. Mr. Christofferson noted that City Council was provided a copy of the site plan and would like to take this opportunity for Council to review and he would address any questions related to the design and/or agreement. Mr. St. Clair suggested

that the Wildlife Commission has the funding available to do the work that needs to be done. Once the project has been completed, Wildlife will revert everything back to the City of Washington. Wildlife will not be in charge of anything except for writing citations for people that are (illegally) fishing. Wildlife requested the City to post a diamond Wildlife sign noting this is a partnership with the City. No funds will be generated by the use of the ramp. Also, the neighbors will be able to use parking at the discretion of the City and not Wildlife. Any parking regulations imposed at the boat ramp will be enforced by the City and not the Commission's enforcement officers. Once the improvements are made, the City will be responsible for maintaining the boat ramp after Wildlife makes the initial repairs. The agreement will contain a stipulation that the City provide free access to the boat ramp for at least 50 years (number of years agreed upon by Wildlife and City Council).

Mayor Jennings inquired about the handicapped Kayak launch. Mr. Christofferson and Mr. St. Clair stated there would be no problem adding a kayak launching facility to the boat ramp area and there would not be any restrictions with boaters being able to park there. Mr. St. Clair noted that Wildlife will come in and renovate both piers. Mayor Jennings stated this will give us more flexibility around where we want to put the kayak launch since there would not be any restriction. Mr. Christofferson noted there would be two different things that would be looked at under those scenarios:

1. Free to their (Wildlife) contingents which will be the motor boaters.
2. A sign stating that Wildlife partnered in this project with the City. Mr. St. Clair explained the need for the sign - for motor boaters to know that the funds being used would go back for the fees they are paying.

Mayor Jennings asked if they had seen this done anywhere elsewhere and Mr. Christofferson stated they had partnered with a lot of other municipalities with similar type projects. Mayor Pro tem Roberson addressed the design aspect and was concerned about the 10 ft. parking spaces. Mr. Christofferson stated that 10 ft. is their standard all across the State. Also, he had concern about the single vehicle parking and Mr. Christofferson explained and stated they could certainly go back and take another look at where the boundaries would be under this new arrangement. Mayor Pro tem Roberson addressed the overflow trailer parking and the possible improvements. Mr. Christofferson stated the whole site will be improved? Councilman Davis expressed his concern over the drainage tile and Mr. Christofferson noted they would be looking at all issues and options once the design develops.

Mayor Jennings addressed the limited funding and Mr. Christofferson stated, as of today, if an agreement can be formalized, signed and given back to Wildlife then funding should be ok. City Attorney, Franz Holscher stated the agreement described tonight is different from what was captured in the

Memorandum of Agreement presented to Council and requested a template of the one described tonight. If one could not be provided would the City need to draft one? Mr. Christofferson stated they have one which is similar to the one described tonight, it would just require some modification and it would be provided to Mr. Holscher.

COMMENTS FROM THE PUBLIC:

Ms. Laura Scobble, co-owner of Backwater Jack's expressed her concern with discretionary ticketing. Mr. Smith inquired if the eight long spaces could be marked clearly boat trailer parking only and Ms. Scobble stated she did not have a problem with this suggestion but felt it would be more parking on the Southside where the overflow parking would be. Mr. Smith mentioned there would also be parking along Haven Street. Mayor Jennings stated we would work together on this and come up with an ordinance to facilitate the parking.

Mr. Ed Summerfield, owner of a 19' sailboat, suggested the City consider installing a sailboat launching area on the Southside of Havens Gardens and inquired if there are any plans for ramps for sailboats. Mr. Summerfield suggested most sailboats cannot launch from the existing boat ramp because their masts prevent them from going under the N.C. Highway 32 Bridge and into the Pamlico River. Mayor Jennings stated 'yes' and 'no' the yes factor is Council agrees with Mr. Summerfield but the City can only do something with City owned property. The City owns very little property on the Southside of the river. Mr. Smith noted that Wildlife is working with the County for an option on the Southside of the river. Mr. Christofferson updated Council on some of the property purchased by Wildlife on the Southside (i.e. Blounts Creek, "Cotton Patch" and Duck Creek).

Another concerned citizen mentioned that Masons Landing was a perfect example of a Wildlife ramp – how it's developed, everything is graveled, they don't have the high water issue, and everything is clearly marked. Overflow parking is a muddy mess all the time and needs to be more developed and can be much better utilized. "Cotton Patch" will take off some of the pressure. Mr. Christofferson stated they will be contacting utilities and have better lighting. Question concerning the kayak launching, would it be possible to add a second kayak launch to the park side across the highway? Mayor Jennings suggested this was a good point and can be looked at because we are in the planning stages of remodeling Havens Gardens.

Mr. David Emerling stated he would hope that the design would also reflect best management practices relating to pervious surfaces and Stormwater Management. Also, he suggested requiring some type of Kayak/Canoe access.

Mayor Jennings commented on his appreciation from the North Carolina Wildlife Commission, Recreation Advisory Board, and the public. He felt this will prove to be a meaningful relationship.

By motion of Councilman Davis, seconded by Councilman Moultrie, Council directed staff to form an agreement with North Carolina Wildlife Resource Commission and the City of Washington to reflect tonight's discussion. The agreement will reflect the Wildlife Commission will work with the City on a partnership to upgrade the facility and revert control of the site back to the City. The agreement will be approved on November 22, 2010. Motion carried.

ADJOURN – UNTIL MONDAY, NOVEMBER 22, 2010 AT 5:30 PM IN THE COUNCIL CHAMBERS AT THE MUNICIPAL BUILDING

By motion of Councilman Pitt, seconded by Mayor Pro tem Roberson, Council adjourned the meeting @ 5:40 pm until November 22, 2010 at 5:30 pm in the Council Chambers at the Municipal.

(Subject to the Approval of the City Council)

**Cynthia S. Bennett
City Clerk**

DRAFT

**CITY COUNCIL MINUTES
WASHINGTON, NORTH CAROLINA**

November 22, 2010

The Washington City Council met in a continued session on Monday, November 22, 2010 at 5:30pm in the City Council Chambers at the Municipal Building. Present were: Archie Jennings, Mayor; Bobby Roberson, Mayor Pro tem; Doug Mercer, Councilman; Rev. Edward Moultrie, Councilman; William Pitt, Councilman; Gil Davis, Councilman; James C. Smith, City Manager; Interim City Manager, Pete Connet; and Cynthia Bennett, City Clerk.

Also present were: Matt Rauschenbach, Chief Financial Officer, Philip Mobley, Parks and Recreation Director; Robbie Rose, Fire Chief; John Rodman, Planning Director; Mick Reed, Police Chief; Gloria Moore, Library Director; and Mike Voss, of the Washington Daily News.

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

APPROVAL/AMENDMENTS TO AGENDA

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

**APPROVE AND AUTHORIZE – CITY MANAGER TO EXECUTE LEASE
AGREEMENT WITH NC WILDLIFE RESOURCES COMMISSION FOR THE
HAVENS GARDENS BOAT RAMP**

Mayor Jennings noted this item was discussed in detail during the November 16th special meeting.

Councilman Mercer questioned Mr. Mobley, Director of Parks and Recreation concerning the lease boundaries on this map being completely different from the last map. Mr. Mobley stated this was a map of the whole area and they will be working on the whole area. Mr. Mobley stated this is showing that NC Wildlife Resources Commission will be doing the two piers and the ramps that are in and under the water. Mr. Smith brought to Council's attention that the State would rehab, retrofit and upgrade the facility and then turn it back to the City but there would be no lease and Mayor Pro tem Roberson agreed. Councilman Mercer expressed his concern with the way the memo was written. Mayor Jennings noted that the Council action item stated lease agreement and it shouldn't but what we are actually agreeing to is the City will not charge a fee for a period of time which we don't charge a fee today. This is just to clarify that the City is not giving control of the property to North Carolina Wildlife Resources Commission. Mr. Holscher noted the only difference in the document before Council and the document last week is the obligation to maintain the landing has moved from the Wildlife Resources Commission to the City under paragraph 3 and the City actually increased the term of the agreement from 25 years to 50 years. This is not a lease but is a Memorandum of Agreement.. The City has an

obligation for 50 years of having there sign up and the public has use of the area free of charge. The City will maintain the property after that point and time.

By motion of Councilman Davis, seconded by Councilman Moultrie, Council approved and authorized the City Manager to execute an agreement with the North Carolina Wildlife Resources Commission for the Havens Gardens Boat Ramp Area. Motion carried by 4-1 with Councilman Mercer opposing.

Councilman Mercer noted he was not opposed to the concept of the Wildlife Resources Commission coming in to repair the pier but he has reservation and concerns about the requirement that the City maintain it for 50 years without a more specific guidance.

(copy attached)

UPDATE – POLICE FACILITY PROGRESS

Police Chief, Mick Reed updated Council on the Police Facility Progress. Chief Reed stated they were prepared to go before the Board of Adjustment on November 18, 2010 but there were some concerns from Council members.

Chief Reed referred to the memo contained in the agenda.

(begin memo) On November 18, 2010 the Board of Adjustment Agenda scheduled consideration of a special use permit and variance request by Kevin Ratigan, ADG Architect, for the construction of our new police facility. At the direction of Council members, both items were removed from the Board of Adjustment's agenda. These Council members were concerned with the shape of the parcel. The question arose, how the parcel changed from a rectangle to a triangle. Additionally, concerns were raised as to why the ditch west of the site could not be moved to accommodate a rectangular shaped parcel. In response to said concerns, I offer the following:

Exhibit A: This map was included in the Board of Adjustment packet to demonstrate the general area where the Police Department is to be constructed. It is not a definitive map based on metes and bounds description or survey.

Exhibit B: Topo map, demonstrating blue line stream activity.

Exhibit C: Survey of the parcel

Exhibit D: Building footprint with variance request

Exhibit E. Revised preliminary architectural design with building footprint redesigned to accommodate a lesser variance and rectangular shaped parcel (will be submitted Monday)

Order of Magnitude cost to relocate ditch:

Engineering/permitting to relocate ditch: \$20-30K
Additional payment, water and sewer required for egress to Market Street
(100 ft): \$35-40K Ditch relocation construction: \$50K
Ditch relocation construction: \$50K
Estimated ditch relocation costs: \$ 105-125K

Administrative steps that would need to be revisited:
Revised Legal description
Resurvey
New Appraisals
Reapply for NCDOT/Div. of Av. And FAA Land release

Reduced area for construction of hangars + other airport facilities on
abutting parcels

Chronology of Steps to prepare Warren Airfield Site A for Construction
Site Selection Committee: October-February, 2010
Environmental Assessment and clearance: May, 2010
Loan Awarded: May, 2010
Acceptance of letter of Conditions and Request of Obligate Funds: June,
2010
AIA Contract Executed: July, 2010
Site configuration determined on least cost base and runway approach
zone limitations Survey: July, 2010
Preliminary Title Opinion and Title Insurance Binder: August, 2010
Copy of Deed into City for property: August, 2010
Appraisal and review: July-October 2010
Verification of Utilities: July, 2010
Verification of Water and Sewer Availability: July, 2010
FAA Land Release Request: July-present

End Memo:

Councilman Mercer voiced his concern with the change in the shape/size of the parcel as well as the drainage ditch. Councilman Davis had reservations about the shape of the property and the ditch relocation and related to the meeting between himself, Councilman Mercer, Chief Reed, Mr. Ratigan and Mr. Smith. Also, Councilman Davis expressed concerns with the cost and feels it does not take that much engineering (the figure of \$115,000 is not realistic) to relocate the ditch).

Mayor Jennings inquired if the concern was over an odd shaped piece of property that it would be difficult to add to the building in the future? Councilman Mercer stated it was part of the concern but basically by having this odd shape piece of property you have narrowed yourself to building a tin shed and will compromise any additions in the future and will require additional variances.

Councilman Mercer feels you will have much more flexibility with a rectangular piece of property that will give you more flexibility in designing a facility that will be productive for the Police Department. Chief Reed stated if we move the ditch and then move the building and that will require doing reappraisals and associated cost. Mr. Smith mentioned that the \$115,000 Councilman Davis was referring to included all of that and the range from \$115,000 - \$125,000 was a good number as Rivers & Associates were slightly higher. The previous appraisals were discussed. Mayor Jennings inquired of Chief Reed does the design fit on this parcel and lend itself to any limitations that would warrant trying to figure out what to do with the ditch. Chief Reed stated 'no' and the reason being this facility is designed to expand within (inwards).

Mayor Pro tem Roberson commented that on a cost saving technique to leave the ditch alone and just piped the ditch. This is a classic Board of Adjustment variance because of the odd shape piece of property. Mayor Pro tem Roberson addressed the two stormwater detention areas and feels as a maintenance issue it would be better to go with one overall this could save some cost. Councilman Mercer addressed his concern of cost of additional payment for water and sewer requirement. Mr. Lewis stated there isn't a sewer line going down Airport Road and the only sewer line that is available is on the East side of Market Street.

Mr. Holscher discussed the FAA Land Release and the final revision has not been made and has not been sent in. There were two appraisals and one appraisal after revisions was roughly \$60,000 an acre and the second appraisals was roughly \$20,000 an acre. FAA suggests if we send the request in, as is, you will have to send in both appraisals and they would likely require a third appraisal to make up the difference. If Council were to change the Land Release Request, perhaps, we might avoid that survey discrepancy and you may have a net value in dollars decreasing. Mayor Pro tem Roberson recommended getting sewer on the airport property. Mr. Lewis shared the conversation from the meeting today with Chasity Clark regarding grant money for the Airport (the only thing out there that we are receiving already is the Vision 100 grant). Mayor Jennings noted that Senator Hagan's office is very interested in this project and this may be a way we can access something and Councilman Mercer suggested contacting Senator Burr, Representative Jones and Butterfield also. Following more discussion:

Chief Reed will have designs showing the facility at the December 13, 2010 meeting.

DISCUSSION – LOAD MANAGEMENT CAMPAIGN

Chief Financial Officer, Matt Rauschenbach noted that the topic is actually a utilities educational initiative. The City contacted ElectriCities about putting together a communication campaign. Mr. Rauschenbach introduced Ms. Rebecca Agner, Strategic Communications Manager for ElectriCities.

Ms. Agner walked Council through her presentation. Ms. Agner stated a service that is provided to ElectriCities member is free communications assistance as part of the City participation in the Power Agency. Ms. Agner addressed some of the community issues Washington may be having around Electric. A brief synopsis of the presentation is listed below:

- **Primary Issue**
- **Communications Objectives**
- **Target Audiences**
- **Key Messages**
- **Strategy and Tactics (categorized by audience)**

Objectives:

- **Elected Officials**
- **City Employees**
- **Media**

This is a Washington Utilities Education Incentive. Some of the education will include Energy Depot on the web (City of Washington), winter tips, energy conservation, ads in paper/email – all compiled by ElectriCities, helpful hints, videos on the Peg channel and two way campaigns (which can be done seasonably or monthly). Ms. Agner suggested they would also explain and promote the Load Management Program and Councilman Pitt mentioned the need to target renters, Ms. Agner suggested providing tips.

Mayor Jennings clarified and addressed several items presented by Ms. Agner. Also, he suggested everyone at the City should be a component of the program and know how residence can be able to save on their energy bill.

Council directed Mr. Rauschenbach to implement ads, bill inserts and WITN. Ms. Andrea McGee will be the designated staff person concerning marketing for ads, the go to person, etc.

A presentation for WITN was presented by Mr. Todd Harris. WITN would run a twelve month program and it would run the first two weeks of the month with several added values. Two free commercials will be produced for the City of Washington. Total Base Investment: \$1300/Month with 125 commercials. This presentation included:

- **Maximum Exposure (Max Ex) Basics**
- **The Base Package**
- **The Base Package: Added Value Bonus Ads (additional \$300/month)**
- **Optional Internet Add-On on WITN.com (additional \$500/month *Add-on will guarantee 185,000 Targeted Impressions on WITN.com per month)**

- **WEB CAM Sponsorship (additional \$1,000 per month, minimum 1 year commitment but will reduce to \$500 per month for the City of Washington - the Web Cam page receives over 35,000 page views per month and continues to grow)**

Combo Package – Total Investment

Base Package:	\$1300
Witn.com:	\$500
Tonnage add-on:	\$300
Total:	\$2,100/month
Max Ex Combo Pricing:	\$2,000/month

APPROVE – INTERIM CITY MANAGER CONTRACT

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council approved the contract with the Interim City Manager, Pete Connet, as presented.

(copy attached)

DISCUSSION – STRATEGIC PLANNING BUDGET SESSION

Mr. Rauschenbach noted he would like to recommend having a planning retreat for budget. Mayor Jennings stated he was more than willing to have the planning retreat but is it going to be productive? Mr. Rauschenbach shared that the ideal would be to give staff guidance so they can work on the items Council would like to have prepared in the coming budget. Mayor Jennings questioned Council as to a time frame and Council agreed to schedule the planning retreat in January at Goose Creek. Mayor Pro tem Roberson suggested submitting to the Mayor items they would like to see at the Planning Session so as to narrow the scope of the mission.

DISCUSSION – CODE OF ETHICS POLICY

City Attorney, Franz Holscher shared that statutorily Council will need to adopt the Code of Ethics Policy by January, 1, 2011. Mr. Holscher noted the Resolution that Council passed in 1990 that touches on some of these things.

Mayor Jennings requested Council consider in addition to adopting the required Code of Ethics there be an annual attestation by each Council member they had read and understood the code. Councilman Davis mentioned that every time you are re-elected you have to go through Ethics training again.

By motion of Mayor Pro tem Roberson, seconded by Councilman Pitt, Council accepted the Code of Ethics Policy as presented. Motion carried by 4-1 with Councilman Mercer opposing.

(copy attached)

Councilman Mercer suggested they have the 1990 Code of Ethics in place and expressed his concerns over some of the items. Council agreed that if Councilman Mercer sees any changes he wish to make to submit them to Council for discussion. The code can be amended.

By motion of Councilman Pitt, seconded by Mayor Pro tem Roberson, Council agreed to extend the Committee of the Whole for 30 minutes to include closed session.

**CLOSED SESSION – UNDER NCGS 143-318.11(a)(3)
ATTORNEY/CLIENT PRIVILEGE**

By motion of Mayor Pro tem Roberson, seconded by Councilman Pitt, Council agreed to go into closed session @7:00 pm under NCGS 143-318.11(a)(3) Attorney/Client Privilege.

By motion of Councilman Pitt, seconded by Councilman Davis, Council agreed to come out of closed session at 7:30 pm.

**ADJOURN – UNTIL MONDAY, DECEMBER 13, 2010 AT 5:30 PM IN THE
COUNCIL CHAMBERS AT THE MUNICIPAL BUILDING**

By motion of Councilman Pitt, seconded by Councilman Davis, Council adjourned the meeting @ 7:40 pm until December 13, 2010 at 5:30 pm in the Council Chambers at the Municipal.

(Subject to the Approval of the City Council)

**Cynthia S. Bennett
City Clerk**



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, C.F.O.
Date: December 13, 2010
Subject: Purchase Orders > \$20,000 Approval
Applicant Presentation: N/A
Staff Presentation: Matt Rauschenbach

RECOMMENDATION:

I move that City Council approve the attached purchase orders.

BACKGROUND AND FINDINGS:

Requisition #8340, Booth & Associates, \$28,916.23, engineering for US Hwy. 17 utility relocation reimbursable from DOT. Account 35-90-7220-0411.

Requisition #8401, Inner Banks Land & Timber Co, \$26,735, clearing trees from airport runway approach. Account 37-90-4530-4511.

PREVIOUS LEGISLATIVE ACTION

2010-2011 adopted budgets

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation
 No Fiscal Impact

SUPPORTING DOCUMENTS

Requisition # 8340 & 8401
 Explanation of runway approach clearing at airport

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: *MR* Concur _____ Recommend Denial _____ No Recommendation
12/7/10 Date December 13, 2010
 Page 34 of 219

Requisition Form

City Of Washington
P.O BOX 1988
WASHINGTON, NC 27889

Date: 11/16/2010

Requisition #:8340
PO #: Not Assigned
User Name: Nicole Williams

Approved By:
Approved Code: Awaiting Final Approval
Total Amount: \$28,916.23

BOOTH & ASSOCIATES, INC.
PO BOX 601039
CHARLOTTE, NC 28260

Ship To:
CITY OF WASHINGTON CITY HALL (ELEC
102 EAST 2ND STREET
WASHINGTON, NC 27889

Vendor Instructions: Electric Department
Nicole Williams
975-9303

Quantity	Description	Job Number	Unit Price	Extended
1	Invoice 19033 US HWY 17 - 2510C through 10/31/10		\$28,916.23	\$28,916.23

Sub Total	\$28,916.23
Total Tax	\$0.00
Total	\$28,916.23

Account Number	Account Description	Amount
35-90-7220-0411	US HWY 17 RELOCATION-2510C	\$28,916.23
	Total	\$28,916.23

Approval List

Dept Level Approval: _____
Department Head: _____
PO Level Approval: _____
Purchase Order Prep: _____

Requisition Form

City Of Washington
P.O BOX 1988
WASHINGTON, NC 27889

Requisition #:8401
PO #: Not Assigned
User Name: Mike Woodward

Date: 12/06/2010
Approved By:
Approved Code: Awaiting Final Approval
Total Amount: \$26,735.00

INNER BANKS LAND AND TIMBER CO., INC.
106 LAKELAND DRIVE
WASHINGTON, NC 27889

Ship To:
CITY OF WASHINGTON WAREHOUSE
203 GRIMES ROAD
WASHINGTON, NC 27889

Vendor Instructions: Public Works Department
Allen Lewis
252-975-9302
Do Not Mail

Quantity	Description	Job Number	Unit Price	Extended
1	Clearing Airport Runway Approach along Meredith Property.		\$26,735.00	\$26,735.00
Sub Total				\$26,735.00
Total Tax				\$0.00
Total				\$26,735.00

Account Number	Account Description	Amount
37-90-4530-4511	VISION 100 GRANT 36237.38.7.1	\$26,735.00
Total		\$26,735.00

Approval List

Dept Level Approval: _____
Department Head: _____
PO Level Approval: _____
Purchase Order Prep: _____

Matt Rauschenbach

From: Allen Lewis
Sent: Wednesday, November 24, 2010 11:06 AM
To: City Council
Cc: Matt Rauschenbach
Subject: Runway approach clearing at airport.

Gentlemen,

As you should recall, the Division of Aviation (DOA) is requiring us to clear the approach to runway 23 at the airport. This work will be predominantly on property owned by Mr. Harry Meredith which is being condemned. We requested and received bids from 3 contractors in late summer and were prepared to go forward with the work. We had even written a purchase order (p.o.) to the low bidder in the amount of approximately \$53K after DOA, which oversees the grant expenditures that will be used for this project, had approved the bid in early August. After meeting on site it became apparent that Mr. Meredith was not in agreement with letting the contractor get his heavy equipment on his property. FYI, the condemnation proceedings did not allow for this either. The contractor refigured his price for hand-cutting the trees due to limited accessibility. As a result the price increased to a total of \$80K. The procedures and price were again approved by DOA earlier this month. We are in need of issuing another p.o. for the difference in the price (\$27K+-), thus the purpose of this e-mail. If approved, the contractor should be through with the clearing by the end of the calendar year.

This project came up during the airport advisory board meeting on Monday and it dawned on me afterwards that council approval would now be needed on this p.o.

Please let me know if you have any questions.

Thanks and have a great Thanksgiving!

Allen Lewis
Public Works Director
City of Washington
252.975.9302
alewis@washingtongov.com





City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Archie Jennings & Members of the City Council
From: Allen Lewis, Public Works
Date: December 3, 2010
Subject: ARRA Funded Lighting Retrofit Grant
Applicant Presentation: N/A
Staff Presentation: N/A

RECOMMENDATION:

I move that council accept the award and adopt the project budget ordinance for Energy Efficiency in Government Buildings grant, \$259,979.

BACKGROUND AND FINDINGS:

Six municipal buildings were chosen to participate in the Energy Efficiency in Government Buildings grant opportunity that was funded through the American Recovery and Reinvestment Act of 2009.

Budget

Line Item	Line Item Summary	Cost per Item	#of Items	Total
Direct Costs				
	Install T8 light bulbs and ballast, disposal	Varies, See proposal	5128	\$176,979
	Dectron pump installation and components	See proposal	See proposal	\$8,000
	S-Series Direct gas fired makeup air unit heaters	\$ 24,500	4	\$98,000
			Total	\$282,979
Administrative Costs				
	Project administrator	\$21/hour	9hrs/wk for 30wks	\$5,800
			Total	\$5,800
Leverage Costs				
	Impressions	See Proposal		\$23,000
	City	In-kind administration		\$ 5,800
			Total	\$28,800
		Total Request/Award		\$259,979

The proposed actions include lighting system upgrades and the installation of four (4) gas pumps. A brief description of each building and the proposed action is included below:

Building	Energy Conservation Strategy
City Hall	Lighting retrofit
Peterson Blg.	Lighting retrofit
Civic Center	Lighting retrofit
Communications Center	Lighting retrofit
Brown Library	Lighting retrofit
Impressions Building	Lighting retrofit, lighting controls and replacement of antiquated gas heat system.

Proposed Project Timeline:

lighting retrofit project timeline				
	December-February, 2011	March-May, 2011	June-August 2011	September-November, 2011
State awards energy efficiency project				
Acceptance of award by City Council				
Project team meets, reviews application, prepares RFP				
Request for Proposals for proposed actions published				
Quarterly reports developed and submitted				
Report on baseline energy consumption submitted				
Bidding by contractors				
Contract(s) awarded				
Energy efficiency project begins				
Recycling of lamps containing mercury and PCB				
Disposal of trash				
Complete all lamp, ballast and fixture warranty registration forms				
Perform before and after watt readings to confirm energy savings				
Project closes				
Ongoing Monitoring and Verification of Energy Savings				

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

Currently Budgeted Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

Grant Project Ordinance

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: *DTC* Concur _____ Recommend Denial _____ No
 Recommendation 12/7/10 Date

**A GRANT PROJECT ORDINANCE FOR ARRA (AMERICAN RECOVERY AND
REINSTATEMENT ACT 2009)
CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2010-2011**

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 for lighting retrofits and heating and air unit upgrades/replacements in seven city owned buildings.

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:

61-60-4930-4500	Contract Services - Rehab	\$ 282,979
-----------------	---------------------------	------------

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

61-60-3352-0000	Local Contribution	\$ 23,000
61-60-3490-3300	Federal Energy Grant	<u>259,979</u>
	Total	\$282,979

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 December, 2010.

MAYOR

ATTEST:

CITY CLERK



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Robbie Rose, Chief, Fire-Rescue-EMS *RR*
Date: December 13, 2010
Subject: Approval of Departmental Roster for Calendar Year 2011
Applicant Presentation: N/A
Staff Presentation: N/A

RECOMMENDATION:

I move that the City Council approve the 2011 Departmental roster, and authorize the Mayor and the Chief of Department to sign the Annual Certification of Firefighters.

BACKGROUND AND FINDINGS:

The North Carolina General Statutes G.S. 58-86-25, requires that each active duty firefighter have a minimum of 36 hours of training each year to maintain eligibility for line-of-death and pension benefits. The General Statutes also require that the governing body certify the roster as valid and accurate, and that the certified roster be submitted no later than January 31st of each year.

Our department has provided more than adequate training for this past year to ensure that all members have met the minimum requirements.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

See Attached roster

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: *DR* Concur _____ Recommend Denial _____ No Recommendation *12/7/10* Date

North Carolina State Firemen's Association
323 West Jones Street, Suite 401
Raleigh, NC 27603
1-800-253-4733

2010
ANNUAL CERTIFICATION OF FIREMEN

North Carolina General Statute 58-86-25 requires that all certified fire departments submit a complete roster of its eligible firemen annually. **This certified list determines eligibility for the \$50,000 line-of-duty death benefit as well as eligibility for Pension Fund credit. Failure to accurately and promptly report this information is violation of G.S. 58-86-25 and will automatically result in a loss or reduction of benefits.**

REPORT BY FIRE DEPARTMENT CHIEF

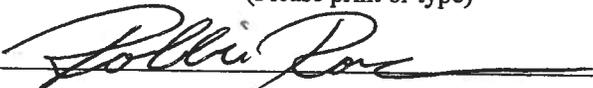
As Fire Department Chief, I have determined that the attached roster is a valid and accurate list of all eligible firemen, within the definition contained in North Carolina General Statute 58-86-25.

Name of Fire Department Washington Fire Rescue EMS

Fire Department Mailing Address 410 North Market Street

City Washington State NC Zip Code 27889

Name of Fire Chief Robbie Rose
(Please print or type)

Signature of Fire Chief 

Date 12/3/2010 Daytime Telephone (252) 948-9400

County Beaufort

CERTIFICATION BY GOVERNING BODY

Pursuant to G.S. 58-86-25, the governing body of a fire department operated by (i) a county is the county board of commissioners, (ii) a city is the city council, (iii) a sanitary district is the sanitary district board, (iv) a corporation, whether profit or nonprofit, is the corporation's board of directors and (v) any other entity is that group designated by the board. Therefore, in our capacity as the governing body of the above-named fire department, we certify and find that the attached roster is a valid and accurate list of all eligible firemen in accordance with G.S. 58-86-25.

Name of Governing Body City of Washington

Name of Governing Body Official Archie Jennings
(Please print or type)

Authorized Signature _____ Title Mayor

Date _____ Daytime Telephone (____) _____

WASHINGTON



NC State Fireman's Association
 323 West Jones Street, Suite 401
 Raleigh, NC 27603
 800-253-4733
 919-821-9382

This Roster was last updated on 10/6/2010

Beaufort

Robbie Rose
 WASHINGTON
 410 Market St.
 Washington, NC 27889

Day Phone# 252-948-9405
 Secretary Harry Lee Dawson
 Number Paid 38
 Number Volunteer 16

Eastern Region

NCSFA Member Y

Certification Letter Y

Email

Name on Credit Card _____

Credit Card# _____

Expiration Date _____

Signature _____

SSN	NAME / DOB	ADDRESS	PHONE# / EMAIL	GEN	MAR	P/V/R	CERT
1 xxx-xx-0490	William M Alligood 11/6/1953	203 Ellison Rd Washington, NC 27889	252-946-1970	M	M	V	Y
2 xxx-xx-0447	Jonathan Anderson 12/20/1985	212 Gloria St. Greenville, NC 27858	252-717-7553	M	S	P	Y
3 xxx-xx-9599	Brenda Baird 7/14/1967	106 Palmer Place Washington, NC 27889	252-402-5159	F	M	V	Y
4 xxx-xx-4219	Parker B. Bateman 4/25/1988	209 Thomas Place Washington, NC 27889	252-402-5330	M	S	V P	Y
5 xxx-xx-4539	Doug Bisette 3/12/1984	20862 Hwy 32 N. Plymouth, NC 27962	252-944-3000	M	M	P	Y
6 xxx-xx-5277	Walter J. Bowen, Jr. 11/30/1925	412 Fairview Avenue Washington, NC 27889	- - -	M	M	R	Y
7 xxx-xx-1472	Christopher Boyd 1/13/1987	4421 Archbell Road Bath, NC 27808	252-923-0995	M	S	P	Y
8 xxx-xx-5336	Chris Brock 6/7/1973	209 Wilkinson Station Road Pantego, NC 27866	252-943-6770	M	M	P	Y
9 xxx-xx-7155	Richard Brooks 11/3/1940	820 Boston Avenue Washington, NC 27889	252-944-3541	M	M	V	Y
10 xxx-xx-4823	Anthony Burton 6/6/1986	3033 NC Hwy 92 East Washington, NC 27889	252-923-9420	M	S	P	Y
11 xxx-xx-8657	Amber C Carter 4/18/1972	3660 Harvey Road Washington, NC 27884	252-974-1236	F	M	P	Y
12 xxx-xx-1650	Timothy Chandler 11/22/1977	287 Bright Acres Road Washington, NC 27889	252-943-7890	M	S	P	Y
13 xxx-xx-0779	Robert Michael Cox, Jr. 10/9/1970	104 Pine Tree Drive Washington, NC 27889	252-974-0993	M	M	P	Y
14 xxx-xx-3913	Lee Dawson 11/2/1952	6124 Clarks Neck Rd. Washington, NC 27889	252-946-7850	M	M	P	Y
15 xxx-xx-9920	Ted Mac Day, Jr. 10/23/1966	312 River Road Washington, NC 27889	252-946-8153	M	M	P	Y
16 xxx-xx-1499	Ronnie M. Flowers 7/15/1975	4693 Slatestone Rd. Washington, NC 27889	- - -	M	M	P	Y
17 xxx-xx-8220	Harry Gautier 8/26/1943	102 Rock Rd. Washington, NC 27889	252-946-1285	M	M	V	Y

WASHINGTON

18	xxx-xx-0436	Ann Gurganus 2/26/1959	1594 Slatestone Rd. Washington, NC 27889	- - -	F	M	V	Y
19	xxx-xx-7847	Vernon Gurganus 7/6/1960	1594 Slatestone Rd. Washington, NC 27889	- - -	M	M	V	Y
20	xxx-xx-9688	Stephen Hahn 8/28/1953	PO Box 1266 Chocowinity, NC 27817	252-946-2305	M	M	V	Y
21	xxx-xx-9900	Brent T Hamilton 6/24/1986	305 Williamsburg Road Washington, NC 27889	- - -	M	S	P	Y
22	xxx-xx-9991	Johnathan Hardin 7/17/1984	2852 Prestonwood Dr. Grimesland, NC 27837	252-944-5249	M	M	P	Y
23	xxx-xx-5337	Jasper Hardison 5/11/1957	2343 Hwy 171 Washington, NC 27889	252-946-9285	M	M	P	Y
24	xxx-xx-4567	Otis Harrell 6/25/1971	82 Jasmin Dr. Chocowinity, NC 27817	252-975-3738	M	M	P	Y
25	xxx-xx-2665	Tim Hines 12/11/1963	844 Mill Field Rd. Bath, NC 27808	252-799-7160	M	S	P	Y
26	xxx-xx-6779	Steven Hodges 2/11/1984	607 East 9th Washington, NC 27889	252-258-8108	M	S	P	Y
27	xxx-xx-0960	Lee House 2/16/1979	2341 Wheaton Village Drive Greenville, NC 27858	252-531-0115	M	M	P	Y
28	xxx-xx-7018	Joshua Ingram 1/24/1974	4190 Market St. Extention Wahsington, NC 27889	252-945-8013	M	M	P	Y
29	xxx-xx-2319	Brad Jackson 4/5/1977	1741 Long Ridge Road Pinetown, NC 27866	252-945-4741	M	M	P	Y
30	xxx-xx-9855	Gary Johnson 4/21/1971	610 Water-Lily Road Washington, NC 27889	252-975-6280	M	M	P	Y
31	xxx-xx-2521	Harold Johnson III 8/9/1971	75 Austin Tyler Road Washington, NC 27889	252-940-7218	M	M	P	Y
32	xxx-xx-5242	John Johnston 2/23/1985	121 Lee Street Greenville, NC 27858	252-756-3468	M	M	P	Y
33	xxx-xx-0195	Jonathan T. Jones 12/23/1985	2420 Jay Circle Greenville, NC 27858	252-714-3880	M	S	V	Y
34	xxx-xx-5368	Michael Holliday Jones 7/3/1982	2550 Jerdem Thicket Rd. Jamesville, NC 27846	252-217-3407	M	M	P	Y
35	xxx-xx-3068	Harry Langley 12/31/1942	602 West 3rd St. Washington, NC 27889	252-413-9654	M	M	V	Y
36	xxx-xx-4129	Thomas Bryan Lilley 7/1/1981	4909 VOA Road Washington, NC 27889	252-945-0274	M	M	P	Y
37	xxx-xx-8129	William B. Lurvey 3/15/1954	1360 Jefferson Road Pinetown, NC 27865	252-927-4690	M	M	V	Y
38	xxx-xx-4718	Joshua Mailhot 5/4/1982	1304 West 5th Washington, NC 27889	252-377-7378	M	M	V	Y
39	xxx-xx-7526	Alan McCutcheon 4/26/1965	651 Betsy Elbow Rd. Washington, NC 27889	252-927-2354	M	M	P	Y
40	xxx-xx-8262	Zachary Moricle 12/16/1986	612 Cox Road Washington, NC 27889	252-325-0389	M	S	P	Y
41	xxx-xx-4392	Richard Noble 6/7/1964	204 Lawson Road Washington, NC 27858	252-833-4674	M	M	V	Y
42	xxx-xx-3436	Alan J O'Kane 4/12/1984	119 Woodhaven Way Washington, NC 27889	252-945-7303	M	S	P	Y
43	xxx-xx-2146	William H Pitt 8/20/1955	318 Courtyards Washington, NC 27889	252-940-0817	M	M	V	Y
44	xxx-xx-2211	Robbie Rose 8/9/1957	721 Willow Street Washington, NC 27889	252-946-7392 rrose@washingtonnc.ws	M	M	P	Y
45	xxx-xx-8211	William A. Rushton 2/3/1990	4494 Camp Leach Road Washington, NC 27889	252-943-9212	M	S	P P	Y

December 13, 2010

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WASHINGTON

46	xxx-xx-2980	Gerald Seighman 12/29/1942	203 North Reed Drive Washington, NC 27889	252-946-2050	M	M	V	Y
47	xxx-xx-1770	Cecil Craig Styron 11/15/1980	710 Grimes Road Washington, NC 27889	252-617-2666	M	M	P	Y
48	xxx-xx-5026	Robbie Taylor 12/13/1976	155 Wesley Ave Washington, NC 27889	252-975-1259	M	M	P	Y
49		1 Vacant / /	,	- -	M	M	V	N
50		10 Vacant / /	,	- -	M	M	V	N
51		11 Vacant / /	,	- -	M	M	V	N
52		12 Vacant / /	,	- -	M	M	V	N
53		13 Vacant / /	,	- -	M	M	V	N
54		14 Vacant / /	,	- -	M	M	V	N
55		15 Vacant / /	,	- -	M	M	V	N
56		2 Vacant / /	,	- -	M	M	V	N
57		3 Vacant / /	,	- -	M	M	V	N
58		4 Vacant / /	,	- -	M	M	V	N
59		5 Vacant / /	,	- -	M	M	V	N
60		6 Vacant / /	,	- -	M	M	V	N
61		7 Vacant / /	,	- -	M	M	V	N
62		8 Vacant / /	,	- -	M	M	V	N
63		9 Vacant / /	,	- -	M	M	V	N
64	xxx-xx-2882	Tobby L Wainwright 8/25/1978	100 South Ridge Greenville, NC 27858	252-945-4513	M	M	P	Y
65	xxx-xx-8107	Jeremy Wetherington 3/17/1980	786 Godley Road Grimesland, NC 27837	252-946-8923	M	M	P	Y
66	xxx-xx-6192	Otha Whitney 5/22/1978	103 Slatestone Drive Washington, NC 27889	252-402-5748	M	M	P	Y
67	xxx-xx-7783	Mark Yates 3/11/1957	101 Camellia Way Washington, NC 27889	252-975-2429	M	M	P	Y

Chief

Date

Member of NVFC No

WASHINGTON

December 13, 2010
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City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, C.F.O.
Date: December 13, 2010
Subject: Budget Amendment Powell Bill
Applicant Presentation:
Staff Presentation: Matt Rauschenbach

RECOMMENDATION:

I move that the City Council adopt a Budget Ordinance Amendment transferring funds from the water and sewer funds to replace the reduction in this year's Powell Bill allocation for the DOT utility relocation payment.

BACKGROUND AND FINDINGS:

The City's 2010 Powell Bill Allocation distribution was reduced by \$112,495 for the first of fifteen payments for DOT utility relocation expense.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation
 No Fiscal Impact

SUPPORTING DOCUMENTS

Budget Amendment, Powell Bill Allocation

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: *PTC* Concur _____ Recommend Denial _____ No Recommendation
12/7/10 Date

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2010-2011**

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 following accounts and amounts:

10-00-3980-3000	Transfer From Water Fund	\$72,630
10-00-3980-3200	Transfer From Sewer Fund	\$39,865

Section 2. That account number 30-90-6610-9210, Transfer to General Fund, portion of the Water Fund appropriations budget be increased in the amount of \$72,630.

Section 3. That account number 30-90-9990-9900, Contingency, portion of the Water Fund appropriations budget be decreased in the amount of \$72,630.

Section 4. That account number 32-90-6610-9210, Transfer to General Fund, portion of the Sewer Fund appropriations budget be increased in the amount of \$39,865.

Section 5. That account number 32-90-9990-9900, Contingency, portion of the Sewer Fund appropriations budget be decreased in the amount of \$19,678.

Section 6. That account number 32-90-3991-9910, Fund Balance Appropriated, portion of the Sewer Fund estimated revenues be increased in the amount of \$20,187.

Section 7. That account number 10-20-4511-5600, Materials, portion of the appropriations budget in the General Fund's Powell Bill department be increased in the amount of \$112,495.

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 December, 2010.

MAYOR

ATTEST:

CITY CLERK

2010 Powell Bill Allocation Check

MUNICIPALITY: Washington
2010 Allocation \$ 276,410.16
Mileage Error _____
Over 10 Excess _____
Delinquent Account (812,495.34)
THE AMOUNT OF: \$ 163,914.82 2010 Powell Bill Allocation

\$ 39,865 SEWER
72,630 WATER

\$112,495



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, C.F.O.
Date: December 13, 2010
Subject: Amend Storm Water Capital Project Ordinance
Applicant Presentation:
Staff Presentation: Matt Rauschenbach

RECOMMENDATION:

I move that the City Council amend the Storm Water Capital Project Ordinance to reflect the final scope of the project.

BACKGROUND AND FINDINGS:

The storm water project was revised to include work in the Northwood area and final construction bids.

PREVIOUS LEGISLATIVE ACTION

Council approved \$5 million storm water project November 8, 2010.

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation
 No Fiscal Impact

SUPPORTING DOCUMENTS

Capital Project Ordinance Amendment, Strom Water project summary

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: MR Concur _____ Recommend Denial _____ No Recommendation
12/7/10 Date

**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 2010-2011**

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

Section 1. That the Estimated Revenues in the Storm Water Capital Project be increased in the amount of \$1,042,000 in the account Recovery Bond Proceeds, account number 58-90-3710-8900.

Section 2. That account number 58-90-5710-7400, Capital Outlay, portion of the Storm Water Fund appropriations budget be increased in the amount of \$1,042,000.

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 December, 2010.

MAYOR

ATTEST:

CITY CLERK

City of Washington - 2010 Stormwater Improvements

Rivers & Associates' Recommended Budget - 12/03/10

2,887,914	Base Bid
105,570	Alternate 1 Modified (Smallwood / North of Lawson) - Note 1
558,481	Alternate 4 (Smallwood / Northwood Road) - Note 2
248,937	Alternate 5 (Submersible Pump) - Note 2
<u>3,800,902</u>	
3,800,902	Construction bid award
210,000	Electrical relocation
243,316	Contingency 6.40%
75,000	Topographic surveys & easements
308,000	Design fee
91,005	Resident project representative - Note 3
34,000	Northwood & submersible pump engineering
155,950	Healthplus acquisition
50,000	Healthplus demolition - Note 4
12,665	Permit Fees
6,512	Geotechnical/environmental surveys (environmental)
12,650	Bond Counsel
<u>5,000,000</u>	

Notes:

1. This item has been modified from the original bid in order to reduce the scope and price.
2. This item was not included in the original bid and represents a negotiated amount with the low bidder.
3. This item has been reduced from the contract amount based upon a reduced scope.
4. Estimate provided by the City of Washington.



City of Washington
REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: John Rodman, Planning & Development
Date: December 2, 2010
Subject: Public Hearing: Adopt an ordinance to amend Chapter 40, Section 40-93, Table of Uses, of the Code of Ordinances of the City of Washington.
Applicant Presentation: Department of Planning and Development
Staff Presentation: Dot Moate, Planning Board Chairman
John Rodman, Planning and Development

RECOMMENDATION:

I move that the City Council accept the recommendation of the Planning Board and approve the Ordinance to amend Chapter 40, Article IV, Zoning Districts, Section 40-93, Table of Uses, by adding Commercial Marinas with Drystack Boat Storage as a Special Use in the O&I (Office & Institutional) Zoning District.

BACKGROUND AND FINDINGS:

With the addition of a proposed commercial marina and drystack boat storage facility on the south side of the Pamlico River it was necessary to include these facilities as a Special Use in the aforementioned zoning district. They are not currently allowed in the O&I District. A Special Use Permit requires approval from the City of Washington's Board of Adjustment

PREVIOUS LEGISLATIVE ACTION

Planning Board – November 30, 2010

FISCAL IMPACT

___ Currently Budgeted (Account _____) ___ requires additional appropriation ___
No Fiscal Impact

SUPPORTING DOCUMENTS

Ordinance, Map of the subject property, Table of Uses

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: *JTR* Concur _____ Recommend Denial _____ No
Recommendation *n/h/ro* Date



Tar River

BRIDGE ST

Pamlico River

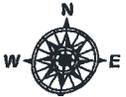
MAIN ST

RESSESS ST

STEWART PKWY

- Legend**
- City Limits
 - Bridge Harbor
 - parcels
 - AP
 - B1H
 - B2
 - B3
 - B4
 - CP
 - I1
 - I2
 - O&I
 - PUD
 - R15S
 - R6S
 - R9S
 - RA20
 - RHD
 - RMF
 - RMH
 - WPark

US 17 HWY



City of Washington
December 13, 2010
Page 55 of 219
Bridge Harbor Property

1 inch = 290 feet



O AND I OFFICE AND INSTITUTIONAL DISTRICT

O&I		
Permitted Uses	Developmental Standards	Special Use Permits
Acc. Dwelling Units, Attached	Athletic Fields	Care Taker Dwellings
Accessory Uses and Structures	Board & Room Houses (4 or less)	Dare Care Centers, Adult (6 or more)
Account, Audit or Bookkeeping	Dare Care Centers, Adult (5 or less)	Day Care Centers, Child (6 or more)
Ad Agencies or Representatives	Day Care Centers, Child (5 or less)	Drug Stores
Admin or Management Services	Elementary or Secondary Schools	Fraternities or Sororities
Ambulance Services	Family Care Homes (6 or less)	Musical Instrument Sales
Auto Park Lots, Grade Level	Government Offices	Restaurants, Conventional
Banks, Savings or Credit Unions	Home Occupation	Restaurants, Fast Food
Barber Shops	Kennels or Pet Grooming Facilities	Telecommunication Towers
Beauty Shops	Libraries	
Churches	Public Parks	
Clubs or Lodges	Public Recreation Facilities	
Comm or Broadcasting Facilities	Satellite Dishes/T.V. & Radio Ant.	
Common Area Recreation	Swimming Pools	
Computer Services	Temporary Events	
Congregate Care Facility		
Courier Service Substations		
Econ, Soci, Educ. Research		
Employment Agencies		
Engineer, Architect, or Survey		
Finance or Loan Offices		
Fire Stations		
Funeral Homes or Crematoriums		
Gardens		
Group Care Facilities		
Hospitals		
Hotels or Motels		
Insurance Agencies (no on site)		
Insurance Agencies (on site)		
Internal Service Facilities		
Law Offices		
Medical or Dental Labs		
Medical, Dental, or Related Off		
Multi-Family Dwellings		
Museums or Art Galleries		
Noncommercial Research Org.		
Nursing & Convalescent Homes		
Office Uses Not Classified		
Optical Goods Sales		
Orphanages		
Photocopying & Dupl Services		
Photography Studios		
Photography, Commercial		
Physical Fitness Centers		
Police Stations		
Post Offices		
Psychiatric Hospitals		
Pump Stations		
Real Estate Offices		

An Ordinance to Amend Chapter 40, Zoning, Article IV,
Section 40-93, of the Washington City Code

WHEREAS, NCGS 160A-385 authorizes local governments to amend ordinances regulating land use within their jurisdiction; and

WHEREAS, the amendment set out below is made in accordance with NCGS 160A-364; 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 a Commercial Marina with Drystack Boat Storage, and to add prescribed conditions for such uses.

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

Section 1. That **Chapter 40. Article VI, Section 40-93, Table of Uses**, be amended by adding that a **Commercial Marina with Drystack Boat Storage** will be permitted only by Special Use Permit issued by the City of Washington Board of Adjustment within the O&I (Office & Institutional) zoning district.

Section 2. That **Chapter 40. Article VI, Section 40-119, Index to Listed Uses**, be amended by adding as follows:

(rr) Commercial Marina with Drystack Boat Storage.

Section 3. That **Chapter 40. Article VI, Section 40-120, Listed Uses, Specific Criteria**, be amended by adding **(rr) Commercial Marina with Drystack Boat Storage** as follows:

Definition – A business adjacent and contiguous with public trust waters as defined by the Coastal Area Management Act under section 15A NC Admin., Code 7H, in which its primary use is to provide both in-water docking/mooring of boats and onsite drystack storage of boats.

- (1) Site Plan. A site plan shall be prepared by a licensed architect or engineer and contain a metes and bounds description prepared by a licensed registered surveyor in the state.
- (2) Approval. A site plan shall be prepared and approved in accordance with Article XVIII of this chapter, pertaining to site plan review.
- (3) Lot of Record. Commercial Marinas with Drystack Boat Storage shall be limited to one (1) per lot. The lot of record on which

such use is located must be at least 1 acre in size and must be adjacent and contiguous with public trust waters as defined by the Coastal Area Management Act under section 15A NC Admin., Code 7H.

(4) Stormwater plan. A stormwater management plan is required and must comply with the city's stormwater management provisions and demonstrate specific design components intended to minimize impact on contiguous public trust waters and coastal wetlands, as defined by 15A NC Admin., Code 7H.

(5) Dimensional Standards:

1. Lot size: Minimum of 1 acre.
2. Minimum lot width: one hundred (100) feet.
3. Minimum front yard setback: fifty (50) feet.
4. Minimum side yard setback: twenty (20) feet.
5. Minimum corner yard setback: twenty (20) feet.
6. Minimum rear yard setback: twenty (20) feet.
7. Minimum shoreline setback: fifty (50) feet.
8. Maximum height: The maximum height of the drystack boat storage shall be sixty five (65) feet. The maximum height of all accessory buildings shall be fifty (50) feet.

(6) All Marinas shall provide pump out facilities.

(7) Boat ramps are permitted.

(8) Off street parking: Off street parking shall be provided at the ratio of one (1) parking place per every six (6) drystack storage racks, enclosed or open, and one (1) parking place per every six (6) wet boat mooring slips. Off street parking is allowed in the minimum setback requirement but to closer than ten (10) feet to any property line and forty (40) feet to any shoreline.

(9) Bufferyards, landscaping. Bufferyards/landscaping requirements shall be in compliance with Article VII of this chapter. This use shall be classified as a V – high impact recreational use.

- (10) Lighting. All on-site lighting must be directed away from contiguous lots of record. Illumination of 15A NC Admin., Code 7H, public trust areas shall be limited to dock/pier areas.
- (11) Navigation. The location of any docks/piers and drystack storage must not impede safe navigation of public trust waters.
- (12) Access. All drystack boat storage facilities must have direct access to public rights-of-way designated to accommodate vehicular traffic.
- (13) Drystack facility types. Open drystack storage facility areas are allowed; provided, however, when a building elevation fronts on a dedicated street right-of-way, the front of the building elevation has to be enclosed or covered with appropriate building material.
- (14) Exterior design. All building exteriors shall be broken up by a variation in design, materials and/or color, as approved by the Planning Department.
- (15) Adopted Plans. The Board of Adjustment may provide additional requirements as it deems necessary in order to ensure the proposed project is compatible with the city CAMA Core Land Use Plan, and the city's comprehensive plan or any other adopted plans regulating uses.

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

Section 5. All Ordinances or parts in conflict herein are repealed.

Adopted this _____ 13th _____ day of ___December___, 2010.

N. Archie Jennings, Mayor

ATTEST:

Cynthia S. Bennett, City Clerk



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: John Rodman, Planning & Development
Date: December 2, 2010
Subject: Public Hearing: Adopt an ordinance to amend Chapter 40, Section 40-93, Table of Uses, of the Code of Ordinances of the City of Washington.

Applicant Presentation: Department of Planning and Development
Staff Presentation: Dot Moate, Planning Board Chairman
 John Rodman, Planning and Development

RECOMMENDATION:

I move that the City Council accept the recommendation of the Planning Board and approve the Ordinance to amend Chapter 40, Article IV, Zoning Districts, Section 40-93, Table of Uses, by adding Electronic Gaming Operations (Internet Sweepstakes) as a Special Use in the I-2 (Light Industrial) Zoning District.

BACKGROUND AND FINDINGS:

HB 80, a new law that took effect December 1st, was designed to ban the current electronic sweepstakes operations. There have been several court challenges and any simple change in the game technicalities will allow the machines to remain where they are and not violate NC law. The Planning board felt it necessary that text needed to be added to the City's Zoning Ordinance to help regulate these activities in case the Internet Sweepstakes were able to continue to operate.

PREVIOUS LEGISLATIVE ACTION

Planning Board – November 30, 2010

FISCAL IMPACT

___ Currently Budgeted (Account _____) ___ requires additional appropriation ___
 No Fiscal Impact

SUPPORTING DOCUMENTS

Ordinance, Map of the subject property, Table of Uses

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: *etc* Concur _____ Recommend Denial _____ No
 Recommendation 12/2/10 Date December 13, 2010
 Page 61 of 219

The Internet Sweepstakes Industry Fights Back

Friday, August 13, 2010



By Christopher McLaughlin

To no one's surprise, the passage of H.B. 80 banning internet sweepstakes as of December 2010 has not put the issue to bed once and for all. Last month the two internet sweepstakes software vendors that in 2008 convinced a Guilford County judge to prevent the state from criminally prosecuting sweepstakes operators went back before that same judge to argue that H.B. 80 shouldn't be enforceable either. And last week those same two plaintiffs sued five cities alleging that the cities' privilege license taxes on sweepstakes operators violated federal law. This new round of litigation demonstrates that there is far too much money at stake for the sweepstakes industry to go down without a fight.

H.B. 80 would make it illegal for any person to operate "an electronic machine . . . to conduct a sweepstakes through the use of an entertaining display." An "entertaining display" involves "actual game play or simulated game play." I'm not an expert in criminal law, but my colleague Jeff Welty is and he thinks there are some legitimate questions about H.B. 80's enforceability. In his excellent analysis (all of which can be found on his blog [here](#)), Jeff wonders whether the some of the video displays used to reveal sweepstakes entries are in fact "games." For example, if the computer terminal shows a pirate digging a hole and the customer wins if the pirate finds treasure, is that really a "game"? The [court filing](#) in Guilford County also raises a constitutional challenge to the new law, alleging that "entertaining displays" are a protected form of speech and expression under the First Amendment. If so, then the criminal ban might be unenforceable.

The complaint challenging privilege license taxes levied on internet sweepstakes by Fayetteville, Lumberton, Morganton, Pembroke and Wilmington (available [here](#) and [here](#)) is similar to one filed earlier this year against Kannapolis. The plaintiffs allege that these taxes violate the federal Internet Tax Freedom Act ("ITFA"), which bans (i) taxes on the sale of internet access and (ii) taxes levied on transactions conducted via the internet if the same transactions are not taxed if they are conducted in person or via any other method. In a nutshell, the complaint argues that sweepstakes operators are selling internet access and therefore are exempt from local taxes. And, the argument continues, if internet sweepstakes aren't exempt they still can't be taxed if other types of promotional sweepstakes like McDonald's Monopoly scratch-off cards aren't also taxed.

As I've posted before, I think a tax on the sweepstakes activity rather on than the sale of internet access by these businesses does not violate the first prong of ITFA. I also think these taxes pass muster under ITFA's second prong.

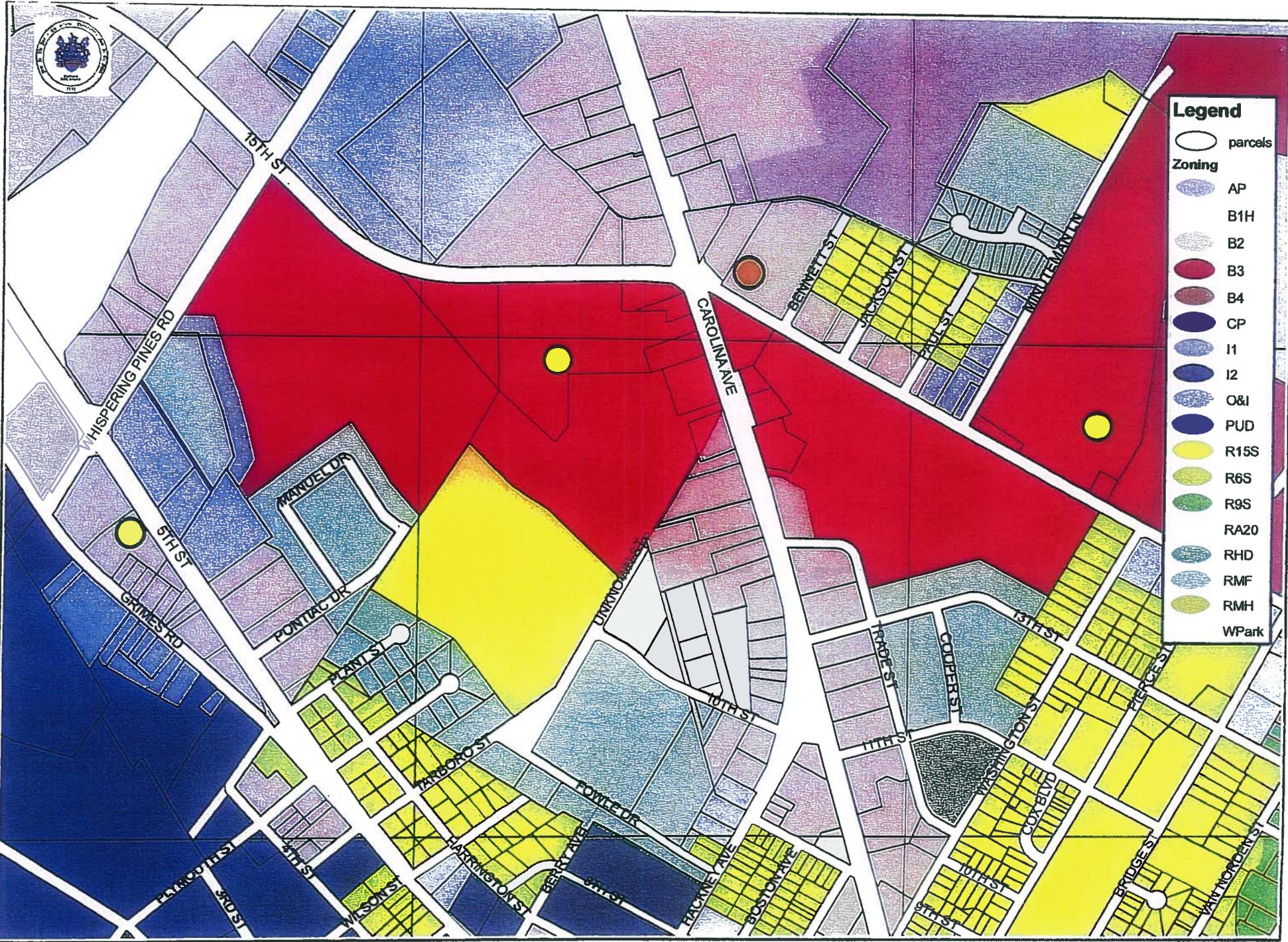
Although Congress certainly wasn't thinking of internet sweepstakes when it barred discriminatory taxes on internet transactions, the statute's language seems broad enough to apply to this type of web activity. ITFA prohibits discriminatory taxes on "any transaction conducted over the internet or through internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or *information*, whether or not for consideration." (emphasis added) When a customer checks a sweepstakes entry by accessing a website and playing simulated video slots or poker, that transaction involves the delivery of information via the web—specifically, information about whether that sweepstakes entry is a winner. As a result, I think the sweepstakes transaction is likely covered by the second prong of ITFA even if Congress never intended such an application.

But for a tax to violate the second prong of ITFA, it must target only internet transactions and not identical transactions conducted in other manners. In other words, the use of the internet must trigger the tax. The precise wording of the local privilege license taxes at issue suggests that this is not the case.

These city taxes are aimed at sweepstakes that use "electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance including sweepstakes." Note that the tax is not aimed at the use of the *internet* to conduct sweepstakes; it's aimed at the use of "electronic machines"—in this case, computers—to conduct sweepstakes.

ITFA protects the use of the internet, not the use of computers. Although many (all?) of the computer-based sweepstakes operations likely use the internet to reveal sweepstakes entries, they would still be liable for city privilege license taxes even if that were not true. For example, if the sweepstakes entries were revealed using information stored on a computer's hard drive rather than on an external website, the transaction would not involve the internet and therefore would not be protected by ITFA. But it still would be taxable because it was a sweepstakes that involved an "electronic machine." Because all computer-based sweepstakes operators are liable for privilege license taxes regardless of whether they rely on the internet to check entries, I believe the city taxes on those operators do not violate ITFA.

But I don't make the law. A judge will, and it's far too early to guess how any of these lawsuits will turn out. The only safe bet in this gambling controversy is that the lawsuits and political wrangling will continue for months or years to come.



Legend

- parcels
- Zoning**
- AP
- B1H
- B2
- B3
- B4
- CP
- I1
- I2
- O&I
- PUD
- R15S
- R6S
- R9S
- RA20
- RHD
- RMF
- RMH
- WPark



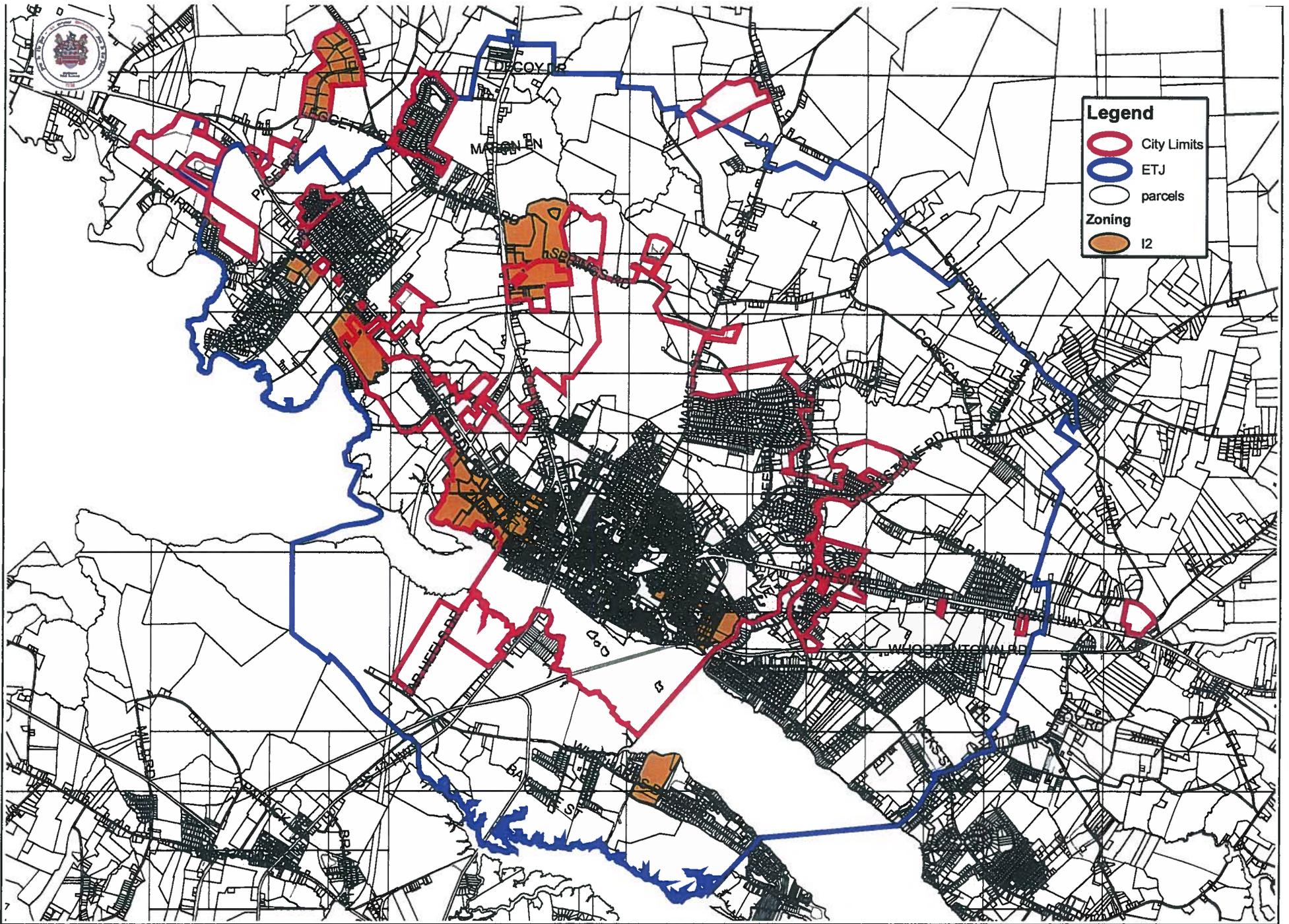
Existing Locations

Proposed Locations

December 13, 2010
City of Washington
Electronic Gaming Operations

1 inch = 640 feet





City of Washington

Zoning Map 2010

Page 65 of 219

I-2 Zoning District

1 inch = 5,300 feet



An Ordinance to Amend Chapter 40, Zoning, Article IV,
Section 40-93, of the Washington City Code

WHEREAS, NCGS 160A-385 authorizes local governments to amend ordinances regulating land use within their jurisdiction; and

WHEREAS, the amendment set out below is made in accordance with NCGS 160A-364; 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 **Electronic Gaming Operations**, and to add prescribed conditions for such uses.

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

Section 1. That **Chapter 40. Article VI, Section 40-93, Table of Uses**, be amended by adding that **Electronic Gaming Operations (aka Internet Sweepstakes Operations)** will be permitted only by Special Use Permit issued by the City of Washington Board of Adjustment within the I-2 (Light Industrial) zoning district.

Section 2. That **Chapter 40. Article VI, Section 40-119, Index to Listed Uses**, be amended by adding as follows:

(qq) Electronic Gaming Operations (aka Internet Sweepstakes Operations).

Section 3. That **Chapter 40. Article VI, Section 40-120, Listed Uses, Specific Criteria**, be amended by adding **(qq) Electronic Gaming Operations (aka Internet Sweepstakes Operations)** as follows:

Definition - Any business enterprise, whether as a principal or accessory use, where persons utilize electronic machines, including but not limited to computers, handheld PDA's or gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is predetermined by electronic games played or by predetermined odds. Electronic gaming operations may include, but are not limited to, internet cafes, internet sweepstakes, electronic gaming machines, or cyber-cafes. This does not include any lottery approved by the State of North Carolina or any nonprofit organization that is otherwise lawful under State law.

- (1) Special Use Permit granted under this section shall be for a period of one (1) year and must be renewed annually. It shall be the responsibility of the owner/operator to make timely application for permit renewal.
- (2) Hours of Operation. The business shall only be allowed to operate on Monday through Saturday between the hours of 8:00 AM and 12:00 Midnight and on Sunday between the hours of 1:00 PM and 12:00 Midnight.
- (3) Maximum number of machines/computers/terminals for any electronic gaming business is 20.
- (4) Machines/computers/terminals must not be prohibited by State or Federal law and must have all applicable permits and licenses.
- (5) The business must be a minimum of two thousand five hundred (2,500) linear feet from any other electronic gaming operation.
- (6) The business must be a minimum of two thousand five hundred (2,500) linear feet from any residential structure.
- (7) The business must be a minimum of two thousand five hundred (2,500) linear feet from any church or religious institution, public or private school, daycare facility, playground or park.

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

Section 5. All Ordinances or parts in conflict herein are repealed.

Adopted this _____ 13th _____ day of ___December___, 2010.

N. Archie Jennings, Mayor

ATTEST:

Cynthia S. Bennett, City Clerk



City of Washington REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: John Rodman, Planning & Development
Date: December 2, 2010
Subject: Public hearing: Consider the adoption of the Beaufort County Multi-Jurisdictional Hazard Mitigation Plan Update
Applicant Presentation: None
Staff Presentation: John Rodman, Planning and Development

RECOMMENDATION:

I move that the City Council accept the recommendation of the Hazard Mitigation Advisory Committee and approve the Beaufort County Multi-Jurisdictional Hazard Mitigation Plan Update.

BACKGROUND AND FINDINGS:

Beaufort County has received a preliminary letter of approval from the Federal Emergency Management Agency (FEMA) stating that all jurisdictions should proceed with the adoption of the draft plan. A public hearing is required to adopt the plan.

PREVIOUS LEGISLATIVE ACTION

Beaufort County Hazard Mitigation Advisory Committee began meeting in October 2009. Final Public Informational meeting June 2010

FISCAL IMPACT

Currently Budgeted (Account _____) _____ requires additional appropriation
 No Fiscal Impact

SUPPORTING DOCUMENTS

Committee Members
Resolution

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: JTC Concur _____ Recommend Denial _____ No Recommendation
12/7/10 Date

Beaufort County Hazard Mitigation Advisory Committee

Paul Spruill, Beaufort County Manager

Al Klemm, Beaufort County Commissioner

John Pack, Beaufort County Emergency Management

Robbie Rose, Fire Chief, City Of Washington

John Rodman, Planning & Development, City of Washington

Bianca Gentile, Special Projects, City of Washington

Bryant Buck, Mid East Commission

Tom Richter, Mayor, Town of Washington Park

Marty Overholt, Inspections, Town of Belhaven

Reed Whitesell, Holland Consulting Planners

CITY OF WASHINGTON

**RESOLUTION ADOPTING THE
BEAUFORT COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN UPDATE**

WHEREAS, the citizens and property within Beaufort County are subject to the effects of natural hazards and man-made hazard events that pose threats to lives and cause damages to property, and with the knowledge and experience that certain areas, i.e., flood hazard areas, are particularly susceptible to flood hazard events; and

WHEREAS, the county desires to seek ways to mitigate situations that may aggravate such circumstances; and

WHEREAS, the Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Legislature of the State of North Carolina has in Section 1 Part 166A of the North Carolina General Statutes (adopted in Session Law 2001-214 – Senate Bill 300 effective July 1, 2001), states in Item (a) (2) “For a state of disaster proclaimed pursuant to G.S. 166A-6(a) after August 1, 2002, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act that is updated every five years”; and

WHEREAS, it is the intent of the Board of Commissioners of Beaufort County to fulfill this obligation in order that the county will be eligible for federal and state assistance in the event that a state of disaster is declared for a hazard event affecting the county; and

WHEREAS, Section 322 of the Federal Disaster Mitigation Act of 2000 states that local governments must develop an All-Hazards Mitigation Plan and update it every five years in order to receive future Hazard Mitigation Grant Program Funds; and

WHEREAS, the City of Washington actively participated in the planning process of the multi-jurisdictional Beaufort County plan and has fulfilled all their part of the multi-jurisdictional planning elements required by FEMA;

NOW, THEREFORE, be it resolved that the City Council of the City of Washington hereby:

1. Adopts the Beaufort County Multi-Jurisdictional Hazard Mitigation Plan; and
2. Separately adopts the sections of the plan that are specific to the City of Washington; and

3. Vests the City Manager with the responsibility, authority, and the means to:
 - (a) Inform all concerned parties of this action.
 - (b) Cooperate with Federal, State and local agencies and private firms which undertake to study, survey, map, and identify floodplain or flood-related erosion areas, and cooperate with neighboring communities with respect to management of adjoining floodplain and/or flood-related erosion areas in order to prevent aggravation of existing hazards.
4. Appoints the City Manager to assure that, in cooperation with Beaufort County, the Hazard Mitigation Plan is reviewed annually and in greater detail at least once every five years.
5. Agrees to take such other official action as may be reasonably necessary to carry out the strategies outlined within the 2010 Beaufort County Multi-Jurisdictional Hazard Mitigation Plan.

Adopted this __13th__ day of __December____, 2010.

Mayor, N. Archie Jennings

ATTEST:

City Clerk, Cynthia S. Bennett

Adoption Instructions

Beaufort County has received a preliminary letter of approval from the Federal Emergency Management Agency (FEMA) stating that all jurisdictions should proceed with adoption of the draft plan. You should have a current copy of the draft and it is also available on the Beaufort County website.

Adoption of the Hazard Mitigation Plan will require the scheduling of a public hearing and adoption of a resolution by your elected board. A sample resolution is attached for your use. Please feel free to modify this draft resolution to comply with any necessary local requirements. The following steps should be carried out to ensure that the Beaufort County Multi-Jurisdictional HMP is certified by FEMA in an expedient manner:

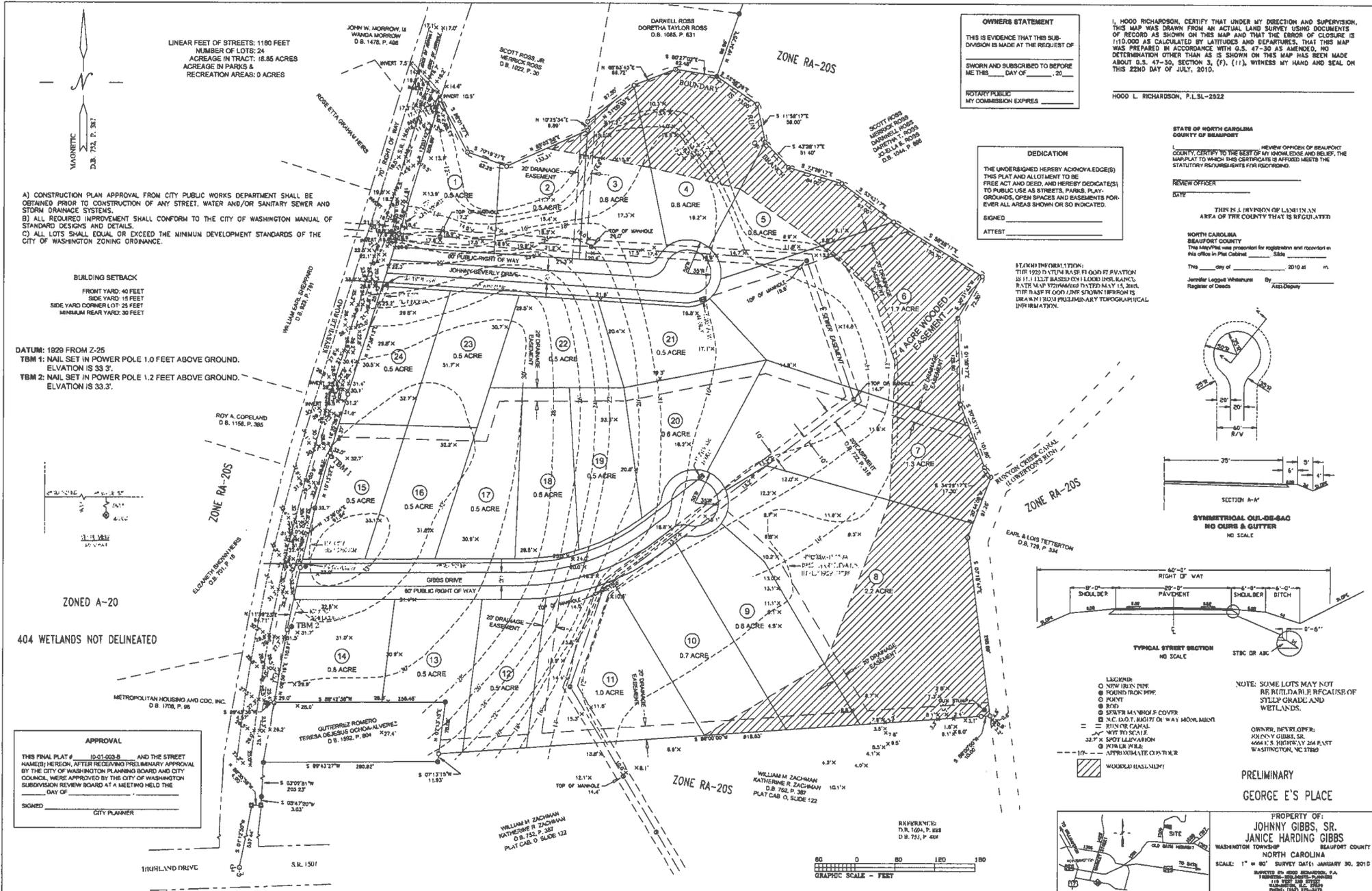
- Schedule a public hearing for your December meeting (if possible). If it cannot be scheduled in December, please do so no later than January.
- Provide your elected board members with the draft plan.
- Arrange to publish a public hearing advertisement in a local newspaper of your choice. **The advertisement should be published twice, in two successive weeks' issues, with the first publication being not more than 25 days nor fewer than ten days before the public hearing date.** In computing such period, the day of publication is not to be included, but the day of the hearing shall be included. A sample advertisement has been attached for your review and use.
- Hold the public hearing at the regularly scheduled meeting of your governing body on the scheduled date. Following the public hearing, the governing body should consider adopting the plan through approval of the attached resolution. If your governing body elects to table the adoption of the plan for any reason, please contact me immediately so that we may address any problems and/or concerns.
- Forward the executed adoption resolution to Holland Consulting Planners, Inc., 3329 Wrightsville Avenue, Suite F, Wilmington, NC 28403, immediately following the public hearing.
- Secure an affidavit of publication for the two public hearing notices from the newspaper and forward the affidavit of publication to Holland Consulting Planners, Inc. (address provided above) as soon as possible following the public hearing.

I hope that the preceding steps are clear, and that you do not have any problems implementing the process. I understand that this is an ambitious schedule; however, it is intended to secure FEMA certification of the County's plan update as soon as possible. Please contact our office if you have any questions or concerns regarding these instructions or the HMP in general.

I have enjoyed working with you through the development of this plan, and hope that it adequately addresses the needs of your municipality while also meeting the County's needs.

J. Reed Whitesell
Holland Consulting Planners, Inc.
910/392-0060
rwhitesell@hcplanning.com

December 13, 2010
Page 72 of 219



LINEAR FEET OF STREETS: 1180 FEET
 NUMBER OF LOTS: 24
 ACREAGE IN TRACT: 18.85 ACRES
 ACREAGE IN PARKS & RECREATION AREAS: 0 ACRES

- A) CONSTRUCTION PLAN APPROVAL FROM CITY PUBLIC WORKS DEPARTMENT SHALL BE OBTAINED PRIOR TO CONSTRUCTION OF ANY STREET, WATER AND/OR SANITARY SEWER AND STORM DRAINAGE SYSTEMS.
- B) ALL REQUIRED IMPROVEMENT SHALL CONFORM TO THE CITY OF WASHINGTON MANUAL OF STANDARD DESIGNS AND DETAILS.
- C) ALL LOTS SHALL EQUAL OR EXCEED THE MINIMUM DEVELOPMENT STANDARDS OF THE CITY OF WASHINGTON ZONING ORDINANCE.

OWNERS STATEMENT
 THIS IS EVIDENCE THAT THIS SUBDIVISION IS MADE AT THE REQUEST OF
 SWORN AND SUBSCRIBED TO BEFORE ME THIS _____ DAY OF _____, 2010.
 NOTARY PUBLIC:
 MY COMMISSION EXPIRES _____

I, HOOD RICHARDSON, CERTIFY THAT UNDER MY DIRECTION AND SUPERVISION, THIS MAP WAS DRAWN FROM AN ACTUAL LAND SURVEY USING DOCUMENTS OF RECORD AS SHOWN ON THIS MAP AND THAT THE ERROR OF CLOSURE IS 1/10,000 AS CALCULATED BY LATITUDES AND DEPARTURES. THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. NO DETERMINATION OTHER THAN AS IS SHOWN ON THIS MAP HAS BEEN MADE ABOUT G.S. 47-30, SECTION 3, (f), (1), WITNESS MY HAND AND SEAL ON THIS 22ND DAY OF JULY, 2010.
 HOOD L. RICHARDSON, P.L.S.L.-2322

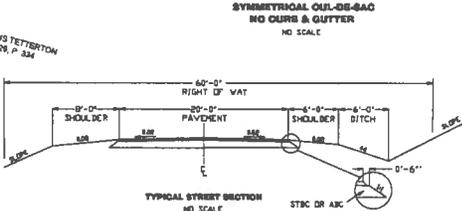
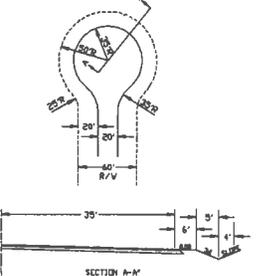
DEDICATION
 THE UNDERSIGNED HEREBY ACKNOWLEDGE(S) THIS PLAT AND ALLOTMENT TO BE FREE ACT AND DEED, AND HEREBY DEDICATES IT TO PUBLIC USE AS STREETS, PARKS, PLAY-GROUNDS, OPEN SPACES AND EASEMENTS FOR EVERY AREA SHOWN OR SO INDICATED.
 SIGNED _____
 ATTEST _____

STATE OF NORTH CAROLINA
 COUNTY OF BEAUFORT
 I, _____ REVIEW OFFICER OF BEAUFORT COUNTY, CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE STATUTORY REQUIREMENTS FOR RECORDING.
 REVIEW OFFICER _____
 DATE _____

THIS IS A REVISION OF LAMIN AN AREA OF THE COUNTY THAT IS REFIGURATED

NORTH CAROLINA
 BEAUFORT COUNTY
 This Map/Plat was prepared for registration and recording in the Office of the Clerk of Superior Court.
 The _____ day of _____, 2010 at _____
 Jennifer Leggett Williams, Clerk of Superior Court
 Register of Deeds By: _____
 Assessor

STANDARD INFORMATION:
 THIS 1220 DYNAMIC BASE PLAT FOR DIVISION 2011 IS BASED ON THE LATEST AVAILABLE DATA AND INFORMATION. THE PLAT IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN PERMISSION OF THE SURVEYOR.



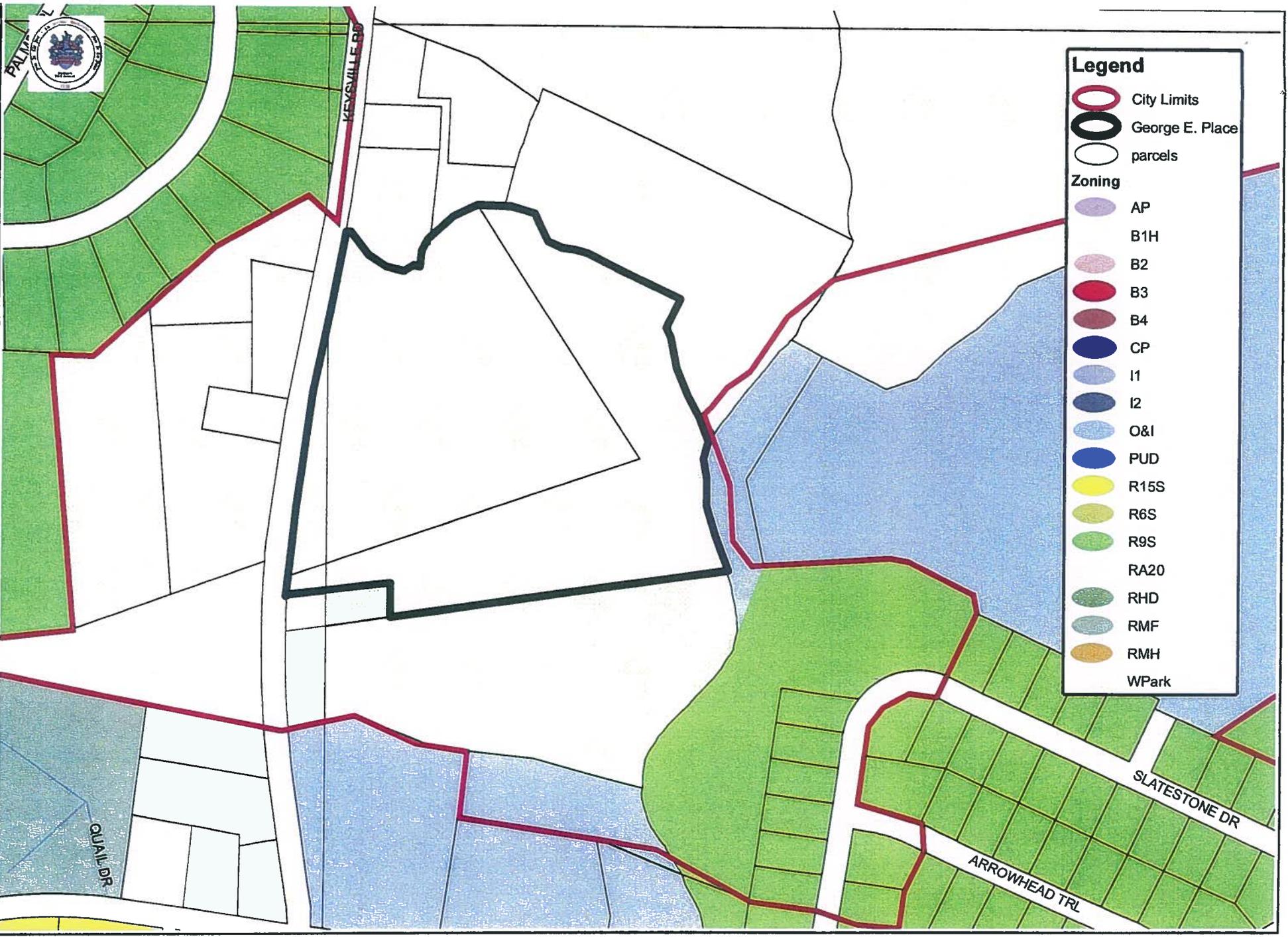
NOTE: SOME LOTS MAY NOT BE FULLY REPLICATED DUE TO STEEP GRADE AND WETLANDS.

OWNER'S REPRESENTATIVE:
 JOHNNY GIBBS, SR.
 4464 S. HIGHWAY 264 EAST
 WASHINGTON, NC 27880

PRELIMINARY
 GEORGE E'S PLACE

PROPERTY OF:
 JOHNNY GIBBS, SR.
 JANICE HARDING GIBBS
 WASHINGTON TOWNSHIP
 BEAUFORT COUNTY
 NORTH CAROLINA
 SCALE: 1" = 80' SURVEY DATE: JANUARY 30, 2010
 DRAWN BY: GREG BISHOP, P.E.
 118 WEST 128 STREET
 WASHINGTON, NC 27880
 PHONE: 757-278-2178



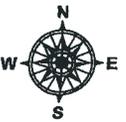


Legend

- City Limits
- George E. Place
- parcels

Zoning

- AP
- B1H
- B2
- B3
- B4
- CP
- I1
- I2
- O&I
- PUD
- R15S
- R6S
- R9S
- RA20
- RHD
- RMF
- RMH
- WPark



City of Washington
 December 13, 2010
 Zoning Map
 George E. Place

1 inch = 320 feet

0 75 150 225 300 Feet



City of Washington

P.O. Box 1988, Washington, NC 27889-1988

November 25, 2010

Hood Richardson, P.A.
110 W. Second Street
Washington, NC 27889

**RE: Preliminary Subdivision Plat Review Comments
George E's Place**

Parks and Recreation Department Comments:

Approval recommend based on the attached conditions. Utilize any unbuildable areas as common areas or as a natural trail for residents. Contact Philip Mobley at 252-975-9367 Ext 224 with any questions.

Fire-Rescue-EMS Services Department Comments:

Approval recommended based on the attached conditions. Also 6 inch waterlines are required for fire hydrants. Contact Robbie Rose at 252-948-9400 with any questions.

Police Department Comments:

Approval recommend as submitted. Contact Cliff Hale at 252-975-9436 with any questions.

Public Works Department Comments:

No comments. Contact Allen Lewis at 252-975-9332 with any questions.

Building Inspections Department Comments:

Approval recommend based on the attached conditions. Contact Allen Pittman at 252-975-9304 with any questions.

Electric Utilities Department Comments:

Approval recommend based on the attached conditions. Contact Jack Gurkin at 252-975-9344 with any questions.

NC Department of Transportation Comments:

No comments. Contact Woody Jarvis at 252-946-3054 with any questions.

Planning Department Comments:

Approval recommended based on the following conditions.

1. Plat needs to show individual lot dimensions.
2. Minimum building setback lines.
3. Table denoting total number of lots and total acreage of tract.

Contact Glen Moore at 252-975-9317 with any questions.

City of Washington
Department of Fire-Rescue-EMS Services

Office of the Fire Marshal

410 North Market Street Washington, NC 27889
Phone: (252) 948 - 9402 Fax: (252) 975 - 6048

Division Chief Jasper Hardison - Fire Marshal

PROJECT: George E's Place
ADDRESS: Keysville Road
PLANS DATE: 01-30-10
REVIEW DATE: 10-06-10

SITE PLAN COMMENTS:

- Maintain Fire Apparatus Access Road of 20 feet width inside curb with radius inside curb radius of 25 feet of the N. C. fire Code with-in 150 feet of any portion of building.
 - Dead end turn around provisions per section 503
 - 120 feet hammerhead, 60 feet Y or 96 ft Cul de sac
 - 750 feet max deadend
 - Signs and markings per City of Washington Code and NC Fire Code
 - Buildings Exceeding 30 feet or 3 stories parallel to one side No closer than 15 or more than 30 ft from building

Cul de sac's shall have 48 feet Radius roadway surface
- Fire Hydrant See Appendix C of The NC Fire Code Fire (Contact Fire Marshal for Hydrant Placement)
 - 6 inch or larger mains
 - No more than 400 feet any portion of facility to hydrant, 600 if sprinklered
 - Along all fire access roads and adjacent streets
 - Number and distribution of hydrants per table C 105.1

Hydrant must be on 6 in or larger line
Hydrant must be with-in 200 feet end of road end by cul de sac

The approval of plans does not constitute an approval of construction methods, devices and/or construction materials. All construction materials and methods, devices, and systems shall be approved contingent of each meeting the intent of the North Carolina Fire Code and all other applicable standards.

RETURN COMMENTS TO PLANNING

9/29/10

PRELIMINARY SUBDIVISION REVIEW
DEPARTMENT OF PLANNING

I, Allen Pittman, Building Inspector, have reviewed the preliminary subdivision plan submitted by the engineering firm, Hood Richardson, P.A. acting as agents for George E Place and have the following comments on the project:

1. The Building Inspections Department recommends approval of the site plan as submitted.

Signature of the department representative

2. The Building Inspections Department recommends approval of the site plan as submitted, subject to the following conditions:

NOTE THAT MAY 15, 2003 FIRM MAP IS BASED
ON 1983 DATUM. ELEVATION IS 10 FEET
CONVERSION FACTOR BETWEEN 1929 DATUM AND
1983 DATUM IS -1.07 FEET. *Allen Pittman*
Signature of the department representative

3. The Building Inspections Department recommends that the site plan be tabled for the following reasons:

Signature of the department representative

4. The Building Inspections Department recommends that the site plan request be denied for the following reasons:

Signature of the department representative

RETURN COMMENTS TO PLANNING

9/29/10

PRELIMINARY SUBDIVISION REVIEW
DEPARTMENT OF ELECTRIC UTILITIES

I, Jack Gurkin, Electric System Engineer, have reviewed the preliminary subdivision plan submitted by the engineering firm, Hood Richardson, P.A. acting as agents for George E Place and have the following comments on the project:

- 1. The Electric Utilities Department recommends approval of the site plan as submitted.

Signature of the department representative

- 2. The Electric Utilities Department recommends approval of the site plan as submitted, subject to the following conditions:

THERE IS A \$500.00 PER LOT INFRASTRUCTURE FEE FOR INSTALLMENT
U.G. ELECTRIC FACILITIES PLUS CONTRACTOR/DEVELOPER WILL BE
RESPONSIBLE FOR FOR INSTALLMENT PILES W/PULL CORES FOR ALL NECESSARY ROAD/
DRAINAGE EASEMENT CROSSINGS. PROPOSED MUST BE WORKED 6" OF FIRM GRASS AND
OUT EASEMENT CLEAR OF TREES, STUMPS, & ROOTS. CALL 975-9350 or 975-9844 FOR
MORE INFORMATION.
Jack R. Denker 10/4/10

Signature of the department representative

- 3. The Electric Utilities Department recommends that the site plan be tabled for the following reasons:

Signature of the department representative

- 4. The Electric Utilities Department recommends that the site plan request be denied for the following reasons:

Signature of the department representative

Tim Prichard

To: alewis@washingtonnc.gov
Subject: FW: North Academy St
Attachments: Academy St. - room for one way traffic 082.jpg; Academy St First Christian Parking lot 081.jpg; First Christian Church in middle of Academy 083.jpg; First Christian only no parking area on 2nd St 084.jpg

Hi Allen – Thank you for taking the time to speak with me regarding our issues on Academy Street last month. Please see attached additional pictures taken yesterday and a couple of weeks ago. The street continues to be the most congested street in the residential area of the Historical District largely due to First Christian's lack of use of their own property across from church between 2nd and Third Streets. For some reason, North Academy parking is different than Bonner St. (St. Peter's Episcopal) and Harvey St. (First Baptist) and this can be seen from Second Street. Why are the yellow line/no parking distances different? Why is parking allowed so much closer to the corner of Second on North Academy? We believe parking should be opened up in front of First Christian church on 2nd Street – especially for the handicapped since their 2nd Street entrance is their only street level entrance and requires no stairway. Less parking should be allowed on the residential Street of North Academy – a street with only three street addresses. Further, First Christian Church has a driveway and parking on the 2nd Street that is perfect for the storage of their garbage cans instead of leaving them out on Academy Street in full view 24/7/365 days a year.

Over time, the Pre-School at First Christian has obviously grown at the same time city codes have evolved. We know of no other school where parents, teachers and students don't have a short walk from their cars to the school entrance and wonder if operating a school with such a large enrollment out of a basement location is within code. From a street view, it appears that there are too many children, teachers, and staff for such a small location.

Additionally, it seems in the best interest of all that parking be limited to the marked spaces on the east side of North Academy, the west side directly across from the church, on 2nd Street in front of the church and on their property across 2nd & 3rd Streets. This is more parking than a combination of any two other churches in the Historical District. Otherwise, we may need city police to direct traffic at 9am and 12pm M-Thursday and at other times when the street becomes a parking lot. Even with the current conditions, there are parking violations every Sunday an most any day that should be enforced.

We only have three houses on the southwest end of Academy Street and we all have driveways. We do not need street parking on the west side of North Academy from the corner of Main and North Academy to 120 North Academy. Our neighbors on the corner of 2nd and N. Academy need two street parking spaces.

Can you please reply back with the day and time this situation will be discussed. My wife & I would like to attend, if possible.

Thank you again Allen for lending an ear to our problem.

Tim Prichard

WITN NBC TV

Direct Representation by Station Decision Makers

WITN & witn.com Greenville/New Bern/Washington, NC



BEST WEB SITE IN NORTH CAROLINA
Television Division 2 • 2008 and 2009

252-946-3131 main
252-974-7435 direct
252-946-0279 Fax

TIM.PRICHARD@WITN.COM

December 13, 2010
Page 81 of 219

Tim & Teresa Prichard

120 North Academy St.

Allen Lewis

Public Works Director

City of Washington, NC

Re: Parking & Traffic on North Academy Street

Good afternoon Allen:

You may not recall our previous conversation since a number of months have passed, but at that time you gave me your card and asked that I put our North Academy Street parking and traffic concerns in writing. We have tried to keep communication lines open with the First Christian Church located on 2nd Street in Washington, but ultimately, their response was to "take it up with the city". This is why we've taken the time to provide you with information, photographs and ask for your help.

Like us, not everyone has the fortune of being born in Washington, NC. We are a family that chose to move here because we thought it would be a great place to live and raise our two children – now 2.5 years and nine months old. Since purchasing a home in the Residential Historic District on North Academy Street in Washington, NC, we have been unable to live in peace. We have not found that city zoning ordinances as they have been applied have promoted the health, safety or the general welfare of our family. If the goal of the city remains "to promote desirable living conditions and the sustained stability of neighborhoods" then we feel our cause matches the desire of the City of Washington.

Further, **we believe our safety is at risk and our property value is being compromised**. That being said, we are not seeking legal counsel, but are supplying our family attorney copies of all correspondence to hold should a fire or other such emergency arise and one or more of our family members are harmed. We have had to call the police several times over the past few months because cars who's owners were attending functions at First Christian Church either blocked or were parked too close to our driveway. Our goal is to work something out with the city where we can have some peace, privacy and live safely.

When both sides of North Academy is filled with parked cars, Fire and Rescue as well as the normal flow of traffic have trouble making the turns onto and then driving on the street. The street has basically become one lane most hours of the day. We have witnessed several near accidents as vehicles try and turn onto North Academy while facing oncoming traffic and two lanes of parked cars. Drivers have had to actually back up and find a driveway to pull into to allow traffic to continue. Currently, vehicles are allowed to park too close driveways, street corners and stop signs and this has created a hazard. We also believe NC law is being violated in several areas parking is currently allowed. Further, if our 90 year old wood home should catch fire, every second would become extremely important. We live in fear because we know that our home, our safety and the lives of our two children will be compromised if

such an event occurs. Fire and rescue would have difficulty maneuvering on the street as it is currently used.

Specifically, we feel Article 1 of the General Provisions Section 27-2 Purposes a, b, e, f, g and h are not being met and that those attending functions held at First Christian Church on 2nd Street in Washington are the main reason these purposes are unfulfilled for our family. First Christian Church (FCC) should be encouraged to develop their “parking lot” between 2nd and 3rd streets as the city code directs in our zoning ordinances including proper lighting (they have one light), surfaces, standards and criteria in order to provide their members safe and adequate parking.

It is our opinion that FCC has been allowed over the years to put their interests ahead of taxpaying residents by treating a public street as their personal parking lot and trash storage area. They keep four city of Washington trash containers out in full view on North Academy Street 24 hours a day, seven days a week instead of behind the church or out of sight on the east side of their building. They have a 2nd Street address, but are allowed to keep trash on North Academy. Their trash should be picked up on 2nd Street – not stored in full view on North Academy and it should be hidden by landscaping or other such means.

FCC owns a 3-4 acre lot between 2nd Street and 3rd Street that could more than accommodate their needs for church, pre-school and community organization meeting parking. However, they choose fill up both sides of Academy Street before parking on their property. They start before 7:30am on Sunday and it continues through Friday night most weeks. They have no “peak hours”. This goes on 6-7 days a week. We used get a slight break some Friday nights or Saturdays when there were no weddings, dinners, funerals or meetings, but a Bed & Breakfast opened recently at the corner of Academy and East Main – The Pamlico House and it keeps the street busy with overnight guests, parties, rehearsal dinners, weddings etc. most weekends. The street resembles a Central Business Historic District more than a RDH at this point in time. **We feel that someone needs to draw the city’s attention to how this street has evolved over time. With only three homes with a North Academy address, it should be a much more peaceful part of the city.**

FCC has more parking than any church in the historical district, yet they have been allowed to fill both sides of North Academy Street. They have paved parking on the east side of the church in front of their pre-school playground, street parking on 2nd Street and acres of land directly across 2nd street. For some reason, FCC has been allowed a yellow curb, no parking area on 2nd Street in front of the church that could allow for 3-4 street parking spaces. There is public parking on the south side (FCC side) of 2nd both before and after church property. We feel the spaces in front of the church should be open to parking just like the rest of that area of 2nd Street. As an example, parking is allowed all around the First Baptist Church, only a block away. So, it seems FCC does not desire to see vehicles in front of their church, but have no problem parking in front of our homes.

The entire east side (FCC & Pamlico House side) of North Academy Street has designated, painted parking spaces including four handicap (more *street* handicap spaces than any other church in the historic district and more than the county courthouse) spaces. They park on both sides of Academy and

in our case, vehicles are allowed to park less than fifteen feet from our front porch. We are asking that parking on North Academy Street be limited to the east side of the street only to restore some peace and tranquility to a street that only has three homes with a North Academy Street address. As it stands now, we reside in the middle of a congested parking lot.

North Academy Street is currently one of the most congested streets in the historic district. Traffic and parking from the First Christian Church starts around 7:30am on Sundays and continues all week due to their Pre-School and various nightly meetings. As previously stated, the street now accommodates parking for a Bed & Breakfast located on East Main Street. It is also used as a cut through for speeding drivers crossing back and forth between 2nd Street and East Main Street. This is causing a safety concern as well. **We would also like you to consider making North Academy Street a one way street flowing north from East Main to 2nd Street. This would be similar to Bonner Street where one-way traffic is in the area of the Episcopal Church.**

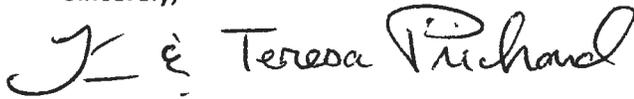
Included in this correspondence you will find pictures for your review. They show more than enough parking available to FCC on their own land between 2nd and 3rd Streets, the congestion on North Academy Street and one side parking on Bonner. In addition you may notice how the open lot next to our home is being used. Vehicles are parking as close the sidewalk as possible. Many times cars are parked in this lot and their owners walk across the street to attend a function at First Christian. We feel this violates the spirit of the ordinance that states "parking in front yards is not permitted". (Guidelines 4.3.3) As you can see, these vehicles are clearly in front of neighboring homes.

We are asking for your help and for you to consider the following possible resolutions:

- **Converting North Academy Street in a similar fashion as Bonner Street - a one way street flowing north from East Main to 2nd**
- **Making North Academy Street parking available on only one side of the street – the east side along FCC or at least one side from 120 N. Academy to East Main Street. This would allow for parking on both sides of the street directly across from the FCC.**
- **Requiring First Christian Church to develop its off street parking in order to relieve the congestion they have placed on North Academy.**
- **Requiring FCC to move city of Washington trash containers stored on North Academy to an out of sight location for weekly pick up from 2nd Street.**
- **Placing "slow children at play" or speed limit signs on North Academy Street**
- **Painting yellow curb, no parking areas twenty – thirty feet from corners and stop signs to avoid head on collisions**
- **Painting yellow curb, no parking areas at least five feet from each North Academy driveway**
- **Limit parking to at least 15 feet from the sidewalk in the empty lot along the west side of North Academy Street (see pictures of cars parked parallel to and in front of homes)**

Thank you for your time and consideration, Allen.

Sincerely,

Handwritten signature of Tim and Teresa Prichard in black ink.

Tim and Teresa Prichard

946 9942 - H
974 7435 - W

cc Brian S. Demidovich P.A.

3200 Beechleaf Court Suite 100

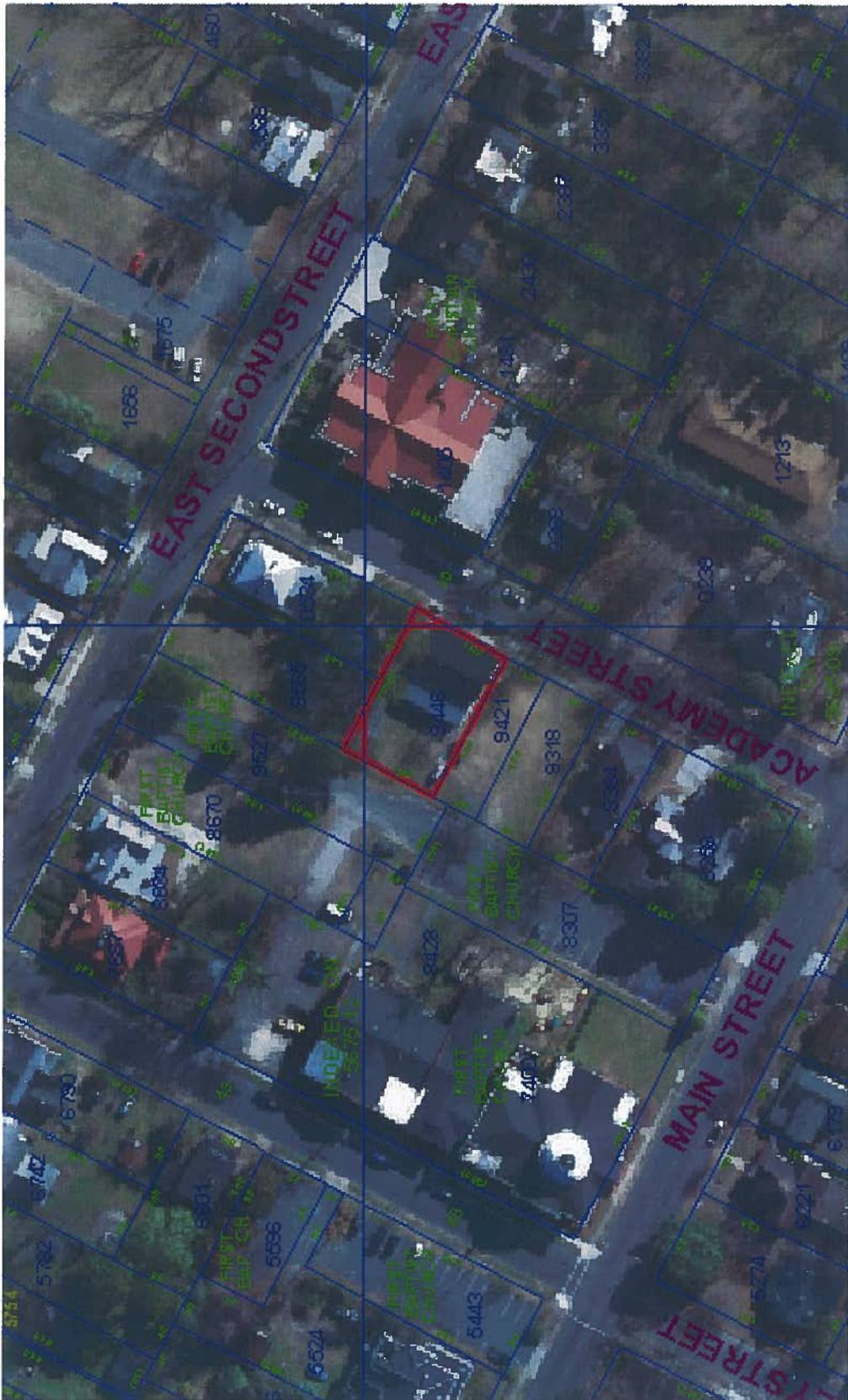
Raleigh, North Carolina 27604

North Carolina Laws 20-162 – Parking

- (a) No person shall park a vehicle ... in front of a private driveway or ... nor within 25 feet from the intersection of curb lines

Parking or standing is not allowed:

- In front of a driveway.
- Within 20 feet (6 m) of a crosswalk at an intersection.
- Within 30 feet (10 m) of a traffic light, STOP sign or YIELD signs.
- Within 20 feet (6 m) of a fire station driveway, or within 75 feet (23 m) on the opposite side of the road.
- Along a curb that has been cut down, lowered or constructed for access to the sidewalk.



MARTIN ♦ STARNES & ASSOCIATES, CPAs, P.A.

"A Professional Association of Certified Public Accountants and Management Consultants"

October 25, 2010

To the Honorable Mayor and Members of the City Council
City of Washington, North Carolina

We have audited the basic financial statements of the City of Washington, North Carolina, for the year ended June 30, 2010, and have issued our report thereon dated October 25, 2010. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards (and, if applicable, *Government Auditing Standards* and OMB Circular A-133), as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our engagement letter to you dated January 14, 2010. Professional standards also require that we provide you with the following information related to our audit.

Our Responsibility Under U.S. Generally Accepted Auditing Standards and OMB Circular A-133

As stated in our engagement letter, our responsibility, as described by professional standards, is to plan and perform our audit to obtain reasonable, but not absolute, assurance about whether the basic financial statements are free of material misstatement and are fairly presented in accordance with U.S. generally accepted accounting standards. Because an audit is designed to provide reasonable, but not absolute assurance and because we did not perform a detailed examination of all transactions, there is a risk that material errors, fraud, or other illegal acts may exist and not be detected by us.

In planning and performing our audit, we considered the City of Washington, North Carolina's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. We also considered internal control over compliance with requirements that could have a direct and material effect on a major federal program in order to determine our auditing procedures for the purpose of expressing our opinion on compliance and to test and report on internal control over compliance in accordance with OMB Circular A-133.

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we performed tests of the City of Washington, North Carolina's compliance with certain provisions of laws, regulations, contracts and grants, non-compliance with which could have a direct and material effect on the determination of financial statement amounts. However, the objective of our audit was not to provide an opinion on compliance with those provisions.

Also, in accordance with OMB Circular A-133, we examined, on a test basis, evidence about the City's compliance with the types of compliance requirements described in the *U.S. Office of Management and Budget (OMB) Circular A-133 Compliance Supplement* applicable to each of its major federal programs for the purpose of expressing an opinion on the City's compliance with those requirements. While our audit provides a reasonable basis for our opinion, it does not provide a legal determination on the City's compliance with those requirements.

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the City of Washington, North Carolina are described in Note 1 to the financial statements. No new accounting policies were adopted and the application of existing policies was not changed during the 2009-2010 fiscal year. We noted no transactions entered into by the City of Washington, North Carolina, during the year that were both significant and unusual and, of which, under professional standards, we are required to inform you of transactions for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting Estimates

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the basic financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most significant estimates affecting the financial statements were the allowance for taxes receivable.

Management's estimate of the allowance for doubtful accounts is based on historical revenues, historical loss levels, and an analysis of the collectibility of individual accounts. We evaluated the key factors and assumptions used to develop the allowance in determining that it is reasonable in relation to the financial statements taken as a whole.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. Management has corrected all such misstatements. In addition, none of the misstatements detected as a result of audit procedures and corrected by management were material, either individually or in the aggregate, to each opinion unit's financial statements taken as a whole.

There were no uncorrected misstatements of the financial statements.

Members of the City Council
City of Washington, North Carolina
October 25, 2010
Page three

Disagreements with Management

For purposes of this letter, professional standards define a disagreement with management as a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the basic financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated October 25, 2010.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the governmental unit's financial statements or a determination of the type of auditors' opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management prior to retention as the City of Washington, North Carolina's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

Difficulties Encountered in Performing the Audit

We did not encounter any significant difficulties in dealing with management in performing and completing our audit.

This information is intended solely for the use of the members of the City Council and management of the City of Washington, North Carolina, is not intended to be, and should not be, used by anyone other than these specified parties.

Martin Starnes & Associates, CPAs, P.A.

Martin Starnes & Associates, CPAs, P.A.
Hickory, NC

MARTIN · STARNES
& ASSOCIATES, CPAs, P.A.

City of Washington
2010 Audited Financial Statements

Audit Highlights

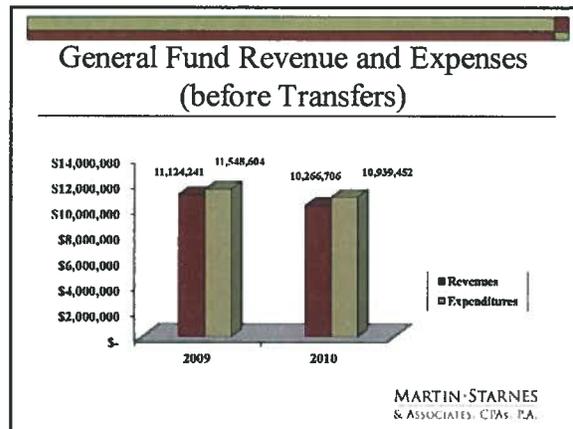
- Unqualified opinion
- No significant deficiencies or material weaknesses in internal control
- Cooperative staff

MARTIN · STARNES
& ASSOCIATES, CPAs, P.A.

Audit Process

- Planning and Risk Assessment
- Interim Procedures
- Final Procedures
- Year Around Process

MARTIN · STARNES
& ASSOCIATES, CPAs, P.A.



Fund Balance

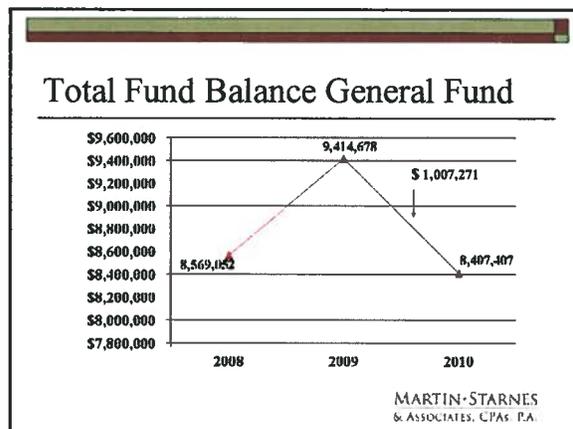
Serves as a measure of the City's financial resources available.

- **Assets – Liabilities = Fund Balance**

3 Classifications:

- Reserved
- Unreserved Designated (Available)
- Unreserved Undesignated (Available)

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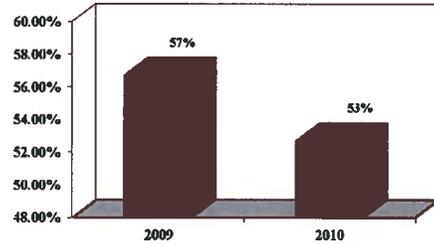


Fund Balance Position – General Fund

□ Total Fund Balance	\$ 8,407,407
□ Required Reservations	- 2,643,875
□ Unreserved Fund Balance	\$ 5,763,532
□ Unreserved 2009	\$ 6,547,583
□ Decrease in unreserved FB	\$ 784,051
□ Unreserved Undesignated	\$ 5,763,532

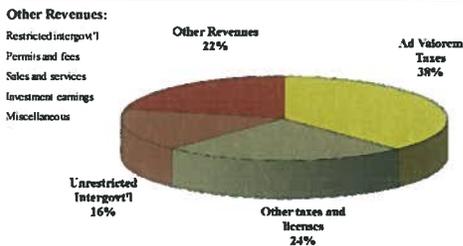
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Unreserved Fund Balance as a Percent of Expenditures – General Fund



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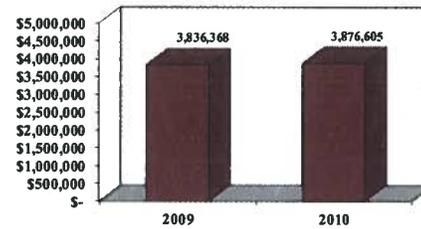
Top 3 Revenues: General Fund



Top 3 comprise \$ 8,057,221 (78%) of revenues

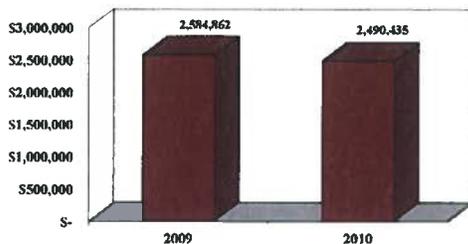
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& ASSOCIATES, CPAs, P.A.

Ad Valorem Taxes



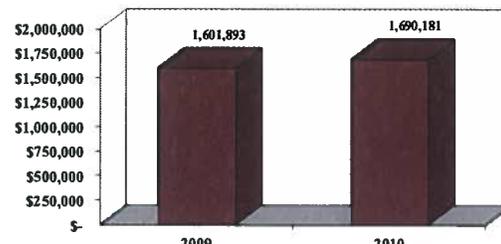
MARTIN STARNES
& ASSOCIATES, CPAs, P.A.

Other Taxes and Licenses

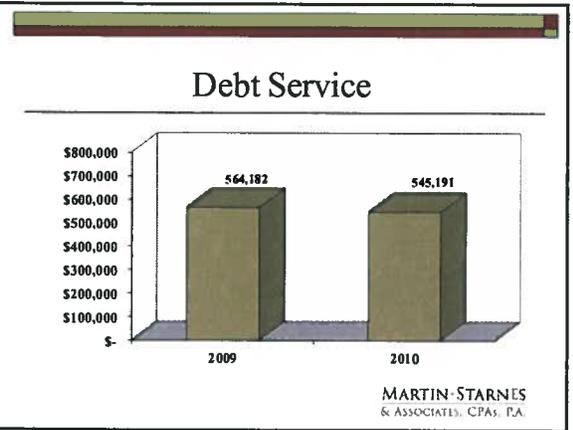
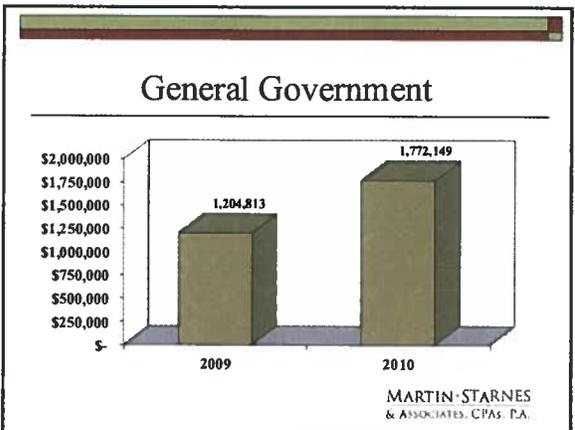
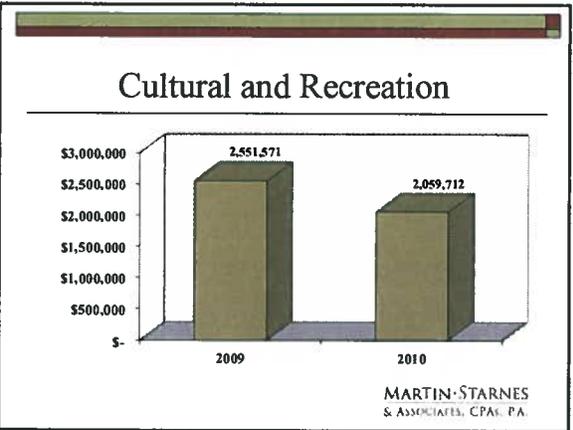
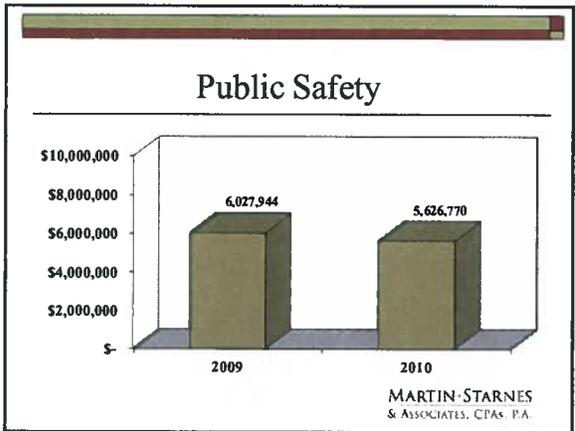
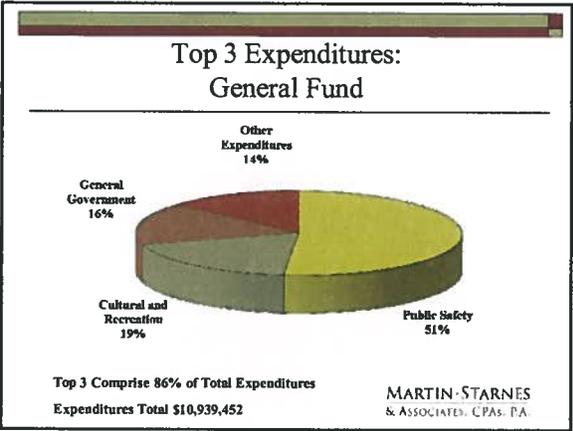


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Unrestricted Intergovernmental



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& ASSOCIATES, CPAs, P.A.

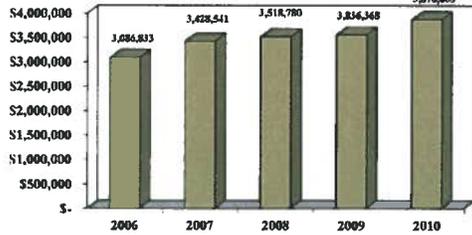


Other Governmental Funds

✓ Total Revenues 2010	\$ 836,661
✓ Total Expenditures 2010	801,566
✓ Other Financing Sources	808,334
✓ Net Change in Fund Balance	843,429
✓ Ending Fund Balance	1,818,938

MARTIN STARNES & ASSOCIATES, CPAs, P.A.

Property Tax Trend for Collections in the Fiscal Year of the Levy



MARTIN STARNES & ASSOCIATES, CPAs, P.A.

Enterprise Funds Operating Income (Loss) Modified Accrual

	Water	Sewer	Electric	Nonmajor
Income (Loss)	\$ 178,384	\$ 146,557	\$ (963,200)	\$ (207,045)
Transfers Out	(17,211)	(40,000)	(1,273,150)	-
Income (Loss) Before				
Incoming Transfers	161,173	106,557	(2,236,350)	(207,045)
Debt Issued	-	-	2,154,500	-
Transfers In	-	80,000	1,469	119,341
Total	-	80,000	2,155,969	119,341
Total Income (Loss)	\$ 161,173	\$ 186,557	\$ (80,381)	\$ (87,704)

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Enterprise Funds Available Resources for Future Obligations June 30, 2010

	Water	Sewer	Electric	Nonmajor
Unrestricted Cash and Investments	\$ 780,666	\$ 1,704,416	\$ 4,918,316	\$ 1,192,593
Accounts Receivable/Due from	478,873	417,541	4,429,444	256,314
Available resources	1,259,539	2,121,957	9,347,760	1,448,907
Current Liabilities	511,936	628,940	4,673,116	293,007
Total Available for non-current obligations	\$ 747,603	\$ 1,493,017	\$ 4,674,644	\$ 1,155,900
Annual Operating Expenses Cash Basis	\$ 2,869,264	\$ 2,880,372	\$ 38,527,477	\$ 2,244,528
2010 Available resources as a % of expenditures	26%	52%	12%	49%
2009 Available resources as a % of expenditures	7%	30%	12%	54%
Total General Fund fund balance as a % of General Fund expenditures is 77%.				

MARTIN STARNES & ASSOCIATES, CPAs, P.A.

Financial Report Change For 2011

The City's financial statements for 2011 will reflect an accounting standards change regarding special revenue funds and fund balance reporting.

We will review the City's fund structure in the Spring of 2011 and alert management of any reporting changes that will be necessary.

GASB 54 –Fund Balance Classifications

1. **Nonspendable** - amounts that cannot be spent because they are not in spendable form or are legally required to be maintained intact.
2. **Restricted** - amounts are restricted when constraints placed on the *use of resources* are externally restricted by creditors, grantors, laws, or government regulation.
3. **Committed** - Internal earmarking of fund balance. Amounts used for specific purposes pursuant to constraints imposed by *formal action/approval* of the Board. Formal action must be taken by June 30th.

(Source: GASB Statement No. 54 and LGC memorandum #2010-35)

GASB 54 –Fund Balance Classifications (continued)

4. **Assigned** - Internal earmarking of fund balance. Amounts that are constrained by the government's *intent* to be used for specific purpose. Does not require formal action/approval. Can occur anytime before the issuance of the financial statements.
5. **Unassigned** - This is fund balance that has not been reported in any other classification.

(Source: GASB Statement No. 54 and LGC memorandum #2010-35)

Fund Balance – General Fund Current vs. GASB 54

	2010	GASB 54
Reserved by State statute	1,406,906	Restricted
Reserved for inventories	55,407	Nondspendable
Reserved for encumbrances	778,893	Assigned
Reserved for surety bond	3,100	Restricted
Reserved for Powell Bill	331,119	Restricted
Reserved for controlled substance tax	23,559	Restricted
Reserved for seized funds - local and federal	11,161	Restricted
Reserved for Veteran's Park contributions	616	Restricted
Reserved for Recreation land	9,941	Restricted
Reserved for PEG Channel	23,173	Restricted
Undesignated	5,763,532	Unassigned
Total fund balance	8,407,407	

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Current vs. GASB 54 Classification Totals

	2010	GASB 54
Reserved	2,643,875	-
Unreserved (undesignated)	5,763,532	-
Nondspendable	-	55,407
Restricted	-	1,809,575
Committed	-	-
Assigned	-	778,893
Unassigned	-	5,763,532
Total	8,407,407	8,407,407

MARTIN · STARNES
& ASSOCIATES, CPAs, P.A.

What Does Our State Legislature Face?

The 2009-10 budget included:

- \$1.3 billion in temporary taxes
- \$1.6 billion federal stimulus dollars
- \$0.3 billion in non-recurring budget reductions
- Summary: Static budget gap going into 2011-2012 \$3.2 billion**

(Source: NC County Commissioners Association)

What Does The State Problems Mean to Local Government?

- Expect “transformational” government at the State level
- Everything is on the table
- Local Revenue Options?
- Cuts (15%) / New Taxes / Tax Reform?
- Potential loss of 10,000+ state jobs
- Retirement System

(Source: NC County Commissioners Association)

Discussion & Questions

City of Washington 2010

MARTIN · STARNES
& ASSOCIATES, CPAs, P.A.

**RESOLUTION ON BEHALF OF
THE PARTNERSHIP FOR THE SOUNDS and the
NORTH CAROLINA ESTUARium**

Whereas, the Partnership for the Sounds, Inc., built the North Carolina Estuarium and opened it in 1998; and

Whereas, over \$1 million was contributed to the Estuarium's construction from private donations, the City of Washington, and Beaufort County; and

Whereas, this was the first facility in the United States to be called an "Estuarium"; and

Whereas, the Estuarium brings great pride to Washington through its outstanding exhibits and programs celebrating this area's natural resources and maritime culture; and

Whereas, the Estuarium remains Washington's most identifiable and visible tourism attraction, and its visitor experience received exceptionally high ratings in the Washington TDA's 2009 survey of tourists and local tourism assets; and

Whereas, the Partnership works diligently to be an involved, responsive, and accommodating partner with the City of Washington and other attractions, organizations and businesses in the Downtown area; and

Whereas, the presence of the Estuarium and Partnership accrues substantial economic benefit to the local business community through tourism development, the purchasing of good and services, staff employment, quality of life enhancements, and other avenues; and

Whereas, the Estuarium and Partnership provide productive full-time and part-time employment for over 25 area residents whose lives and livelihoods are invested in the betterment of this community and region,

Therefore, let it be resolved that the Washington City Council encourages the Governor and the General Assembly of North Carolina to make every effort to provide funding that will enable the continued operation of the North Carolina Estuarium and the Partnership for the Sounds, Inc.

Signed

This day of _____

Community Meeting Notice

The City of Washington will host a community meeting to discuss the construction of the **POLICE FACILITY** proposed for Market Street extension.

You are encouraged to attend and share your thoughts about this important capital improvement project.

When: Thursday, December 16, 2010

Where: Grace Harwell Senior Center
310 West Main Street

Time: 5:30-7:00pm



If you are unable to attend, would like information prior to the meeting, or have general questions about the project please contact: Bianca Gentile Email: bgentile@washingtontnc.gov Phone: 252.402.6888.
Office: 102 East 2nd Street, Room 117 December 13, 2010
Page 96 of 219



HUMAN RELATIONS COUNCIL

102 East 2nd Street

Washington, NC 27889

Phone: 252-975-1280

Fax: 252-974-6461

Human Relations Council (HRC) Report for the month of November Monday December 13, 2010 City Council Meeting

1. **Update** – Joint meeting with Pitt/Greenville Human Relations Council on November 3, 2010. The Greenville meeting was very informative and the agenda consisted of the following:
 - Youth Council – Community Dialogue: “Bullying” and “Sexuality”, Brother Towns Film (Immigration Video).
 - Hindu Temple Visit
 - Human Relations Council Awards Ceremony
 - Native America Heritage month

Diversity of Board Members

- Youth
 - Korean
 - Disabled American
 - Native American
 - Black American
 - Caucasian
2. **Update** – Ed Peed commemoration
 3. **Free Flu Clinic**
 4. **FYI** – Annual Brotherhood/Sisterhood Citation Award Dinner

**Washington Tourism Development Authority
November 2010**

Virginia Finnerty has been contracted to represent the Washington Civic Center in a sales capacity. She is presently working to identify leads, meet with businesses, and develop marketing programs to increase the use of the Civic Center for meetings.

Judy Randall of Randall Travel Marketing (RTM) visited recently to consult with the Board of Directors regarding a potential visitor center near the intersection of the 17 bypass and 264. While the location is ideal for a visitor center to attract more traffic into the community, Randall recommended that a significant investment be made in billboards in the immediate future to drive traffic into the city. Based on her recommendation and the concern over continuous funding for a new visitor center, the board of directors had decided not to pursue a new visitor center at this time.

Tourism Director Lynn Lewis represented the City at a regional eco-tourism planning retreat hosted by the City of Greenville. Representatives from a number of communities in the area were present to discuss possible collaborations and interest in such an effort. No action was taken at this retreat.

The WTDA Board has voted to move its regular monthly meetings to the Leff Room at the Civic Center. The WTDA Board meets on the 3rd Wednesday of each month at noon.

Bill Oden has completed the annual financial audit for the WTDA. He will present the audit at the December meeting of the WTDA.

The WTDA has recently adopted legislative goals for 2011. These goals were also adopted by several statewide tourism organizations. The goals include: support for the current school start date, support for continued funding of the NC Division of Tourism.



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Cynthia S. Bennett, City Clerk *C.S.B.*
Date: December 2, 2010
Subject: Appointment to Economic Development Commission
Applicant Presentation: N/A
Staff Presentation: N/A

RECOMMENDATION:

I move that the City Council re-appoint Buster Humphreys to the Economic Development Commission with a term to expire December 31, 2013.

BACKGROUND AND FINDINGS:

Buster Humphreys' term will end December 31, 2010 on the Economic Development Commission. The City has three positions on the EDC, with one being a City Council member and the other two appointed to represent the City.

PREVIOUS LEGISLATIVE ACTION

N/A

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: _____ Concur Recommend Denial No Recommendation **12-2-10** Date



City of Washington
REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Pete Connet, Interim City Manager
Date: December 2, 2010
Subject: Lease Extension for Impression Marketing Group, Inc. for the Property at 234 Springs Road
Applicant Presentation: N/A
Staff Presentation: Pete Connet, Interim City Manager
RECOMMENDATION:

I move that Council authorize the City Manager to enter into an additional 90 day lease extension with Impressions Marketing Group, Inc. term to expire March 31, 2011.

BACKGROUND AND FINDINGS:

In 2007 the City Council authorized the City Manager to enter into a letter agreement with Impressions Marketing Group to occupy the property at 234 Springs Road under the terms of the former lease with Hamilton Beach Proctor Silex. They have occupied the property over the past several years. The letter agreement will expire on December 31, 2010. A new Lease Agreement will not be finalized by that time. The attached letter agreement extends the current lease for an additional 90 days.

PREVIOUS LEGISLATIVE ACTION

Previous letter lease extensions approved on June 14, 2010 to expire on September 30, 2010 and approved on September 13, 2010 to expire on December 31, 2010.

FISCAL IMPACT

Currently Budgeted ___ in General Fund Revenue ___ Requires additional appropriation ___ No Fiscal Impact
Currently budgeted in the Recreation Parks and Grounds Maintenance budget. No additional fees or charges are proposed.

SUPPORTING DOCUMENTS

Letter Agreement.

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: pc Concur _____ Recommend Denial _____ No Recommendation 12/7/10 Date

December 13, 2010

Mr. Kevin Goodale, Chief Financial Officer
Impressions Marketing Group, Inc.
7951 Angleton Court
Lorton, VA 22079

Re: 234 Springs Road, Washington, NC – manufacturing facility

Dear Mr. Goodale:

This letter serves to confirm the extension of Impressions Marketing Group's tenancy. More specifically, you may continue to occupy the above facility under the below terms until March 31, 2011 or until such earlier time as a new lease is entered into and executed by the parties.

The rental for each month shall be \$32,728.00. Rental shall be subject to future negotiations in accordance with the terms anticipated in the new, written lease agreement currently being negotiated by the parties. Your occupancy will continue to be subject to an access agreement between the City and Hamilton Beach and will continue to be "as is" with no obligation on behalf of the City to perform any maintenance whatsoever during this term.

It is my intention that this extension would provide time for Impressions and the City to conclude their negotiations and arrangements for a long-term occupancy agreement. Be assured of the City's continuing willingness to work with Impressions to facilitate your occupancy of the Springs Road building while we conclude long-term arrangements.

Please indicate your company's agreement to the terms hereof by your execution in the blank provided below and, once executed, please return one copy of the executed document to me.

Yours very truly,

Pete Connet, Interim City Manager
City of Washington

**ACCEPTED AND AGREED TO:
IMPRESSIONS MARKETING GROUP, INC.**

By: _____
Kevin Goodale, Chief Financial Officer

cc: Franz Holscher, City Attorney



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Bianca Gentile, Special Projects
Date: December 13, 2010
Subject: Adopt Resolution Authorizing the Lease of Certain Real Property to Martin County Community Action for the Weatherization Assistance Program Resource Coordinator's office space and Authorize the Interim City Manager to execute the Lease Agreement

Applicant Presentation: N/A
Staff Presentation: N/A

RECOMMENDATION:

I move that Council adopt a resolution authorizing the lease of certain real property to Martin County Community Action for the Weatherization Assistance Program Resource Coordinator's office space and Authorize the Interim City Manager to execute the Lease Agreement.

BACKGROUND AND FINDINGS:

In 2009, City of Washington partnered with MCCA to distribute nearly \$800,000 in ARRA funds to weatherize low-to-moderate income homes throughout Washington Electric's service district. To date, MCCA has weatherized 93 homes. Recent changes to state/federal program mandates decreased the required total number of homes from 200 to 134. Additionally, eligibility thresholds were increased to include families with incomes up to 200% above the federal poverty guideline and increase the average investment per structure from \$4,000 to \$6,000. As a result of this partnership, MCCA hired a full-time project coordinator and part-time office assistant who are tasked with processing applications and promoting the program. Their office is on the first floor in City Hall. The continuation of the lease agreement facilitates MCCA meeting their goal to weatherize 134 low-to-moderate income homes by 2012.

PREVIOUS LEGISLATIVE ACTION:

August 10, 2009 approved short term rental agreement

FISCAL IMPACT:

Currently Budgeted Requires Additional Appropriation No Fiscal Impact

SUPPORTING DOCUMENTS:

Resolution & Lease Agreement

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: PRC Concur _____ Recommend Denial _____ No Recommendation 12/13/10 Date
December 13, 2010
Page 102 of 219

**RESOLUTION AUTHORIZING THE LEASE OF CERTAIN REAL PROPERTY
AND APPROVING THE LEASE OF SAID REAL PROPERTY PURSUANT TO
NORTH CAROLINA GENERAL STATUTE § 160A-272**

WHEREAS, the City of Washington (hereinafter may be referred to as “City”) owns the Municipal Building located at 102 East Second Street (hereinafter referred to as “City Hall”).

WHEREAS, North Carolina General Statute § 160A-272 authorizes a city to lease any property owned by a city for such terms and upon such conditions as the council may determine so long as the council determines the property will not be needed by the city for the term of the lease and the council approves a resolution authorizing its execution (no public notice is required for a lease for a term of one year or less).

WHEREAS, Martin County Community Action, Inc. (hereinafter referred to as “MCCA”) is a non-profit corporation engaged in a Weatherization Assistance Program that is administered through North Carolina’s Department of Health and Human Services Office of Economic Opportunity, is funded, in part, by the American Recovery and Reinvestment Act of 2009 (hereinafter referred to as “ARRA”), and benefits low income families.

WHEREAS, the City is partnering with MCCA to distribute nearly \$800,000.00 in ARRA money for weatherizing low income homes throughout the Washington Electric Utilities’ service district.

WHEREAS, in conjunction with said Program, MCCA hired and will continue to employ certain individuals in certain positions, some of whom will work in offices 122, 123, and 124 at City Hall to, among other things, accept applications, process eligibility requirements, and serve as a liaison.

WHEREAS, the City has leased said offices to MCCA for the previous year and negotiated with MCCA to rent said offices from the City for another year, which offices will be utilized for said purposes in conjunction with said Program.

WHEREAS, said offices currently are surplus to the City and its City Council desires to lease the same.

THEREFORE, the City Council for the City of Washington resolves that:

1. Offices 122, 123, and 124 at City Hall are hereby declared to be surplus to the needs of the City for the term of the proposed lease.
2. The Interim City Manager is authorized to further negotiate, if necessary, and execute the lease attached hereto.

Adopted this 13th day of December, 2010.

**N. Archie Jennings, III, Mayor
City of Washington**

Attest:

**Cynthia S. Bennett, City Clerk
City of Washington**

**STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT**

LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter referred to as "Agreement") is made and entered into as of the 5th day of January, 2011, by and between the **CITY OF WASHINGTON**, a municipal corporation of the State of North Carolina (hereinafter referred to as "Lessor"), and **MARTIN COUNTY COMMUNITY ACTION, INC.**, a non-profit corporation organized and existing under North Carolina law (hereinafter referred to as "Lessee").

WITNESSETH

WHEREAS, Lessor owns the Municipal Building located at 102 East Second Street, Washington, North Carolina (hereinafter referred to as "City Hall") which contains Offices numbered 122, 123 and 124 (hereinafter referred to as "Premises").

WHEREAS, Lessee intends to continue to carry out a Weatherization Assistance Program administered through North Carolina's Department of Health and Human Services Office of Economic Opportunity to distribute nearly \$800,000.00 in American Recovery and Reinvestment Act of 2009 (hereinafter referred to as "ARRA") money for weatherizing low income homes throughout the Washington Electric Utilities service district.

WHEREAS, Lessee hired and will continue to employ certain individuals in certain positions, some of whom will work in the Premises to, among other things, accept applications, process eligibility requirements, and serve as a liaison.

WHEREAS, Lessee leased the Premises from Lessor during the previous year, has negotiated with Lessor and desires to lease said Premises from Lessor for another year, which Premises will be utilized for said purposes in conjunction with said program.

WHEREAS, Lessor has found the Premises to be surplus to its current needs and desires to lease the same to Lessee for another year.

WHEREAS, the City Council passed a Resolution authorizing this Agreement.

NOW, THEREFORE, subject to the terms and conditions hereinafter set forth, Lessor does hereby lease and let unto Lessee and Lessee hereby takes and accepts, together with all privileges and appurtenances thereto, the Premises. In consideration of the mutual promises and covenants herein contained, the benefits to the Lessor and Lessee, and for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties do hereby agree as follows.

1. **Premises.** The Premises is as defined, Offices numbered 122, 123 and 124 in City Hall. This Agreement will include access to and use of the common areas within City Hall, to

include restrooms and break room.

2. **Condition of Premises.** Lessee's taking possession of the Premises shall be conclusive evidence as against Lessee that Lessee has accepted said Premises as is and that Lessor is under no duty to repair anything, furnish any services for, or otherwise improve in any way the Premises.

3. **Term.** This Agreement shall commence as of the 5th day of January, 2011, and shall continue on a month by month basis until the 4th day of January, 2012, unless terminated earlier by either party as herein provided. This Agreement may be terminated upon thirty (30) days notice by either party. Neither party shall have nor make any claim, for damages or otherwise, upon the other should either party elect to exercise its right to early, unilateral termination hereunder.

4. **Rental.** Rental shall be Four Hundred Dollars (\$400.00) per month, inclusive of utilities (customary water, sewer, and electric), basic telephone service, and internet access to utilize an external email address, and shall be payable in advance on or before the 5th day of each month, beginning January 5, 2010.

5. **Assignment.** Lessee shall not assign its interest in this Agreement, sublease any portion of the Premises, or permit third parties to occupy or use any portion of the Premises without Lessor's prior written consent, which consent may be withheld in Lessor's sole discretion. Notwithstanding the foregoing, Lessor expressly authorizes Lessee to utilize the Premises as hereinbefore described and expressly authorizes Lessee to provide such access to the Premises as is necessary to and for third parties to participate in said Weatherization Assistance Program.

6. **Use of Premises.** Lessee shall use the Premises during the term of this Agreement for the purposes specified herein and none other. Lessee shall not make any unlawful or offensive use of the Premises and agrees to keep the same in good maintenance and aesthetically pleasing appearance.

7. **Care and Maintenance.** Lessor shall not be responsible for any maintenance of the Premises and Lessee agrees, at Lessee's own expense as additional consideration for this Agreement, to maintain the Premises in an attractive manner and in compliance with any and all ordinances of the City of Washington. Lessee shall adequately secure the Premises when Lessee is not utilizing the same in order to prevent unsupervised access by the public. Lessee shall pay for the repair of any and all damages to the Premises caused by Lessee, its agents, employees, invitees, guests, customers, their respective successors and assigns, or any of them.

8. **Custodial Services.** Lessor will provide for routine emptying of office trash cans and light cleaning services. Other custodial services are excluded.

9. **Improvements and Alterations.** The parties recognize that Lessee has made and may need to make certain improvements and alterations to the Premises in order to use the Premises as hereinbefore provided. In addition to any other permitting or approval process that may be required, Lessee shall submit a written plan, including sketch, for all such improvements

and alterations to and receive approval thereof from the City Manager. Lessee shall continually modify any existing improvements and alterations to the Premises as may be necessary to conform with such approval. It is expressly understood that such approval is subject to modification, in the discretion of the City Manager, and that, if such approval is modified, Lessee shall modify its improvements and alterations as may be necessary to comply with such modified approval. Any alteration or improvement that is made by Lessee without written consent from Lessor or that is inconsistent, in Lessor's sole discretion, with Lessor's written consent shall constitute default hereunder. All such improvements and alterations made with Lessor's consent shall be properly maintained by Lessee, in Lessor's sole discretion.

10. **Inspections and Access.** Lessee does hereby agree that Lessor shall be allowed to inspect the Premises at any time. Lessee shall provide Lessor with such reasonable access over and across the Premises as may be necessary to enable and assist Lessor in the use, care, maintenance and improvement of Lessor's adjacent properties.

11. **Insurance.** Lessee shall, at its expense, obtain and maintain for the duration of this Agreement the following insurance coverages:

- a. Statutory Workers' Compensation Insurance in amounts required by law and, unless exempted by applicable law, Employer's Liability Insurance at a minimum of \$500,000.00 for bodily injury by accident each employee and \$500,000.00 for bodily injury by disease each employee, with a policy limit of \$500,000.00 bodily injury by disease; and
- b. Commercial General Liability Insurance, including contractual liability, personal and bodily injury, property damage, advertising injury, premises, and operations coverage at a minimum of \$1,000,000.00 per occurrence and \$1,000,000.00 aggregate.

The Commercial General Liability Insurance policy shall list Lessor as additional insured. Each such policy shall provide that it is not subject to cancellation or reduction in coverage except after thirty (30) days following notice to Lessor. Lessee shall deliver to Lessor certificates of insurance for all insurance policies required hereunder. Lessee shall, within a reasonable period of time prior to the expiration of any such policy, furnish Lessor with certificates of insurance evidencing renewal thereof. Lessor may, in its sole discretion, require Lessee to expand the form and/or increase the amounts of all such insurance.

12. **Waiver Of Subrogation.** Lessee releases and relieves Lessor and waives Lessee's entire rights of recovery against Lessor for loss or damage arising out of or incident to any of the perils insured against under this Agreement as well as any of the perils insured against by any fire and/or extended coverage endorsement insurance policy Lessee might own, whether loss or damage is due to the negligence of Lessor or its agents, employees, and/or invitees. Lessee shall give notice to its insurance carriers that this waiver of subrogation is contained in this Agreement and cause the carriers to accept this waiver of subrogation, to the extent permissible by applicable law.

13. **Personal Property Taxes.** Lessee shall pay or discharge prior to delinquency all

TO LESSEE:

William Barnville, Weatherization Coordinator
Martin County Community Action, Inc. – Corporate Office
314 East Ray Street
P.O. Box 806
Williamston, NC 27892

Any notice so given to either party hereunder shall be conclusively considered to have been received on the third business day following the proper mailing thereof. Each party shall give written notice to the other of any change of address at least thirty (30) days in advance of the date such change is to become effective, whereupon the address so given shall control.

19. **Adherence to Regulations.** Lessee shall comply with all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of and agreements with all governments, departments, commissions, boards, Courts, authorities, agents, officials, officers and other parties, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to Lessee and Lessee's use of the Premises. Further, Lessee shall comply with any and all local, state, federal or other rules and regulations as well as all applicable environmental rules and regulations, including but not limited to such rules and regulations regulating hazardous or similar substances or conditions, their storage or disposal. Lessee shall not intentionally or knowingly use the Premises, for any purpose or in any manner in violation of any law, ordinance, rule, or regulation adopted or imposed by any federal, state, county, municipal body, or other governmental agency. Lessee further agrees to indemnify and hold the City harmless for any and all damage of any kind arising from Lessee's failure to comply with the aforementioned rules and regulations, including, but not limited to, the cost of clean-up, restoration fees, mitigation costs, and attorney's fees caused or occasioned by Lessee.

a. **Rules and Regulations.** Lessee specifically agrees to abide by any and all rules, regulations and policies pertaining to the use of City Hall (such as smoking policy, safety inspections, fire drills, etc.)

20. **Reports.** If requested by the City Manager, Lessee shall provide a report of such matters involving the Premises as may be required by the City Manager.

21. **Relationship of Parties.** In carrying out the terms and conditions of this Agreement, Lessee is an independent party from Lessor and is not an agent or employee of Lessor. Nothing contained in this Agreement shall create or be construed as creating a partnership, joint venture, or employee relationship in the eyes of the law between Lessor and Lessee.

22. **Waiver.** No waiver of any condition, covenant or restriction of this Agreement by either party shall be deemed to imply or constitute a further waiver of the same or any other condition, covenant or restriction of this Agreement.

23. **Surrender of Possession, Holding Over.** Upon the expiration or any other

termination of this Agreement, Lessee shall quit and surrender the Premises to Lessor. Within thirty (30) days of any such expiration or any other termination of this Agreement, Lessee shall retain ownership of and shall remove any items of personal property and shall, upon notice from Lessor, remove any and all improvements and alterations described in such notice, including fixtures, made or placed on or about the Premises by Lessee and, consistent with such notice, return the Premises to its condition prior to any installation or placement of such item(s) or making of any such improvements or alterations thereon. Failure by Lessee to perform the obligations contained in this numbered paragraph 23 within said thirty (30) day period shall entitle Lessor to remove and dispose of said personal property, improvements, and alterations and recover all of its costs and expenses in doing so from Lessee, including but not limited to application of the security deposit provided for herein. If Lessee shall remain in possession of the Premises or any part thereof after the expiration of the term of this Agreement, either with or without Lessor's acquiescence, Lessee shall be deemed a tenant at will, and such holding over by Lessee shall in no way constitute a renewal of this Agreement.

24. **Lessee's Default.** Any default by Lessee in the performance of any of the promises, duties, or obligations herein agreed to by Lessee or imposed upon Lessee by law shall, at Lessor's option, constitute a material breach of this Agreement, giving Lessor, in addition to all other rights and remedies as provided herein and provided by law, the right without notice or demand at the option of the Lessor immediately to a) terminate this Agreement; b) reenter, without liability to anyone for trespass or otherwise, the Premises; and c) collect from Lessee any damages resulting from default, including the cost of repairing the Premises, returning the Premises to its original condition, and any reasonable attorney's fees incurred as a result of default. Upon any reentry pursuant to this paragraph, the Lessor may, without liability to anyone, remove any personal property located on or about the premises, whether belonging to Lessee or otherwise, and dispose of the personal property as Lessor deems proper or to store such property at Lessee's expense. Lessor is further authorized to sell or cause to be sold any such personal property so removed, the proceeds from which may be used to pay any storage charges against the property or to satisfy any delinquent rental or other obligation due Lessor by Lessee.

25. **Illegal Provisions, Governing Law.** If any provision of this Agreement shall be declared illegal, void, or unenforceable, the other provisions shall not be affected, but shall remain in full force and effect. This Agreement shall be governed by and construed in accordance with the laws of North Carolina.

26. **Entire Agreement.** This Agreement contains the entire agreement between the parties hereto with respect to the Lessee's use and occupancy of said Premises and all prior and contemporaneous agreements are merged herein, and this instrument shall not be altered or modified except in writing signed by all parties hereto.

(The Remainder Of This Page Intentionally Left Blank.)

IN WITNESS WHEREOF, after due authority given, the parties hereto have executed this Agreement as of the date first above written.

PRE-AUDIT CERTIFICATE

This Agreement has been pre-audited in accordance with North Carolina General Statute § 159-28 and in the manner required by the Local Government Budget and Fiscal Control Act.

Matt Rauschenbach, Chief Financial Officer
City of Washington

LESSOR:

CITY OF WASHINGTON

ATTEST:

Cynthia S. Bennett, City Clerk
City of Washington

By: _____
Peter T. Connet, Interim City Manager
City of Washington

LESSEE:

By: _____
William Barnville, Weatherization Coordinator
Martin County Community Action, Inc.

STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT

I, _____, a Notary Public of the State and County aforesaid, certify that **CYNTHIA S. BENNETT**, personally appeared before me this day and acknowledged that she is City Clerk of the **CITY OF WASHINGTON**, a North Carolina municipal corporation, and as the act of the corporation, the foregoing instrument was signed in its name by **PETER T. CONNET**, its Interim City Manager, sealed with its corporate seal and attested by herself as its City Clerk.

WITNESS my hand and official seal, this the ____ day of _____, 20__.

NOTARY PUBLIC

My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF _____

Before me, a Notary Public in and for the County and State aforesaid, this day personally appeared **WILLIAM BARNVILLE** and acknowledged that he is Weatherization Coordinator of **MARTIN COUNTY COMMUNITY ACTION, INC.**, and acknowledged the due execution by him of the foregoing instrument for the purposes therein expressed.

Witness my hand and official seal, this the ____ day of _____, 20__.

NOTARY PUBLIC

My Commission expires: _____



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Allen Lewis, Public Works Director *Allen Lewis*
Date: 12-03-10
Subject: Authorize the Manager to sign contract with T.A. Loving Company for \$3,800,902 for contract for stormwater improvements in Washington.

Applicant Presentation: N/A
Staff Presentation: Allen Lewis

RECOMMENDATION:

I move that Council authorize the Manager to sign a construction contract with T.A. Loving Company for stormwater improvements in various parts of the City in the amount of \$3,800,902.

BACKGROUND AND FINDINGS:

Staff has negotiated with T.A. Loving to include the most effective portions of the drainage improvements that were originally bid in the project, as well as the Northwood area of Smallwood. As proposed, these improvements include improvements in the Jack’s Creek drainage basin from a point just south of 8th Street, southward and eastward toward Park Drive. This portion of the project will include replacing the culvert at/near the intersection of 7th and Harvey Streets, removing and/or upgrading the culvert between 7th Street and John Small Avenue and installing a submersible pump at the Jack’s Creek stormwater pump station. Improvements within Smallwood include replacing undersized pipe in the Northwood Road area near Rowan Place and Eden Drive as well as replacing undersized pipes under and/or along Reed Drive, Alderson Road and Lawson Road and laying the slopes back along the ditch east of South Reed Drive to Keysville Road. The Airport Canal drainage area will see additional storage capacity in swales in and around Heritage Park, siltation removed from sections of the canal bottom as well as undersized culverts upgraded under the Wilco-Hess station and the Grimes farm path. See attached maps for locations and narrative describing the proposed work for more information. A revised recommended budget is also attached. These projects, once completed, should help reduce the frequency and duration of flooding during severe rain events.

PREVIOUS LEGISLATIVE ACTION

Most recently: tentatively awarded contract to T.A. Loving Company – November 8, 2010.

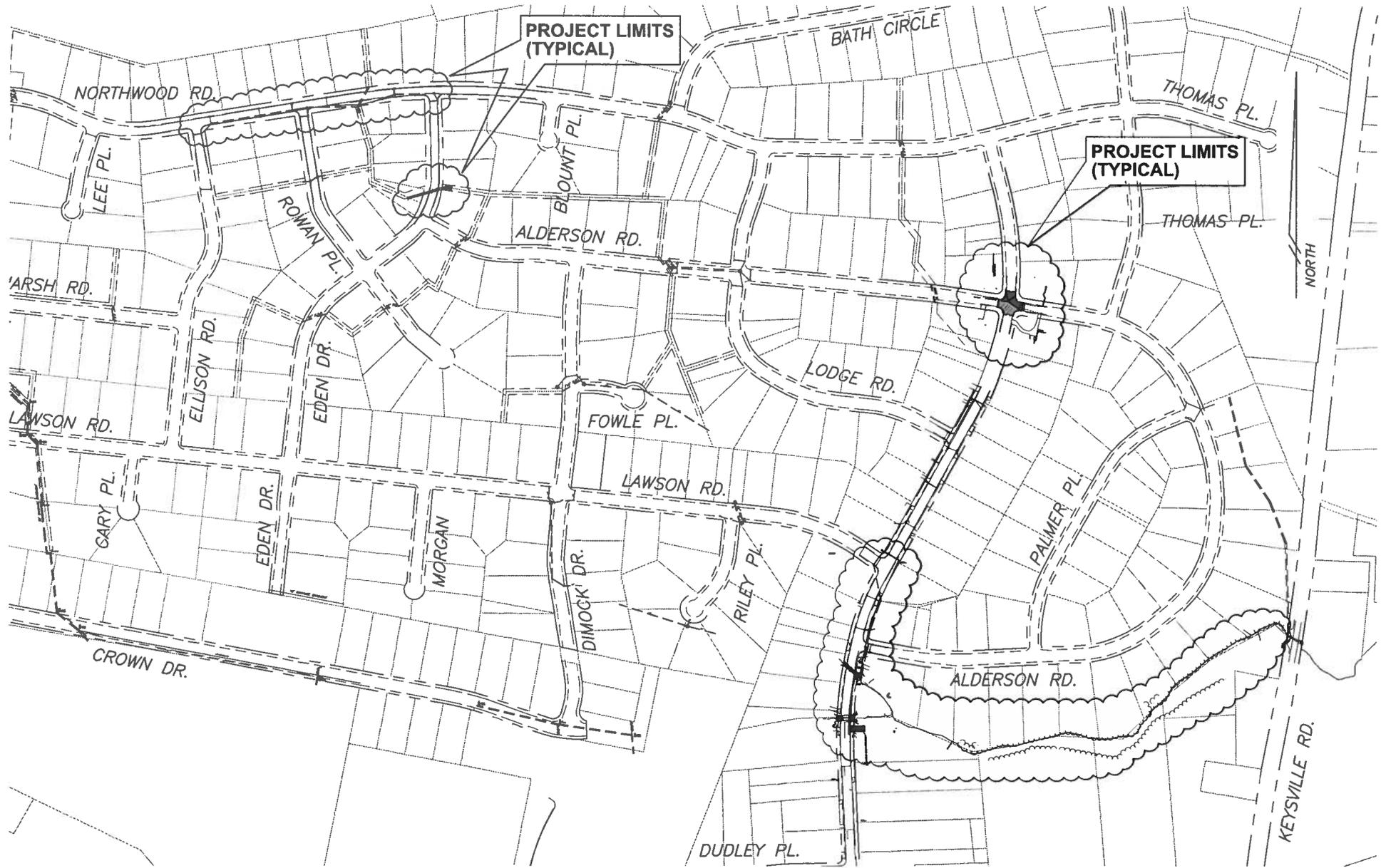
FISCAL IMPACT

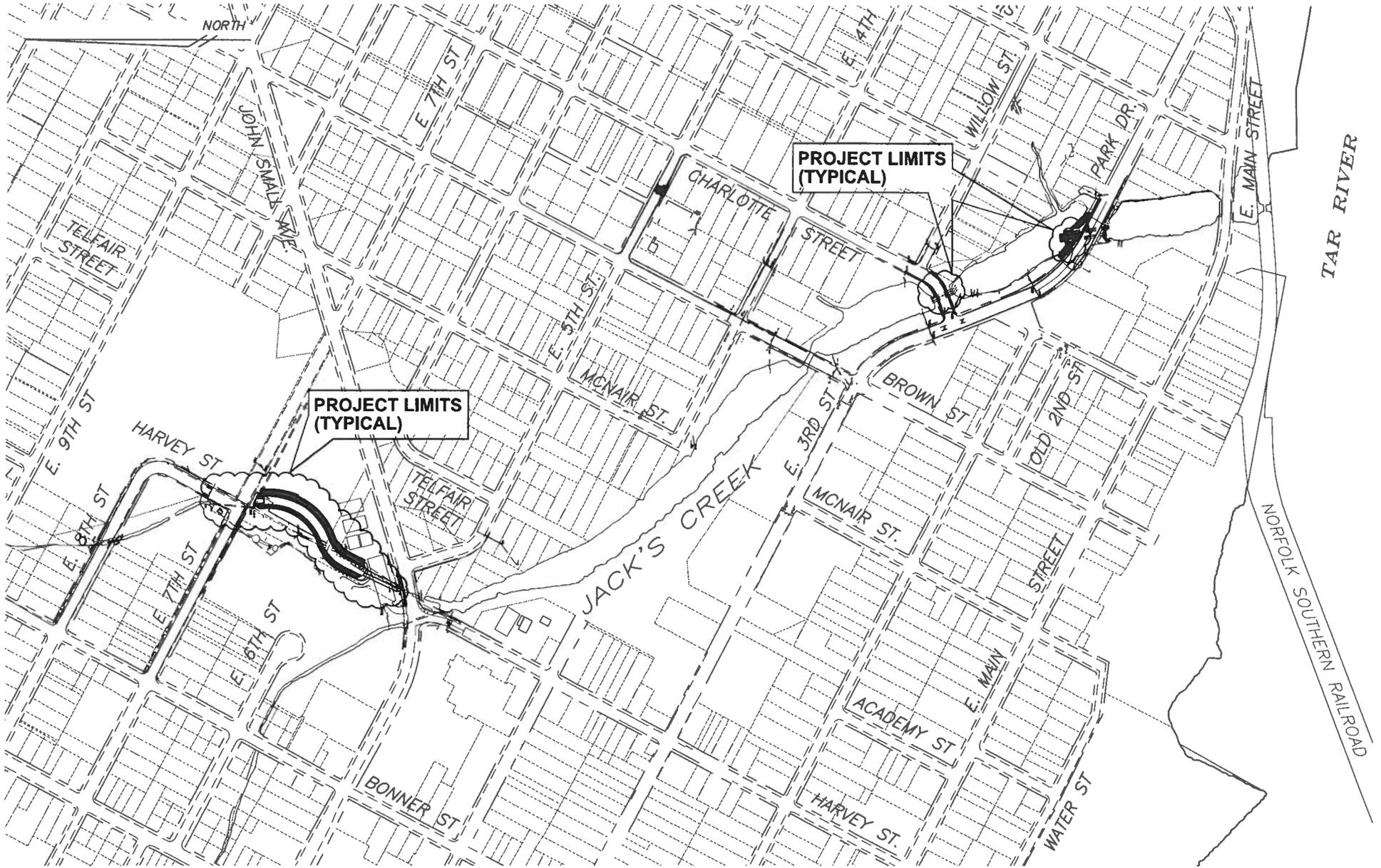
X Currently Budgeted (Account 58-90-5710-7400) Requires additional appropriation No Fiscal Impact

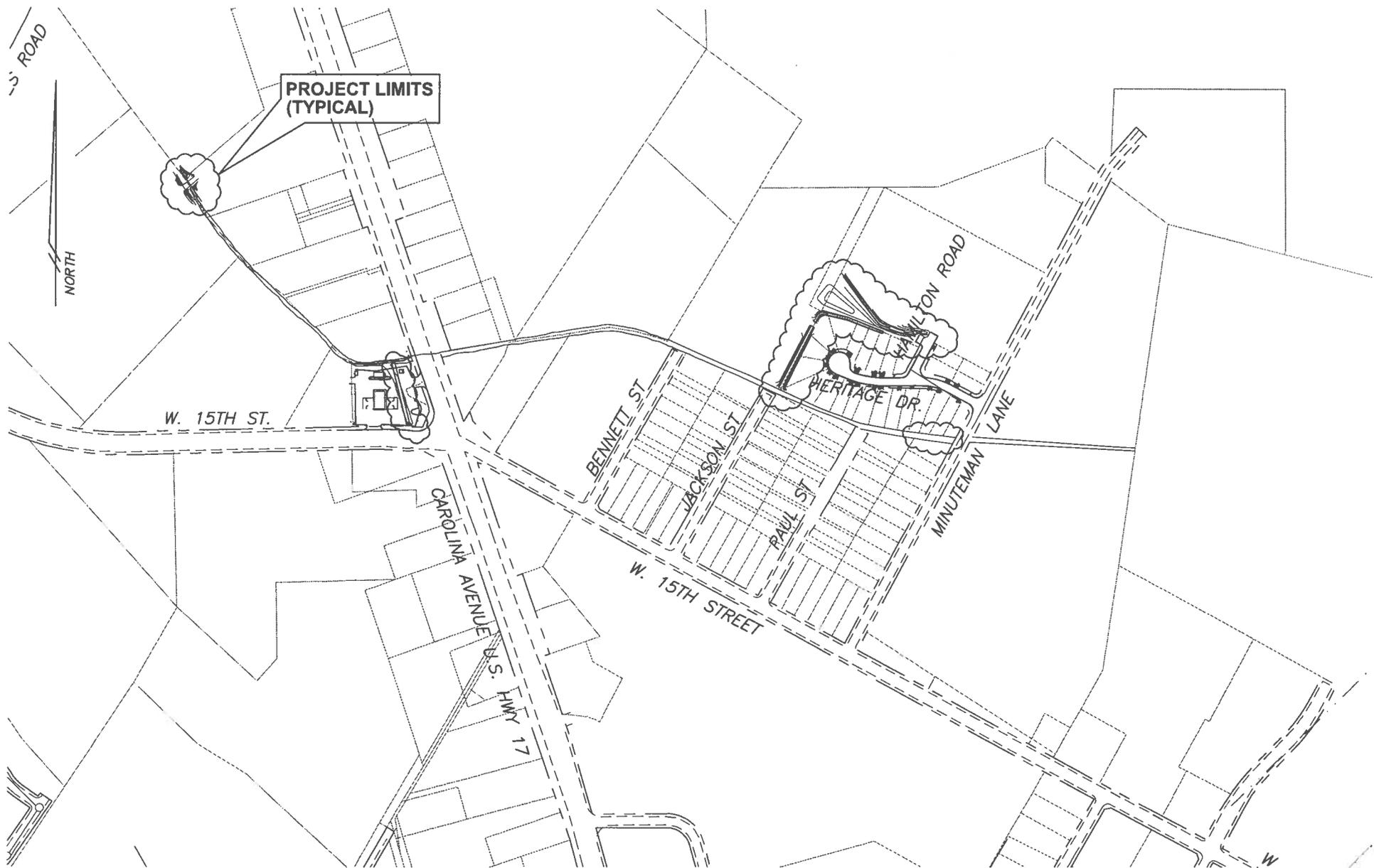
SUPPORTING DOCUMENTS

Project maps, narrative and revised budget.

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: OTC Concur _____ Recommend Denial _____ No Recommendation 12/7/10 Date







Jack's Creek Drainage Improvements

In the original bid package, there was a bid alternate for an automated bar screen installation at the stormwater pump station at Park Drive that included a submersible pump. In the month since the original bid was opened, we have time to better review the entire package and determined that the submersible pump portion of this alternate to be a very worthwhile project. Originally, we had recommended laying the slopes of the creek back between John Small Avenue and Park Drive. You may recall that this alternate was priced at \$111,625. Laying the slopes back would increase the storage capacity by approximately 75,000 cubic feet. However, installing the submersible pump at the stormwater pump station at Park Drive will allow us to pump the creek down as much as another four (4) feet, increasing storage capacity by as much as an estimated 886,000 cubic feet. As a result, we have asked the contractor to break the submersible pump out of the bid alternate for the automated bar screen and they have done so. The cost for this work is \$248,937. While more than double the price of the alternate for laying the slopes back, the increased storage capacity is almost twelvefold. Other work in this basin includes removing the culvert parallel with the old Ed Tech building, replacing the culvert under the intersection of 7th and Harvey Streets and removing Charlotte Street culverts altogether.

Smallwood Drainage Improvements

Starting downstream, the slopes of the ditch between South Reed Drive and Keysville Road will be laid back to increase capacity. Culverts under and/or along Reed Drive, from Dudley Place to just north of Lawson Road will be upgraded and new catch basins will be installed along the curbs of Reed, Alderson, and Lawson to allow water to get off the road quicker. The same type of culvert and inlet work will take place in the Northwood area of Smallwood including Northwood Road, Rowan Place and Eden Drive.

Airport Canal Drainage Improvements

This project includes the replacement of the culvert under the Grimes farm path as well as the culvert underneath the parking lot of the Wilco-Hess station. Additionally, drainage swales around Heritage Park will be re-graded and widened to increase storage capacity. Approximately two feet of accumulated siltation will be removed from a portion of Airport Canal just downstream of Minuteman Lane.

City of Washington - 2010 Stormwater Improvements

Rivers & Associates' Recommended Budget - 12/03/10

2,887,914	Base Bid
105,570	Alternate 1 Modified (Smallwood / North of Lawson) - Note 1
558,481	Alternate 4 (Smallwood / Northwood Road) - Note 2
248,937	Alternate 5 (Submersible Pump) - Note 2
<u>3,800,902</u>	
3,800,902	Construction bid award
210,000	Electrical relocation
243,316	Contingency 6.40%
75,000	Topographic surveys & easements
308,000	Design fee
91,005	Resident project representative - Note 3
34,000	Northwood & submersible pump engineering
155,950	Healthplus acquisition
50,000	Healthplus demolition - Note 4
12,665	Permit Fees
6,512	Geotechnical/environmental surveys (environmental)
12,650	Bond Counsel
<u>5,000,000</u>	

Notes:

1. This item has been modified from the original bid in order to reduce the scope and price.
2. This item was not included in the original bid and represents a negotiated amount with the low bidder.
3. This item has been reduced from the contract amount based upon a reduced scope.
4. Estimate provided by the City of Washington.



City of Washington
REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Philip Mobley, Director Parks and Recreation *PWM*
Date: December 6, 2010
Subject: Approve and Authorize Director to execute Waterfront Docking Agreement for NC Estuarium River Rover
Applicant Presentation: None
Staff Presentation:

RECOMMENDATION:

- 1. I move City Council Approves and Authorizes the Director of Parks and Recreation or his designee to execute the Waterfront Docking Agreement for NC Estuarium, River Rover.

BACKGROUND AND FINDINGS:

Staff and the City Attorney have been working with the NC Estuarium to update the Waterfront Docking Agreement for the River Rover. The River Rover gives tours of the Pamlico and Tar Rivers to patrons of the NC Estuarium.

The Washington Recreation Advisory Committee has approved this proposed updated Waterfront Docking Agreement for NC Estuarium when we reviewed the docking agreement with the R/V Riggs, the ECU Research Vessel.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

Proposed Waterfront Docking Agreement for NC Estuarium.

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: *PAC* Concur _____ Recommend Denial _____ No Recommendation *12/7/10* Date
December 13, 2010
Page 120 of 219

reasonable efforts to contact Boat Owner and notify Boat Owner of dangerous conditions requiring Boat Owner's attention, but Waterfront Docks assumes no responsibility or liability for the same, including but not limited to tending mooring lines or moving boats from berths to which they are or were assigned. Boat Owner further agrees to provide Waterfront Docks a key or combination to his Boat lock, location of motor key and written starting instructions. It is expressly agreed that Waterfront Docks shall not be liable to Boat Owner if for any reason Waterfront Docks fails to move the Boat.

7. **RATIFICATION OF ACTIONS.** Notwithstanding anything herein to the contrary and although Waterfront Docks has absolutely no obligation to do so, should Waterfront Docks enter upon the Boat or take any action to protect the Boat, which action is hereby approved and authorized by Boat Owner, including but not limited to relocating the Boat, installing mooring lines, or pumping the Boat, or similar services, Boat Owner agrees to reimburse and indemnify Waterfront Docks as more specifically provided for in the Rules and Regulations for Washington Waterfront Docking (hereinafter referred to as "Rules") and to hold Waterfront Docks, its representatives, agents, or contractors harmless for any loss or damage to the Boat as the result of such action undertaken regardless of the action taken or circumstances giving rise to the action.

8. **USE OF SLIP.** Boat Owner shall not be entitled to berth any other boat at the Slip other than as identified above without the express written consent of Waterfront Docks. Boat Owner shall not use the Slip as rental property, a dwelling, or for any purpose other than the purposes stated herein without prior written consent of Waterfront Docks. Boat Owner shall have no interest in the Slip other than the right to use said space in accordance with the terms and conditions of this Agreement and any rules and regulations as Waterfront Docks may make respecting the use thereof.

a. Notwithstanding anything contained herein or in the attached Rules to the contrary, Waterfront Docks hereby authorizes Boat Owner to utilize said Slip to berth and operate the River Rover on the City of Washington waterfront to give tours of the Pamlico and Tar Rivers to patrons of the North Carolina Estuarium. Boat Owner shall perform all such operations and activities associated with its River Rover operations in such a manner that such operations and activities do not interfere with, hinder, or in any way impair the public's use of the waterfront docks or the use of other slips by other boat owners. Boat Owner agrees to cooperate in all respects with all of the parties, including the public, who presently utilize or may in the future be utilizing the waterfront docks and agrees to coordinate its activities insofar as possible to achieve an orderly, safe, and harmonious joint usage thereof by all parties.

9. **HAZARDOUS MATERIALS.** Boat Owner covenants and agrees to comply with all applicable environmental and all other federal, state and local governmental statutes, ordinances, rules and regulations relating to the presence of hazardous substances, hazardous wastes, pollutants or contaminants. Boat Owner agrees and does hereby fully indemnify and shall hold Waterfront Docks absolutely harmless from any loss, damage, or expense, including reasonable attorney's fees and costs and expenses of any appeal, which Waterfront Docks may incur or suffer by reason of any claim or liability arising from Boat Owner's noncompliance with applicable environmental laws and the terms of this paragraph. Boat Owner specifically covenants and agrees that no hazardous substances, hazardous wastes or waste by-products, pollutants or contaminants, shall be dumped in any trash receptacle, or otherwise, in, on or about the Slip or Waterfront Docks' facilities, and that all such substances shall be stored or disposed of in specially marked containers/areas. These covenants and indemnities shall survive the expiration or termination of this Agreement.

a. **REFUELING.** The Boat may not be refueled and Boat Owner may not refuel any other boat at the waterfront docks without prior consent of Waterfront Docks and approval of the Fire Marshal. Prior to any such refueling, Boat Owner must submit to and receive approval from the City of Washington of a Spill Prevention and Containment Plan.

10. **NO ASSIGNMENT OR SUBLICENSING.** This Agreement is not transferable or assignable and runs to Boat Owner only. Boat Owner may not assign this Agreement or sublicense the Slip. In the event Boat Owner sells or transfers his Boat, Waterfront Docks shall have the right to cancel this Agreement or may transfer the Slip to the new owner, at Waterfront Docks' sole election and discretion. In the event Waterfront Docks chooses to transfer the Slip, the new owner shall be required to execute a new Waterfront Docking Agreement with Waterfront Docks as a prerequisite to such transfer.

11. **INSURANCE.** Boat Owner shall, throughout the term of this Agreement and any renewal thereof, at its own expense, keep and maintain in full force and effect the following insurance coverages.

- a. Statutory workers' compensation insurance or the maritime equivalent in amounts required by law and, unless exempted by applicable law, employer's liability insurance at a minimum of \$500,000.00 for bodily injury by accident each employee and \$500,000.00 for bodily injury by disease each employee, with a policy limit of \$500,000.00 by disease.
- b. Commercial general liability insurance, including contractual liability, personal and bodily injury, property damage, advertising injury, premises, and operations coverage at a minimum of \$1 million per occurrence and \$1 million aggregate.
- c. Protection and indemnity insurance insuring against claims of bodily injury, death, property damage, or other loss, in a coverage amount of not less than \$1 million.
- d. At the option of Boat Owner, the above limits may be less than stipulated herein so long as Boat Owner obtains and maintains an excess policy providing the additional limits needed. This form of coverage must be approved by Waterfront Docks and will only be acceptable when both the primary and excess policies include the coverage and endorsements required herein.

Each such policy shall list Waterfront Docks as additional insured and provide that it is not subject to cancellation or reduction in coverage except after thirty (30) days following notice to Waterfront Docks. Boat Owner shall deliver to Waterfront Docks certificates of insurance for all insurance policies required hereunder. Boat Owner shall, within a reasonable time prior to the expiration of any such policy, furnish

Waterfront Docks with certificates of insurance evidencing renewal thereof. Waterfront Docks may, in its sole discretion, require Boat Owner to expand the form and/or increase the amounts of all such insurance.

12. **WAIVER OF SUBROGATION.** Boat Owner releases and relieves Waterfront Docks and waives Boat Owner's entire rights of recovery against Waterfront Docks for loss or damage arising out of or incident to any of the perils insured against under this Agreement as well as any of the perils insured against by any fire and/or extended coverage endorsement insurance policy Boat Owner might own, whether loss or damage is due to the negligence of Waterfront Docks or their agents, employees, and/or invitees. Boat Owner shall give notice to its insurance carriers that this waiver of subrogation is contained in this Agreement and cause the carriers to accept this waiver of subrogation, to the extent permissible by applicable law.

13. **UTILITIES.** The provision of utilities, including water, sewer, and electricity, and associated on-site services, shall be covered under Boat Owner's current arrangement with the City, as the same may be amended or revised by the City.

14. **CHANGES TO COMMON AREA/SLIP ASSIGNMENT.** Waterfront Docks reserves the right, without recourse to Boat Owner, to relocate and/or change any access ways, parking and similar areas, as may be necessary in Waterfront Docks' sole discretion for the efficient operation of the waterfront docks or for any other purpose. Waterfront Docks may permanently reassign the Boat to another slip or location only upon thirty (30) days written notice. In which case, said written notice shall serve as an amendment hereto, but only as to the slip or location to be licensed and shall not affect any other provision hereof unless such further revision is reduced to writing and signed by the parties hereto. Waterfront Docks reserves the right, without recourse to Boat Owner, to temporarily relocate the Boat to another location on the Waterfront, including another slip, in Waterfront Docks' sole discretion. Boat Owner shall relocate their boat as and when directed by Waterfront Docks if practical and reasonable. If Boat Owner's assistance in such temporary relocation is not practical and reasonable, Waterfront Docks is authorized to perform such temporary relocation of the Boat. The term "Slip" as used herein shall also apply to the slip or location to which the Boat is permanently reassigned or temporarily relocated as provided for hereinabove.

15. **SECURING THE BOAT.** The Boat shall be secured in its Slip in a manner acceptable to Waterfront Docks. If Waterfront Docks secures the Boat, Waterfront Docks is entitled to reimbursement and indemnity as more specifically provided for in the attached Rules.

16. **COMMON AREAS.** This Agreement grants the Boat Owner only a license to use the Slip and non-exclusive access to piers, docks, sidewalks, parking lots and other nearby common areas that are reasonably necessary to use the Slip.

17. **RULES AND REGULATIONS.** Boat Owner shall comply with all rules and regulations of Waterfront Docks, including but not limited to the Rules, as the same may be amended from time to time, during the existence of this Agreement. Any crew or guest of the Boat Owner are the responsibility of the Boat Owner and must comply with the Rules. The current version of said Rules is attached hereto as Exhibit "A" and is incorporated herein by reference. Boat Owner acknowledges having received and read the Rules currently in effect. Waterfront Docks reserves the right to reasonably amend the Rules in its sole and absolute discretion from time to time, and Boat Owner further agrees to comply with such amended Rules. Any amended Rules shall also automatically be incorporated herein. If the Boat Owner or those under the responsibility of Boat Owner fail to comply with the Rules or otherwise cause disorder, depredations or indecorous conduct that might injure a person, cause damage to property, or harm Waterfront Docks' reputation, the same shall be cause for immediate removal of the Boat, without prejudicing Waterfront Docks' right to damages and any financial obligation of Boat Owner to Waterfront Docks.

18. **DEFAULT.** Boat Owner shall be in default under this Agreement if any of the following occur.

- a. Boat Owner becomes insolvent, voluntarily or involuntarily bankrupt, or if a receiver, assignee, or other liquidating officer is appointed for Boat Owner or the business of Boat Owner. In no event shall this Agreement or any rights or privileges hereunder be an asset of Boat Owner under any bankruptcy, insolvency, or reorganization proceedings.
- b. Boat Owner violates any rule or regulation of Waterfront Docks.
- c. Boat Owner violates, breaches, or fails to keep or perform any covenant, term or condition of this Agreement.

19. **NO WAIVER.** Waterfront Docks shall not be deemed to have waived any right, power, privilege or remedy unless such waiver is in writing and duly executed by Waterfront Docks. No failure or delay in the exercise of any right or remedy shall be construed as a waiver of such right or remedy, and no partial exercise of any right or remedy shall preclude the further exercise of such right or remedy.

20. **REMEDIES.** SHOULD BOAT OWNER FAIL TO COMPLY WITH ANY OF THE PROVISIONS OF THIS AGREEMENT, WATERFRONT DOCKS MAY INSTITUTE ANY ACTION, SUIT OR PROCEEDING TO ENFORCE THE TERMS OF THIS AGREEMENT OR TO COLLECT ANY AMOUNTS DUE HEREUNDER, AND WATERFRONT DOCKS SHALL BE ENTITLED TO REIMBURSEMENT FROM BOAT OWNER FOR ALL COSTS AND EXPENSES REASONABLY INCURRED IN ENFORCING ITS RIGHTS HEREUNDER, INCLUDING BUT NOT LIMITED TO, COLLECTION OF ALL COURT COSTS AND REASONABLE ATTORNEYS' FEES.

21. **INDEMNIFICATION.** Boat Owner does for itself, its officials, agents, successors, representatives, assigns, customers, students, clients, guests and invitees, hereby unconditionally release, hold harmless, and will indemnify, defend, acquit, and forever discharge the City of Washington, its respective present and former employees and elected officials, in both their individual and official capacities, agents, representatives, contractors, attorneys, insureds, successors, and assigns, and each of them, respectively, of and from all and any manner of action or actions, cause and causes of actions, claims, demands, costs, expenses, attorneys' fees, and consequential, general, special, and punitive damages or liabilities, known or unknown, on account of, or in any way related to or growing out of this Agreement, including but not limited to Boat Owner's operation of the Boat, Boat Owner's operations as well as activities and/or Boat Owner's use of the Slip and

waterfront docks. It is the intent and understanding of the parties that this indemnification shall include but not be limited to 1) any injury, including death, to any person; 2) any claim arising from any accident, fire, or casualty from any cause whatsoever, including negligence; and 3) any claim of Boat Owner’s customers, students, clients, invitees, guests, and/or boarders of the Boat caused by, related to, or arising from Boat Owner’s use of the Slip, Boat Owner’s contemplated operations as well as activities or this Agreement.

22. **ADHERENCE TO REGULATIONS.** Boat Owner agrees to comply with all applicable laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of and agreements with all governments, departments, commissions, boards, courts, authorities, agencies, officials, officers and other parties, foreseen or unforeseen, ordinary or extraordinary, which now or anytime hereafter may be applicable to the Slip, the waterfront docks, public waters, the Boat, any improvements made by Boat Owner pursuant to advance written consent of Waterfront Docks, and Boat Owner’s operation of the Boat, including but not limited to the operations as well as activities contemplated hereby. Boat Owner shall indemnify and hold Waterfront Docks harmless for any and all damage of any kind arising from Boat Owner’s failure to comply with the aforementioned rules and regulations, including attorney’s fees.

23. **PERSONAL PROPERTY TAXES.** Boat Owner shall pay or discharge prior to delinquency all taxes and other charges assessed against or levied upon its Boat, trade fixtures, equipment, furnishings, and its other personal property located at the Slip.

24. **REPORTING REQUIREMENTS.** Boat Owner shall keep or cause to be kept complete records of its operations and activities as a result of this Agreement and any additional records reasonably requested and, upon request, provide any such records or reports required by the City Council or City Manager.

25. **RELATIONSHIP OF PARTIES.** In carrying out the terms and conditions of this Agreement, Boat Owner is an independent contractor and is not an agent or employee of Waterfront Docks. Nothing contained in this Agreement shall create or be construed as creating a partnership, joint venture, or employee relationship between Waterfront Docks and Boat Owner.

26. **ILLEGAL PROVISIONS, GOVERNING LAW.** If any provision of this Agreement shall be declared illegal, void, or unenforceable, the other provisions shall not be affected, but shall remain in full force and effect. This Agreement shall be governed by and construed in accordance with the laws of North Carolina.

IN WITNESS WHEREOF, the parties have duly executed this Agreement this the day and year first above written.

BOAT OWNER

CITY OF WASHINGTON

By: _____ (SEAL) By: _____ (SEAL)
Thomas M. Stroud, III, Deputy Director Name: _____
Partnership for the Sounds, Inc. Title _____

Exhibit A

Rules and Regulations For Washington Waterfront Docking

1. All vessels must register with the dock attendant (“Management”) upon arrival to the Washington Waterfront Docks (“the Waterfront”). “Management” may also refer to the City of Washington (“City”) where required by context.
2. Major repairs of such extent and nature as are normally performed at boat yard facilities, including but not limited to rebuilding or replacing engines, and the sanding, painting, or refinishing of any portion of a boat, shall not be performed at or near a slip or the Waterfront. No other type of work may be performed at or near a slip or the Waterfront unless the boat owner obtains advance approval from Management and the contractor who intends to perform such work satisfies Management that the contractor possesses adequate insurance coverage.
3. Boat owner shall not make any alterations, additions or improvements in or to a slip, the Waterfront or to any adjacent common area without prior written approval from Management. In addition, no dock boxes, steps or any other objects can be installed or kept on the docks or piers without the written consent of Management. No flammable materials, cleaners or pollutants may be kept on the docks or piers. Shore power cables, hoses, dock lines or any other connecting apparatus between the dock and a boat owner’s vessel must be kept safely clear of both the passageway on the dock or pier and clear of the fairway to adjacent slips.
4. At all times when on the Waterfront property, or on any boat therein, boat owners shall conduct themselves so as to not violate any City Ordinance nor to create any annoyance, hazard, or nuisance at or to the Waterfront, other boat owners, their guests or other patrons of the Waterfront. Boat owners further accept responsibility for insuring like conduct of their guests, crew or any others in their company.
5. Absolutely no pollutants, including but not limited to sewage, oil, or fuel, will be dumped, pumped or allowed to run into the waters surrounding the Waterfront. All sewage shall be disposed of at the proper facility for such purpose.
6. No swimming, diving or crabbing is permitted at the Waterfront.
7. No advertising or soliciting, including “For Sale” signs, is permitted on any boat or slip at the Waterfront without prior written consent of Management.
8. Vessels may tie to a Waterfront dock only by the cleats or pilings provided for such purpose. No vessel nor any other gear or items may be tied to any other structure, fixture or point along the Waterfront.
9. No commercial vessels may be berthed at the Waterfront and no commercial transactions shall be permitted from the Waterfront without the prior written consent of Management. Soliciting of any kind for any purpose is prohibited without prior written consent of Management.
10. Open fires for cooking, grilling or for any reason are strictly prohibited on the piers and docks at the Waterfront. Boat owners accept liability for any open flames aboard their vessel that may, directly or indirectly, endanger other vessels, docks, piers or any other property at the Waterfront.
11. Laundry is not to be hung from a vessel or the docks.
12. Pets must be leashed at all times when not aboard a vessel. No pets are allowed on the wetland boardwalk.
13. To be berthed at the Waterfront, a vessel must be registered or documented, identified, marked, equipped and maintained as required by law and safe practice. At all times, vessels berthed at the Waterfront must be in a clean, seaworthy, sanitary, fully operational condition, dry within, and regularly repaired and maintained. No vessel berthed at the Waterfront shall be an eyesore or

Adopted by City Council – 3/9/2009

constitute a fire, safety, sinking or pollution hazard. Any vessel considered to be unsafe; a pollution hazard; threatening to the dock structure, other vessels, or to people; inappropriately sized or shaped; or whose watertight integrity is questionable will be required to vacate the Waterfront.

14. Unsafe conditions or practices on the Waterfront or aboard a vessel are prohibited. Such conditions must be corrected or practices terminated or the responsible party and/or the vessel must vacate the Waterfront at the discretion and direction of Management.
15. Slips, piers, docks, and surrounding areas shall be kept clean, clear and trash free. No garbage, trash or any other materials in violation of MARPOL 73/78 regulations, as may be amended, will be thrown overboard. Shore disposal receptacles intended for that purpose will be utilized.
16. Consumption of alcoholic beverages is prohibited on the Waterfront except while aboard a vessel.
17. Management reserves the right to have raised and repaired at the owner's expense any vessel which sinks for any reason while at the Waterfront.
18. NO REFUNDS will be given.
19. All boats must have an assigned space. Except for slips that are governed by a Waterfront Docking Agreement, assigned spaces are subject to change in Management's discretion. Additional boats, regardless of type or size, are not permitted to be placed on the walkways, docks, or finger piers, tied along side another boat or placed on shore. Rafting will only be allowed in conjunction with special events authorized by Management.
20. Refueling any vessel by any means (including portable gas cans) is prohibited at the Waterfront unless consented to by Management and approved by the Fire Marshal. See Section 2210.4 of the Fire Code, as may be amended.
21. Boat owners shall, in times of unusual, predictable water surges, such as a tropical depression or hurricane, move their boats from the Waterfront, including slips, within a reasonable period of time after the Pamlico Sound area is given a NOAA Weather Warning Condition. If a boat owner fails or refuses to remove their boat within said reasonable period of time, Management shall have the right, but not the obligation, to relocate a boat and the owner of any boat that is relocated shall reimburse and indemnify the City as more specifically provided for herein and not hold the City, its representatives, agents, or contractors liable or responsible for damages done to a boat during relocation, subsequent mooring, or anchorage; during a storm; or any incident thereafter. Should conditions prohibit any movement of a boat from the Waterfront, including a slip, boat owners assume all liability for any damages suffered to the property, pier, or other facilities of the City. In addition to all of the other liabilities and obligations of boat owners to the City set forth in those Rules and Regulations and any Waterfront Docking Agreement that may be applicable, boat owners shall pay the City for any and all damages suffered by the City as a result of any damage caused by a boat owner or their boat to the City's property, including but not limited to the Waterfront, slip, docks, pilings, bulkhead, utility lines, and any other real or personal property in which the City has an interest. As used herein, damages include all damages which the City may suffer, including but not limited to property damage, business interruption damage, loss of rentals, personal injury, and any other damages, including incidental and consequential damages, be they direct or indirect and regardless of whether the damage is aggravated or incurred in whole or in part by the negligence of the City or its agents, representatives, employees, invitees, partners, or any other person, firm or entity.
22. Live-aboards are not permitted except in the case of transient vessels.
23. If the owner of a vessel tied to the Waterfront cannot be determined or if the owner refuses to sign a registration form, transient dockage fees will immediately and automatically be applied and shall be assessed in the event the owner is identified. Non-payment of such fees within 90 days will cause the vessel to be declared "abandoned".

City Council Adopted – 3/9/2009

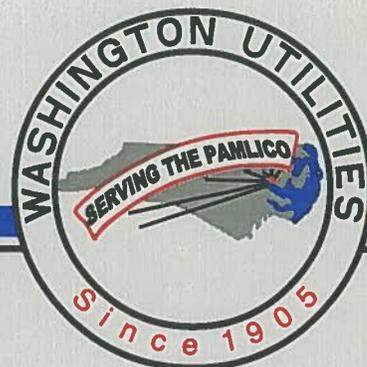
24. Any action, including but not limited to relocation of a boat, installing mooring lines, pumping a boat, or similar services, concerning a boat deemed by Management as necessary to be taken, or otherwise authorized to be taken pursuant to these Rules or a Waterfront Docking Agreement, may be taken by Management or a third party at Management's direction. It is expressly understood that Management shall not be liable to a boat owner if for any reason Management fails to take any such action under any circumstance. Boat owners expressly indemnify and hold harmless Management from any and all claims that may arise from Management taking any action contemplated hereby. In the event Management takes any such action contemplated hereby, boat owners shall reimburse Management for the labor, materials, and related expenses associated with such action at the prevailing Management's rates or market rates, if applicable, within ten (10) days upon receipt of a bill for such expenses. In the event a third party takes any such action contemplated hereby at Management's direction, boat owners shall be responsible for and pay the cost charged by said third party within ten (10) days upon receipt of a bill for such charges. Management shall have a lien against and security interest in a boat, her appurtenances and contents, for any unpaid sums due related to said boat, including but not limited to sums arising from these Rules or a Waterfront Docking Agreement and/or sums due for damage caused or contributed to by a boat owner, a boat owner's guests, or an owner's boat to any piers or property of Management or to any other person.
25. Management reserves the right to revoke docking privileges to any person or vessel failing to comply with a directive from Management, these Rules and Regulations, or a Waterfront Docking Agreement.

City Council Adopted – 3/9/2009

Washington Electric Utilities

A City of Washington Enterprise

Post Office Box 1988 • Washington, North Carolina 27889-1988



Office of the Director

MEMORANDUM

To: Pete Connet, Interim City Manager

From: Keith Hardt, P.E.,  Electric Utilities Director

Ref: Load Management Device Report

Date: 1 December 2010

Listed herein is the load management switch installation activity for October 2010 and November 2010.

Total Load Management Switch Installations	78
<hr/>	
Air Conditioner/Heat Pump Control Installations	68
Auxiliary Heat Strip Control Installations	43
Water Heater Control Installations	35
Total Appliance Control Installations for period	146





City of Washington
MEMORANDUM

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, CFO
Date: December 13, 2010
Subject: Report set up of Load Management Department in the Electric Fund and reallocation of \$300,000 funding from Substation Department to Load Management Department.
Applicant Presentation: N/A
Staff Presentation: N/A

RECOMMENDATION:

Transfer load management program funding into a separate department as discussed in the November Council meeting.

Electric Fund:

-Decreased Substation Department in the following account and amount:
 35-90-8370-7000 Non Capitalized Purchases (\$298,412)

-Increased Load Management Department in the following accounts and amounts:

35-90-8375-0200	Salaries	\$78,234
35-90-8375-0500	FICA	5,985
35-90-8375-0600	Group Insurance	5,850
35-90-8375-0700	Retirement	5,046
35-90-8375-0701	Employer 401K	320
35-90-8375-0705	Employer 457	1,280
35-90-8375-1201	Marketing	20,000
35-90-8375-1700	Maint/Repair Vehicles	2,412
35-90-8375-4500	Contract Services	80,485
35-90-8375-5600	Materials	<u>98,800</u>
Total		\$298,412

BACKGROUND AND FINDINGS:

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation
 No Fiscal Impact

SUPPORTING DOCUMENTS

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: PR Concur 12/7/10 Date December 13, 2010 Recommend Denial _____ No Recommendation
 Page 129 of 219



City of Washington
MEMORANDUM

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, C.F.O.
Date: December 13, 2010
Subject: IT Managed Services

Council authorized the Manager to execute an IT managed services agreement contingent on the City Attorney's review. Franz modified the agreement to include some insurance, waiver of subrogation, indemnification, and other requirements. SoundSide was able to comply with all modifications except the professional errors and omissions liability coverage. The NC League of Municipalities strongly recommended that we include this coverage in our agreement. SoundSide has acquired the errors and omissions insurance and the City agreed to split the cost with them resulting in a \$150/ month increase.

**STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT**

THIS CONTRACT entered into and effective as of the 15th day of November, 2010, by and between **The SoundSide Group, Inc.**, a corporation organized and existing under the laws of the State of North Carolina, and the **City of Washington**, a municipal corporation of the State of North Carolina.

WITNESSETH:

WHEREAS, The SoundSide Group, Inc. (hereinafter "SoundSide") is engaged in the business of providing computer and network support services to public and private businesses.

WHEREAS, the City of Washington (hereinafter "City") has deemed it necessary and advisable to contract for Information Technology (IT) support to provide managing and monitoring services as well as Chief Information Officer (CIO) level assistance.

WHEREAS, the City has agreed to contract with SoundSide to provide the aforementioned services to the City on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of ten dollars and other valuable considerations, the receipt and legal sufficiency of which are hereby acknowledged, the parties agree as follows.

1. **SoundSide Services.** SoundSide shall provide IT management and technical services for the City in accordance with the following.

- (a) **Device Management, Troubleshooting & Monitoring Services.** SoundSide shall:
 - (1) Monitor PCs for predictive faults, licensing inconsistencies, and performance characteristics;
 - (2) Monitor servers for potential issues, health checks, and updates;
 - (3) Monitor network / SNMP devices (switches, routers, etc.);
 - (4) Review network security (identify vulnerabilities, take corrective action);
 - (5) Conduct Windows Patch management;
 - (6) Conduct Patch management of 3rd Party apps (i.e. AR, Flash Player, etc.); and
 - (7) Provide Antivirus monitoring and control.
- (b) **Management Services.** SoundSide shall:
 - (1) Meet periodically with City personnel;
 - (2) Provide strategic guidance and assist in budget preparation;
 - (3) Perform security analysis as needed;
 - (4) Perform systems analysis and assist in system design;
 - (5) Assign a support engineer as a primary contact; and
 - (6) Provide a support engineer for site visits.

(c) Service Detail.

- (1) SoundSide shall provide support services onsite two days per month and on-call in accordance with the City's operating days. SoundSide shall meet with the proper City personnel on a bi-monthly basis. Technical support and services can be provided by SoundSide onsite, via phone or electronically as needed. Proactive monitoring shall be twenty-four (24) hours a day seven (7) days a week. If SoundSide personnel are not onsite when an emergency occurs, SoundSide will guarantee a four (4) hour response to the issue. This does not mean that the problem will be solved in 4 hrs, but SoundSide will formulate a plan of action during that time and do everything SoundSide can to rectify the situation. Mark Hendrix will be the Project Manager and Jeremy Smith will be the Lead Technology Consultant.
- (2) Patch management support for servers will be automated using free Microsoft tools on existing hardware.
- (3) The City will be responsible for maintaining backup tapes offsite if needed. After initial evaluation of existing processes, if the City desires automated backups offsite, this will be an additional service that SoundSide could provide, but outside the scope of this contract.
- (4) SoundSide shall provide support with application vendors including problem resolution and negotiations for City applications. SoundSide will be an extension of the City and will act in its best interest in all situations to get the problem resolved.
- (5) SoundSide will review IT licenses and contracts as needed. SoundSide will compile an inventory of existing licensing and vendor related information, making the City aware of potential licensing violations.
- (6) SoundSide shall prepare and maintain web-based technical documentation.
- (7) SoundSide shall meet periodically with the City management and department heads to discuss progress, formulate plans, and resolve any issues that may arise.
- (8) SoundSide shall create a standard method to centrally report and track support issues. It is suggested, but not required, to have a phone extension and designated area that SoundSide can use as needed.
- (9) SoundSide will observe all holidays and closings observed by the City. SoundSide's hours shall be 8:30 a.m. to 5:00 p.m. The project team will be composed of regularly scheduled SoundSide employees and supplemented by additional SoundSide employees as determined in their absolute discretion. SoundSide will provide assistance as needed for catastrophic events and other necessary after hours support as part of this contract.

(10) SoundSide shall provide guidance in the selection of all computing equipment.

2. **Term and Termination.** This contract will have a term of two (2) years, seven and one-half (7½) months commencing November 15, 2010 and ending June 30, 2013.

(a) **Termination without cause.** At any time after the commencement date, the City shall have the right to terminate this contract for any reason or no reason upon ninety (90) days written notice to SoundSide and SoundSide shall have the right to terminate the contract for any reason or no reason upon one hundred eighty (180) days written notice to the City.

(b) **Termination For Cause.** Either party may terminate this contract upon thirty (30) days written notice if the other party is in default of any material term of this contract. A party shall be in default of any material term of this contract if it has failed to comply with such term for at least thirty (30) days after receipt of a written description of the failure by the other party. Either party may terminate this contract at its discretion, without notice, if the other party terminates its business operations, unless it is succeeded by a permitted assignee under this contract.

3. **Consideration.** In consideration for the services provided by SoundSide, the City shall pay SoundSide as follows.

(a) For the period beginning November 15, 2010 and ending June 30, 2013, the City shall pay SoundSide in equal monthly installments of \$3,350, each in advance, by the tenth day of each month with the first payment being due on November 15, 2010.

(b) The proactive monitoring, management and remediation of the network/devices will require a suite of software tools to produce the necessary infrastructure and, if purchased, shall be purchased at the City's expense. The list of recommended software components and the corresponding estimated initial cost, not including tax, are as follows.

First year prorated for eight (8) months, includes license and maintenance:

\$ 320.00	itControlSuite Site subscription (no separate maintenance)
\$ 1,875.00	Solarwinds Network IPMonitor (not able to prorate maintenance) (\$1310 – License, \$565 – Maintenance)
\$ 1,250.00	External IP vulnerability Scan (fixed cost)
\$ 6,350.00	3yr Patch Management using WSUS/EminentWare plugin (\$4,750 – License, \$1,600 - Maintenance)

Estimated annual cost after first year:

\$ 480.00	itControlSuite Site subscription
\$ 565.00	Solarwinds Network IPMonitor Subscription
\$ 1,250.00	External IP vulnerability Scan
\$ 800.00	(after first 3 years) Patch Management using

WSUS/EminentWare plugin

*** Taxes not included in price

4. **Exclusions.** This contract does not include voice/data cable installation or any application development. Major server and network software upgrades and replacement labor will be quoted separately.
5. **Subcontracting.** The SoundSide Group has the right to sub-contract any services described herein to subcontractor(s) of SoundSide's choosing, provided that such subcontractor(s) shall possess appropriate qualifications to perform the subcontract work. SoundSide shall retain ultimate responsibility for compliance with the terms of this contract.
6. **Confidential Information.** SoundSide agrees that the information, data and programs handled on the City's network are the sole and exclusive property of the City. SoundSide shall treat this information as confidential and shall not disclose it to any third party without the client's written consent or a Court order.
7. **Prohibition against Hiring.** During the term of this contract and for a period of 12 months following the expiration of this contract, the City shall be prohibited from hiring any employee of SoundSide without SoundSide's consent. The parties agree that the violation of this provision will cause irreparable damage to SoundSide, the amount of which is difficult to ascertain. As such, the parties agree that this provision may be enforced by equitable remedies, including restraining orders, preliminary and permanent injunctions.
8. **Force majeure.** The parties hereto shall not be liable to one another for delay or failure in performance of any of the acts required by this contract when such delay or failure arises from circumstances beyond the reasonable control of said party (including, without limitation, acts of God, fire, flood, war, explosion, sabotage, terrorism, embargo, civil commotion, acts or omissions of any government entity, supplier delays, communications or power failure, equipment or software malfunction, or labor disputes), and without the negligence or willful misconduct of said party.
9. **Relationship of Parties.** The parties acknowledge and agree that this contract does not create an employer/employee relationship between the City and SoundSide, or its personnel, employees or agents. The parties and their respective agents and employees are independent contractors and shall have no authority to bind the other party to any obligations or liabilities without the prior written consent of the other party.
10. **Insurance.** SoundSide shall, throughout the term of this contract and any renewal thereof, at its own expense, keep and maintain in full force and effect the following insurance coverages.
 - (a) Statutory workers' compensation insurance with coverage and in amounts required by law and, unless exempted by applicable law, employer's liability insurance at a minimum of \$100,000.00 for accident each

employee and \$100,000.00 for bodily injury by disease each employee, with a policy limit of \$500,000.00 by disease.

- (b) Commercial general liability insurance, including general aggregate, products/completed operations aggregate, personal and bodily injury, and advertising injury, coverage at a minimum of \$1 million per occurrence and \$1 million aggregate. Coverage shall be written on an occurrence basis. Said policy shall list the City as additional insured and provide that it is not subject to cancelation or reduction in coverage except after thirty (30) days following notice to the City.
- (c) Professional errors and omissions liability coverage at a minimum of \$1 million per claim and \$1 million aggregate.
- (d) SoundSide shall deliver to the City certificates of insurance for all insurance policies required hereunder. SoundSide shall, within a reasonable time prior to the expiration of any such policy, furnish the City with certificates of insurance evidencing renewal thereof. The City may, in its sole discretion, require SoundSide to expand the form and/or increase the amounts of all such insurance.

11. **Waiver of Subrogation.** SoundSide releases and relieves the City and waives SoundSide's entire rights of recovery against the City for loss or damage arising out of or incident to any matter insured against under this contract. SoundSide shall give notice to its insurance carriers that this waiver of subrogation is contained in this contract and cause the carriers to accept this waiver of subrogation, to the extent permissible by applicable law.

12. **Indemnification and Hold Harmless.** SoundSide does for itself, its agents, successors, assigns, customers, guests and invitees, hereby unconditionally agrees to protect, release, hold harmless, and will indemnify, defend, acquit, and forever discharge the City, its respective present and former employees and elected officials, in both their individual and official capacities, agents, representatives, contractors, attorneys, insureds, successors, and assigns, and each of them, respectively, of and from all and any manner of action or actions, cause and causes of actions, claims, demands, costs, expenses, losses, penalties, attorney's or other professional fees, and consequential, general, special, and punitive damages or liabilities, of every kind, known or unknown, on account of, arising from or in any way related to or growing out of this contract, including but not limited to SoundSide's services and performance hereunder. SoundSide further agrees to investigate, handle, respond to, provide defenses for, and defend the same at its sole expense and agrees to bear all other costs and expenses related thereto.

13. **Adherence To Regulations.** SoundSide agrees to comply with all applicable laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of and agreements with all governments, departments, commissions, boards, courts, authorities, agencies, officials, officers and other parties, foreseen or unforeseen,

ordinary or extraordinary, which now or anytime hereafter may be applicable to the services contemplated hereby and SoundSlide's performance hereunder.

14. **Assignment.** Neither party may assign the contract without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed.

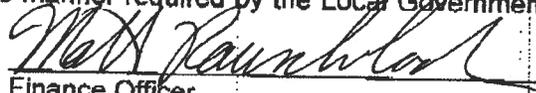
15. **Illegal Provisions, Governing Law.** If any provision or any portion thereof contained in this contract is held unconstitutional, invalid or unenforceable, the remainder of this contract, or portion thereof, shall be deemed severable and shall be effective and shall remain in full force and effect. This contract shall be governed by the laws of the State of North Carolina.

16. **Entire Agreement.** This contract constitutes the entire agreement between the parties. This contract may not be modified or amended except by a written agreement signed by both parties hereto.

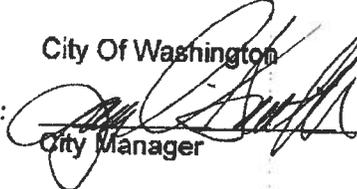
IN WITNESS WHEREOF, the parties have hereunto set their hands and seals by their authorized representatives, the day and year first above written.

PRE-AUDIT CERTIFICATE

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.


Finance Officer

City Of Washington

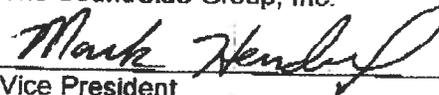
By:  (SEAL)
City Manager



ATTEST:


Services Manager

The SoundSide Group, Inc.

By:  (SEAL)
Vice President



City of Washington
REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, C.F.O.
Date: December 13, 2010
Subject: Maximum Exposure and Webcam Agreement with WITN
Applicant Presentation: N/A
Staff Presentation: Matt Rauschenbach

RECOMMENDATION:

I move that City Council authorize the City Manager to enter into a one year maximum exposure and web cam advertising agreement with WITN to complement the City’s utilities education initiative.

BACKGROUND AND FINDINGS:

Electricities recommended a Washington utilities education initiative program endorsed by Council during the November 22 Committee of the Whole. WITN presented an advertising program to facilitate communicating our message quickly and effectively. The maximum exposure program is \$24,000/year and webcam is \$6,000. This year’s marketing budget includes \$15,000 in the Billing Department and \$20,000 in Load Management.

PREVIOUS LEGISLATIVE ACTION

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation
 No Fiscal Impact

SUPPORTING DOCUMENTS

WITN Presentation

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: prc Concur _____ Recommend Denial _____ No Recommendation
12/7/10 Date.



Maximum Exposure 2011
 Helping the City of Washington to promote their Energy Conservation and Load Management Initiatives

Presented to City of Washington
 By Todd Harris, WITN
 Monday, November 22nd, 2010



Maximum Exposure: It's All About Your Brand

Maximum Exposure (Max Ex) Basics

- WITN reaches more households per week than any other station in eastern North Carolina – broadcast or cable. Dominance is even greater here in our own Beaufort County "backyard"
- WITN's news products consistently rank #1 in their time periods.
- 25 packages were offered for 2011 and sold out on November 1st.
- Max Ex promotion typically runs the first 2 weeks of each month.
- Minimum of \$7800 in value of "unsold inventory" to be provided at no charge throughout 2012.
- No-charge production for "basic" 30 second commercial.
- We'll either produce a new commercial for you in mid 2011 or "update" the current one.
- Opportunity to add "tonnage schedule" on WITN or website schedule on witn.com at a similar discounted pricing structure.



Maximum Exposure: It's All About Your Brand

The Base Package:

Daypart/Program(s)	#30's
M-F 5-6A/First Sunrise, Early Sunrise	4x
M-F 6-9A/Sunrise, Today Show	4x
Sa 630-10a/Saturday Sunrise, Sat. Today	2x
Su 730-10a/Sunday Sunrise, Sun. Today	2x
M-F 9a-2p/Today, Rachel Ray, Noon News, Millionaire, Days	5x
M-F 5p-7p/WITN News @ 5, 530 & 6, NBC Nightly	3x
M-Su 5p-1135p/Peak Rotator	5x

Total Base Investment: \$1300/Month 25 commercials



Maximum Exposure: It's All About Your Brand

The Base Package: Added Value Bonus Ads

January / February / March		
M-F	5a - 5p	10X
M-Su	5p -12:35p	6X
Sa-Su	6a - 1a	10X
April / May / Aug / Sept / Oct / Nov		
M-Su	5a -12:35p	8X
Sa-Su	5a - 1a	8X
June / July / Dec		
M-F	5a - 5p	8X
M-Su	5p -12:35p	4X
Sa-Su	6a - 1a	8X

Total Bonus Ads Over 2011 – 222 Total ads at no additional charge!




Maximum Exposure Tonnage Schedule Add-On Option

WITN 7.1 - NBC

Daypart/Program(s)	#30's
M-F 1135p - 4a/Tonight, Late Night, Last Call, etc.	4x
M-F 4a-5a/11p News RPT, Early Today	4x
Sa 5a-630a/News, Wall St. Journal, Storm Stories	1x
Sa 1a-3a/Unkl, Deadliest Catch	1x
Su 5a-6a/Storm Stories	1x
Su 12m-5a/NC Spin, TMZ, Dateline, Meet The Press, News	2x
Sa-Su 6a-12m/Weekend Rotator	2x

WITN 7.2 - My TV

Daypart/Program(s)	#30's
M-F 9-4p/Date Desk	5x
M-F 6-7p/Family Feud/Millionaire	6x
M-F 7-730p/TMZ	4x
M-F 730-8p/Family Feud	4x
M-F 8-10p/Law & Order: CI 5 th Grader, Lyrics, Burn, Trace, Monk	4x
M-F 10-11p/Wheel of Fortune/Jopardy	8x
M-Su 3p-12m/Rotator	17x
M-Su 9a-3p/Weather Rotator	17x

Added Investment: \$300/month 100x



Maximum Exposure: It's All About Your Brand

Optional Internet Add-On on WITN.com

- WITN.com is THE most media visited website in eastern North Carolina.
- We currently average over 4 million page views each month
- We average 20,000 unique visitors every day.
- TV is the #1 Media Source people spend the most time with. #2 is Internet.

Sounds Good. So how does the WITN.com internet add-on option work?

Added-on will guarantee 185,000 Targeted Impressions on WITN.com per month

- Your choice: banner [510 x 60] and/or skyscraper [160 x 600]
- Your choice: time of day and days of week ads are served
- WITN will endeavor to run your ads on the county pages that will benefit your promotion: Beaufort, Hyde, and Martin. After that, we will run you in all sections of WITN.com, including weather, sports, news, etc.
- Includes production at no additional charge of up to 6 different advertisements

Added Investment: \$500/month

WITN
witrn.com

WEB CAM SPONSORSHIP

WITN currently has 7 Web Cams.

They are shown on WITN News over 60 times per week and on WITN 7.2 an average of 350 times per week. Each one is shown an average of 50 times per week.

On WITN.com, the Web Cam page receives over 35,000 page views per month and continues to grow!

You Receive:
The City of Washington logo on Washington web cam any time it appears on WITN.
The city's logo on the Washington web cam on WITN.com with hyperlink to your web site.

Your Investment:
Regularly \$1000 per month, minimum 1 year commitment.
Will reduce to \$500 per month for the City of Washington



WITN
witrn.com

WEB CAM SPONSORSHIP



WITN
witrn.com

Maximum Exposure: It's All About Your Brand

Combo Package – Total Investment

Base Package:	\$1300
witrn.com:	\$500
Tonnage add-on:	\$300
Total:	\$2,100/month
Max Ex Combo Pricing:	\$2,000/month

Monthly Totals for the Combo Package
Minimum of 125 commercials per month (1500 total for the year)
185,000 website impressions on WITN.com

Web Cam Option **\$500 per month** (same as 2010 / Value is \$1000/mth)



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, C.F.O.
Date: December 13, 2010
Subject: Strategic Budget Planning Session
Applicant Presentation:
Staff Presentation: Matt Rauschenbach

RECOMMENDATION:

I move that the City Council have a strategic budget planning session with City Staff on January 18th from 8:30 a.m. to 1 p.m. on January 18, 2011 at Goose Creek State Park.

BACKGROUND AND FINDINGS:

PREVIOUS LEGISLATIVE ACTION

Agreed to have an offsite retreat during November 22 Committee of the Whole session.

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation
 No Fiscal Impact

SUPPORTING DOCUMENTS

Budget Schedule

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: pr Concur _____ Recommend Denial _____ No Recommendation
12/17/10 Date

Budget Schedule 2011 - 2012

Week Of	Scheduled Date	Budget Task
10/25/2010	10/26/2010	CIP template worksheet available on Intranet
11/29/2010	12/1/2010	CIP worksheets due back to Finance
1/10/2011		CIP reviewed by City Manager with Department Heads
1/10/2011		Revenue Estimate- Finance
1/17/2011		CIP document to Council
1/17/2011	1/18/2011	Budgetary & Strategic Planning Retreat
1/24/2011		Council reviews CIP
1/24/2011		Fees & Charges Schedules Distributed
1/24/2011		Budget Packets Distributed to Management Team
1/24/2011		Budget Goals Provided to Management Team
2/14/2011		Council approval of CIP
2/14/2011		External Agency Budget Requests
2/14/2011		Budgets Submitted to Finance
2/28/2011		Budget Review with Manager- General Fund
3/7/2011		Budget Review with Manager- Water/Sewer/Storm Water/Solid Waste/Cemetery Funds
3/7/2011		Budget Review with Manager- Electric Fund
3/28/2011		Manager's Recommended Budget Presented to Council
3/28/2011		Budget Available for Public Viewing at City Clerk's Office
4/25/2011		Budget Workshop- Electric Fund
5/16/2011		Budget Workshop- Benefits & Pay, General Fund
5/23/2011		Budget Workshop- Water/Sewer/Storm Water/Solid Waste/Cemetery Funds
5/23/2011		Public Hearing
6/13/2011		Budget Adopted (complete budget included, not just workshop changes and budget ordinance)



City of Washington

P. O. Box 1988, Washington, NC 27889-1988

MEMORANDUM

DATE: December 2, 2010

TO: Mayor and City Council

FROM: Allen Lewis 
Public Works Director

SUBJECT: Request for Proposals for Fleet Maintenance.

A request for proposals for the City of Washington's fleet maintenance was advertised for and one (1) proposal was received on Monday, November 15, 2010 at 1:00 P.M. Additionally, two (2) other equipment repair facilities requested and received copies of the specifications, requirements, etc. but did not submit proposals. The lone proposal was from First Vehicle Services, Inc., a nation-wide company with a price \$475,000. As you may recall, we reduced our staff at the garage this FY by one employee. So, for comparison's sake, if we take all of the expenses in the FY 10-11 budget except parts, fluids and tires, and then add FY 09-10 expenditures for parts, fluids and tires, our in-house costs for these services total approximately \$327,000. This amount includes all labor, materials, fringe benefits, fluids, etc. It also includes work that was contracted out that we could not perform ourselves. Naturally, this figure is exclusive of fuel purchases. Due to the substantial difference, staff does not recommend privatizing this service.

/al

December 13, 2010



City of Washington

P. O. Box 1988, Washington, NC 27889-1988

MEMORANDUM

DATE: December 2, 2010

TO: Mayor and City Council

FROM: Allen Lewis 
Public Works Director

SUBJECT: Request for Proposals for Residential Solid Waste Services.

A request for proposals for the City of Washington's residential solid waste services was advertised for and one (1) proposal was received on Monday, November 15, 2010 at 2:00 P.M. Additionally, one (1) other solid waste disposal company requested and received copies of the specifications, requirements, etc. but did not submit proposals. We received telephone calls from other providers as well, but only one proposal. The lone proposal was from David's Trash Service, Inc. Their total bid price was \$562,440.00. Our in-house costs for these services for FY 10-11 are budgeted at \$570,043. This figure excludes existing debt service, administrative charges to the general fund and installment and non-capitalized purchases for this FY. However, it does include an amortized (over ten years) portion of the installment and non-capitalized purchases as well as \$30,459 in depreciation of fixed assets for FY 10-11. The existing debt service and the administrative charges we excluded because these are costs that would be realized regardless. The same argument could be made for fixed asset depreciation as well but we included it to provide a conservative number that would be accurate if we retained our assets even if we chose to privatize. If we were to exclude the depreciation figure, our in-house cost drops to \$539,494. Regardless, staff does not recommend privatizing this service due to the negligible cost differential and the high level of service now provided.

For reference, attached is a chart showing the current budget in the Solid Waste fund and the budgetary breakdown between residential and commercial services as described above.

/al

Attachments

	<u>TOTAL</u>	<u>RESIDENTIAL</u>	<u>COMMERCIAL</u>	
SALARIES - MATERIALS	\$ 952,589	\$ 514,527	\$ 438,062	
NON-CAPITALIZED PURCHASES	209,673	10,967		
INSTALLMENT PURCHASES	140,000	14,000		
ADM. CHRGS. PAID TO G/F	173,919			
	<u>\$ 1,476,181</u>	<u>\$ 539,494</u>	<u>\$ 438,062</u>	
BALANCE OF NON-CAPITALIZED PURCHASES		198,706		
BALANCE OF INSTALLMENT PURCHASES		126,000		
ADM. CHRGS. PAID TO G/F		156,527	17,392	
		<u>\$ 1,020,727</u>	<u>\$ 455,454</u>	\$ 1,476,181



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Allen Lewis, Public Works Director *Allen Lewis*
Date: 12-02-10
Subject: Authorize Manager to sign Notice of Landing Area Proposal in order to close runway 11-29.
Applicant Presentation: N/A
Staff Presentation: Allen Lewis

RECOMMENDATIONS:

I move that Council authorize the manager to sign the attached Notice of Landing Area Proposal closing runway 11-29.

BACKGROUND AND FINDINGS:

Due to the condition of runway 11-29 at Warren Field Airport being in such a poor state of disrepair, it has become a liability. The concrete runway is well over 60 years in age and is in need of significant repairs due to spalling and expansion joint "blow-ups". To resurface the runway would take several hundred thousand dollars that the Airport Fund does not have and since this is considered a third runway, the NC Division of Aviation (DOA) would not consider participating in assisting the City in repairs. The rough surface and loose pieces of concrete that accumulate on this runway, despite sweeping, present a liability to the City due to damages that can easily occur if planes land on this runway. Both the DOA and the City's Airport Advisory Board recommend closing this runway.

PREVIOUS LEGISLATIVE ACTION

N/A

FISCAL IMPACT

Currently Budgeted (Account) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

See attached Notice of Landing Area Proposal.

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: December 13, 2010 (if applicable)
City Manager Review: *AL* Concur Page 148 of 219 and Denial No Recommendation *12/7/10* Date

NOTICE OF LANDING AREA PROPOSAL

U.S. Department of Transportation
Federal Aviation Administration

Name of Proponent, Individual, or Organization City of Washington <input type="checkbox"/> Check if the property owner's name and address are different than above, and list property owner's name and address on the reverse.	Address of Proponent, Individual, or Organization (No., Street, City, State, Zip Code) PO Box 1988 Washington, NC 27889
--	--

<input type="checkbox"/> Establishment or Activation <input checked="" type="checkbox"/> Alteration	<input type="checkbox"/> Deactivation or abandonment <input type="checkbox"/> Change of Status	} OF	<input checked="" type="checkbox"/> Airport <input type="checkbox"/> Heliport	<input type="checkbox"/> Ultraflight Flightpark <input type="checkbox"/> Seaplane Base	<input type="checkbox"/> Vertiport <input type="checkbox"/> Other (Specify)
--	---	------	--	---	--

A. Location of Landing Area

1. Associated City/State Washington	2. County/State (Physical Location of Airport) Beaufort/North Carolina	3. Distance and Direction From Associated City or Town 1.7 Miles Northeast
4. Name of Landing Area Warren Field - OCW	5. Latitude 35 ° 34 ' 13.68	6. Longitude 077 ° 02 ' 59.3800
		7. Elevation 38 ft

B. Purpose

Type Use <input checked="" type="checkbox"/> Public <input type="checkbox"/> Private <input type="checkbox"/> Private Use of Public Land/Waters	If Change of Status or Alteration, Describe Change Closure of Runway 11-29. Runway Closure Crosses will be painted at each end of the runway in accordance with FAA Advisory Circular 150/5340-1K	<input type="checkbox"/> Establishment or change to traffic pattern (Describe on reverse)	Construction Dates	
			To Begin/Began	Est. Completion

C. Other Landing Areas

Ref. A5 above	D. Landing Area Data		Existing (if any)			Proposed		
	Direction From Landing Area	Distance From Landing Area	Rwy #1	Rwy #2	Rwy #3	Rwy	Rwy	Rwy
			1. Airport, Seaplane Base, or Flightpark					
			Magnetic Bearing of Runway (s) or Sealane					
			Length of Runway (s) or Sealane (s) in Feet					
			Width of Runway (s) or Sealane (s) in Feet					
			Type of Runway Surface (Concrete, Asphalt, Turf, Etc.)					
			2. Heliport					
			Dimensions of Final Approach and Take off Area (FATO) in Feet					
			Dimensions of Touchdown and Lift-Off Area (TLOF) in Feet					
			Magnetic Direction of Ingress/Egress					

E. Obstructions

Type	Height Above Landing Area	Direction	Distance	Description of Obstruction
		From Landing Area	From Landing Area	
				3. All Landing Areas
				Description of Lighting (if any)
				Direction of Prevailing Wind

F. Operational Data

1. Estimated or Actual Number Based Aircraft					
Airport, Flightpark, Seaplane base	Present (If est. indicate by letter "E")	Anticipated 5 Years Hence	Heliport	Present (If est. indicate by letter "E")	Anticipated 5 Years Hence
Multi-engine			Under 3500 lbs. MGW		
Single-engine			Over 3500 lbs. MGW		
Glider					

G. Other Considerations

Identification	Direction	Distance	2. Average Number Monthly Landings			
	From Landing Area	From Landing Area	Present (If est. indicate by letter "E")	Anticipated 5 Years Hence	Present (If est. indicate by letter "E")	Anticipated 5 Years Hence
			Jet		Helicopter	
			Turboprop		Ultralight	
			Prop		Glider	

3. Are IFR Procedures For The Airport Anticipated
 No Yes Within _____ Years Type Navaid: _____

H. Application for Airport Licensing

<input type="checkbox"/> Has Been Made	<input type="checkbox"/> Not Required	<input type="checkbox"/> County
<input type="checkbox"/> Will Be Made	<input type="checkbox"/> State	<input type="checkbox"/> Municipal Authority

I. CERTIFICATION: I hereby certify that all of the above statements made by me are true and complete to the best of my knowledge.

Name, title (and address if different than above) of person filing this notice – type or print	Signature (in ink)	
	Date of Signature	Telephone No. (Precede with area code)

Paperwork Reduction Act Statement: The information collected on this form is necessary because it is the description of the physical and operational characteristics of the airport that will be on file with the FAA. The information on all airports will be maintained in FAA computers for record keeping purposes and used in airspace studies. Some of the information on public use airports is safety-critical and will be published in flight information handbooks and charts for pilot use. The burden associated with completing this form is estimated to be 30 minutes. Providing this information is mandatory if the proponent wishes to have the airport on file with the FAA and entered into the National Airspace System. No assurances of confidentiality are given. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number associated with this collection is 2120-0036. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave SW, Washington, DC 20591, Attn: Information Collection Clearance Officer, ABA-20.

**INSTRUCTIONS
NOTICE OF LANDING AREA
PROPOSAL**

**As Used Herein, The Term "Airport" Means
Any Landing or Takeoff Area such as Airport, Heliport, Helistop, Vertiport, Gliderport, Seaplane Base,
Ultralight Flightpark, or Balloonport**

Federal Aviation Regulations Part 157 requires all persons to notify the FAA at least 90 days before any construction, alteration, activation, deactivation, or change to the status or use of a civil or joint-use (civil/military) airport. Notice is not required for the establishment of a temporary airport at which operations will be conducted under visual flight rules (VFR) and will be used for less than 30 days with no more than 10 operations per day. Notice also is not required for the intermittent use of a site that is not an established airport, which is used for less than one year and at which flight operations will be conducted only under VFR. Intermittent use means the use of the site for no more than 3 days in any one week and for no more than 10 operations per day.

Required notice shall be submitted on this form from each person who intends to do any of the following:

1. Construct or otherwise establish a new airport or activate an airport.
2. Construct, realign, alter, or activate any runway, or other aircraft landing or takeoff area of an airport.
3. Construct, realign, alter, or activate a taxiway associated with a landing or takeoff area on a public-use airport.
4. Deactivate, discontinue using, or abandon an airport or any landing or takeoff area of an airport for a period of one year or more.
5. Deactivate, abandon, or discontinue using a taxiway associated with a landing or takeoff area on a public-use airport.
6. Change the status of an airport from private use (use by the owner or use by the owner and other persons authorized by the owner) to an airport open to the public or from public-use to another status.
7. Change status from IFR to VFR or VFR to IFR.
8. Establish or change any traffic pattern or traffic pattern altitude or direction.

The notice required shall be made by submitting this form to the nearest Federal Aviation Administration Regional Office or Airports District Office. However, in an emergency involving essential public service or when the delay arising from the 90-day advance notice requirement would result in an unreasonable hardship, you may provide notice to the appropriate FAA Airports District/Field Office by telephone in lieu of submitting this form. The FAA may require the subsequent submission of this form when necessary for safety or other reasons.

Section 901 of the Federal Aviation Act of 1958, as amended, provides that any person who violates a rule, regulation or order issued under Title III of this Act shall be subject to a civil penalty not to exceed \$ 1,000 for each violation.

GENERAL INSTRUCTIONS

1. For any project falling in categories 1, or 2 above, complete all appropriate sections.
2. For any project falling in categories 3, 4, or 5 above, complete sections A, B, D (if appropriate), and I.
3. For status change (categories 6 or 7 above), from private use to public use or from VFR to IFR, complete sections A, B, E, G, and I. For all other changes, complete sections A, B, and I.
4. For traffic pattern establishment or change (category 8) complete all appropriate sections. Traffic pattern description should be entered on the reverse side of FAA Form 7480-1.
5. Express all bearings as magnetic and mileages as nautical.
6. **Please Print or Type All Items.**

Section A - Identify Reference Datum of Coordinates (NAD 83 or NAD 27)

Section B - If the airport is to be used by the owner only, or by the owner and persons authorized by the owner, check "private". If the landing and takeoff area of the airport is publicly owned and the operator is a non-government entity, then check "private use of public lands". If the airport is to be available for use by the general public without a requirement for prior approval of the owner or operator, then check "public". If necessary, use the reverse side of the form or a separate sheet of paper to describe changes or alterations.

Section C - Airport or seaplane base: List VFR airports and heliports within 5NM, and IFR airports within 20NM. Heliports: List VFR airports and heliports within 3NM and IFR airports within 10NM.

Section D - Attach U.S. Geological Survey quadrangle map or equivalent. Plot locations of facility to the nearest second, runway alignments, associated taxiways or sealane alignments. When appropriate, use city map for heliports.

Section E - List and plot on quadrangle map or equivalent any obstructions within: 3NM of a VFR airport or a seaplane base; 5NM of an IFR airport; or 5,000 feet of a heliport.

Section F - Self-explanatory.

Section G - List schools, churches and residential communities within a 2NM radius for airports and within a 1NM radius for heliports. List all waste disposal sites within a 5NM radius.

Section H - Self-explanatory.

Notification to the FAA does not waive the requirements of any other government agency.

ADDRESSES OF THE REGIONAL OFFICES

Submit your completed form by mail to:

Western Pacific Region

AZ, CA, HI, NV, GU
Federal Aviation Administration
Airports Division, AWP-600
15000 Aviation Boulevard
Hawthorne, CA 90261
Mail Address:
P. O. Box 92007
Worldway Postal Center
Los Angeles, CA 90009
Tel. 310-725-3608 Fax: 310-725-6847

Alaskan Region

AK
Federal Aviation Administration
Airports Division, AAL-600
222 West 7th Avenue, Box 14
Anchorage, AK 99513
Tel. 907-271-5438 Fax: 907-271-2851

Eastern Region

DC, DE, MD, NJ, NY, PA, VA, WV
Federal Aviation Administration
Airports Division, AEA-600
1 Aviation Plaza
Jamaica, NY 11434-4809
Tel. 718-553-3330 Fax: 718-995-5694

Southern Region

AL, FL, GA, KY, MS, NC, SC, NT, PR, VI
Federal Aviation Administration
Airports Division, ASO-600
1701 Columbia Avenue
College Park, GA 30337
Mail Address:
P. O. Box 20636
Atlanta, GA 30320
Tel. 404-305-6700 Fax: 404-305-6730

Northwest Mountain Region

CO, ID, MT, OR, UT, WA, WY
Federal Aviation Administration
Airports Division, ANM-600
1601 Lind Avenue, S.W., Suite 315
Renton, WA 98005-4056
Tel. 425-227-2600 Fax: 425-227-1600

Great Lakes Region

IL, IN, MI, MN, ND, OH, SD, WI
Federal Aviation Administration
Airports Division, AGL-600
2300 East Devon Avenue
Des Plaines, IL 60018
Tel. 847-294-7272 Fax: 312-294-7036

Southwest Region

AR, LA, NM, OK, TX
Federal Aviation Administration
Airports Division, ASW-600
2601 Meacham Boulevard
Fort Worth, TX 76137-4298
Tel. 817-222-5800 Fax: 817-222-5984

Central Region

IA, KS, MO, NE
Federal Aviation Administration
Airports Division, ACE-625 9
01 Locust
Kansas City, MO 64106-2325
Tel. 816-329-2600 Fax: 816-329-2610

New England Region

CT, MA, ME, NH, RI, VT
Federal Aviation Administration
Airports Division, ANE-600
12 New England Executive Park
Burlington, MA 01803
Tel. 781-238-7600 Fax: 781-238-7608



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Philip Mobley, Director Parks and Recreation
Date: December 13, 2010
Subject: Approve and Authorize City Manager to execute the Contract for Site Management Services at the "Festival" Park site with Mark Smith Architect in the amount of \$19,350.

Applicant Presentation: None
Staff Presentation: None

RECOMMENDATION:

I move City Council Approves and Authorizes the City Manager to execute the Contract for Site Management Services at the "Festival" Park site with Mark Smith Architect in the amount \$19,350.

BACKGROUND AND FINDINGS:

The "Festival" Park Planning Team has been working with designs for structures and surveying this park site, while all the time staying within the scope of the recommendations from the LandDesign's Plan. For the construction phase we will need a professional to compile RFPs, assist with the bidding/tabulations and communicating with contractors as work progresses. This park project will be divided in to two phases. Phase I will consist of the construction of the Events Stage, Picnic Shelter and Grasscrete walk/drive ways. This phrase will consist of foundation engineering, concrete pouring, footings, brick work, electrical panels and wiring diagrams with light/outlet locations, ground work for foundations, the handicap ramps, steps/handrail designs, the setting and the erection of two structures, communicating with City Inspectors and staying abreast of City easements/right-of-ways and NCDENR requirements, developing a project timeline, keeping the City informed with timely updates for PARTF, reviewing invoices with staff for payment and monitoring safety for the site for participants using the waterfront area. Phase I is scheduled for completion by early Spring 2011.

PREVIOUS LEGISLATIVE ACTION

9/13/2010 Council Accepted PARTF Grant and Adopt Budget Ord. Amendment \$295,125.
10/11/2010 Mr. Taylor, Chair. WRAC showed proposed design of structures to City Council.

FISCAL IMPACT

Currently Budgeted (Account 62-40-6120-0400) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

Contract with Mark Smith Architect

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: PTC Concur: _____ Recommend Denial _____ No Recommendation 12/13/10 Date

AIA Document B 141

Standard Form of Agreement Between Owner and Architect

1987 EDITION

*THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION WITH
AN ATTORNEY IS ENCOURAGED with RESPECT TO ITS COMPLETION OR MODIFICATION.*

AGREEMENT

made as of the **Thirteenth** day of **December** in the year of **Two Thousand and Ten**.

BETWEEN the Owner:

(Name and address)

City of Washington.
PO Box 1988 / 310 West Main Street
Suite 200, Peterson Building
Washington, NC 27889

and the Architect:

(Name and address)

Mark Smith Architect
2020-A Cambria Drive
Greenville, North Carolina 27834

For the following Project:

(Include detailed description of Project, location, address and scope.)

Festival Park Development
Phase 1 Buildings and Site Improvements
Water Street, Washington, NC

The Owner and Architect agree as set forth below.

ARTICLE 1
ARCHITECT'S RESPONSIBILITIES

1.1 ARCHITECT'S SERVICE

1.1.1 The Architect's services consist of those services performed by the Architect, Architect's employees and Architect's consultants as enumerated in Articles 2 and 3 of this Agreement and any other services included in Article 12.

1.1.2 The Architect's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. Upon request of the Owner, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services which may be adjusted as the Project proceeds, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the Owner shall not, except for reasonable cause, be exceeded by the Architect or Owner.

1.1.3 The services covered by this Agreement are subject to the time limitations contained in Subparagraph 11.5.1.

ARTICLE 2
SCOPE OF ARCHITECT'S BASIC SERVICES

2.1 DEFINITION

2.1.1 The Architect's Basic Services consist of those described in Paragraphs 2.2 through 2.6 and any other services identified in Article 12 as part of Basic Services, and include normal structural, mechanical and electrical engineering services.

2.2 SCHEMATIC DESIGN PHASE

2.2.1 The Architect shall review the program furnished by the Owner to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the Owner.

2.2.2 The Architect shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other, subject to the limitations set forth in Subparagraph 5.2.1.

2.2.3 The Architect shall review with the Owner alternative approaches to design and construction of the Project.

2.2.4 Based on the mutually agreed-upon program, schedule and construction budget requirements, the Architect shall prepare, for approval by the Owner, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of Project components.

2.2.5 The Architect shall submit to the Owner a preliminary estimate of Construction Cost based on current area, volume or other unit costs.

2.3 DESIGN DEVELOPMENT PHASE

2.3.1 Based on the approved Schematic Design Documents and any adjustments authorized by the Owner in the program, schedule or construction budget, the Architect shall prepare, for approval by the Owner, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate.

2.3.2 The Architect shall advise the Owner of any adjustments to the preliminary estimate of Construction Cost.

2.4 CONSTRUCTION DOCUMENTS PHASE

2.4.1 Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the construction budget authorized by the Owner, the Architect shall prepare, for approval by the Owner, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project.

2.4.2 The Architect shall assist the Owner in the preparation of the necessary bidding information, bidding forms, the Conditions of the Contract, and the form of Agreement between the Owner and Contractor.

2.4.3 The Architect shall advise the Owner of any adjustments to previous preliminary estimates of Construction Cost indicated by changes in requirements or general market conditions.

2.4.4 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

2.5 BIDDING OR NEGOTIATION PHASE

2.5.1 The Architect, following the Owner's approval of the Construction Documents and of the latest preliminary estimate of Construction Cost, shall assist the Owner in obtaining bids or negotiated proposals and assist in awarding and preparing contracts for construction.

2.6 CONSTRUCTION PHASE ADMINISTRATION OF THE CONSTRUCTION CONTRACT

2.6.1 The Architect's responsibility to provide Basic Services for the Construction Phase under this Agreement commences with the award of the Contract for Construction and terminates at the earlier of the issuance to the Owner of the final Certificate for Payment of 60 days after the date of Substantial completion of the Work.

2.6.2 The Architect shall provide administration of the Contract for Construction as set forth below and in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement, unless otherwise provided in this Agreement.

2.6.3 Duties, responsibilities and limitations of authority of the Architect shall not be restricted, modified or extended without written agreement of the Owner and Architect with consent of the Contractor, which consent shall not be unreasonably withheld.

2.6.4 The Architect shall be a representative of and shall advise and consult with the Owner (1) during construction until final payment to the Contractor is due, and (2) as an Additional Service at the Owner's direction from time to time during the correction period described in the Contract for Construction. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement unless otherwise modified by written instrument.

2.6.5 The Architect shall visit the site at intervals appropriate to the stage of construction or as otherwise agreed by the Owner and Architect in writing to become generally familiar with the progress and quality of the Work completed and to determine in general if the Work is being performed in a manner indicating that the Work, when completed will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of on-site observations as an architect, the Architect shall keep the Owner informed of the progress and quality of the Work, and shall endeavor to guard the Owner against defects and deficiencies in the Work. *(More extensive site representation may be agreed to as an Additional Service, as described in paragraph -3.2.)*

2.6.6 The Architect shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility under the Contract for Construction. The Architect shall not be responsible for the Contractor's schedules or failure to carry out the Work in accordance with the Contract Documents. The Architect shall not have control over or charge of acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of another persons performing portions of the Work.

2.6.7 The Architect shall at all times have access to the Work wherever it is in preparation or progress.

2.6.8 Except as may otherwise be provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall communicate through the Architect. Communications by and with the Architect's consultants shall be through the Architect.

2.6.9 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect shall review and certify the amounts due the Contractor.

2.6.10 The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's observations at the site as provided in Subparagraph 2.6.5 and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections to minor deviations from the Contract Documents correctable prior to completion and to special qualifications expressed by the Architect. The issuance of a Certificate for Payment shall further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check quality of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment or the Contractor's right to payment or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

2.6.11 The Architect shall have authority to reject Work which does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect will have authority to require additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility, of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons performing portions of the Work.

2.6.12 The Architect shall review and approve or take other appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the construction of the Owner or of separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the Contractor, all

of which remain the responsibility of the Contractor to the extent required by the Contract Documents. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by, the Architect, of construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. When professional certification of performance characteristics of a material, systems or equipment is required by the Contract Documents, the Architect shall be entitled to rely upon such certification to establish that the criteria is required by the Contract Documents.

2.6.13 The Architect shall prepare Change Orders and Construction Change Directives, with supporting documentation and data if deemed necessary by the Architect as provided in Subparagraphs 3.1.1 and 3.3.3, for the Owner's approval and execution in accordance with the Contract Documents, and may, authorize minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time which are not inconsistent with the intent of the Contract Documents.

2.6.14 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, shall receive and forward to the Owner for the Owner's review and records written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

2.6.15 The Architect shall interpret and decide matters concerning performance of the Owner and Contractor under the requirements of the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made with reasonable promptness and within any time limits agreed upon.

2.6.16 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions so rendered in good faith.

2.6.17 The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

2.6.18 The Architect shall render written decisions within a reasonable time on all claims, disputes or other matters in question between the Owner and Contractor relating to the execution or progress of the Work as provided in the Contract Documents.

2.6.19 The Architect's decisions on claims, disputes or other matters, including those in question between the Owner and Contractor, except

for those relating to aesthetic effect as provided in Subparagraph 2.6.17, shall be subject to arbitration as provided in this Agreement and in the Contract Documents.

ARTICLE 3 ADDITIONAL SERVICES

3.1 GENERAL

3.1.1 The services described in this Article 3 are not included in Basic Services unless so identified in Article 12, and they shall be paid for by the Owner as provided in this Agreement, in addition to the compensation for Basic Services. The services described under Paragraphs 3.2 and 3.4 shall only be provided if authorized or confirmed in writing by the Owner. If services described under Contingent Additional Services in Paragraph 3.3 are required due to circumstances beyond the Architect's control, the Architect shall notify the Owner prior to commencing such services. If the Owner deems that such services described under Paragraph 3.3 are not required, the Owner shall give prompt written notice to the Architect. If the Owner indicates in writing that all or part of such Contingent Additional Services are not required, the Architect shall have no obligation to provide those services.

3.2 PROJECT REPRESENTATION BEYOND BASIC SERVICES

3.2.1 If more extensive representation at the site than is described in Subparagraph 2.6.5 is required, the Architect shall provide one or more Project Representatives to assist in carrying out such additional on-site responsibilities.

3.2.2 Project Representatives shall be selected, employed and directed by the Architect, and the Architect shall be compensated therefore as agreed by the owner and Architect. The duties, responsibilities and limitations of authority of Project Representatives shall be as described in the edition of AIA Document B352 current as the date of this Agreement, unless otherwise agreed.

3.2.3 Through the observations by such Project Representatives, the Architect shall endeavor to provide further protection for the Owner against defects and deficiencies in the Work, but the furnishing of such project representation shall not modify, the rights, responsibilities or obligations of the Architect as described elsewhere in this Agreement.

3.3 CONTINGENT ADDITIONAL SERVICES

3.3.1 Making revisions in Drawings, Specifications or other documents when such revisions are:

- .1 inconsistent with approvals or instructions previously given by the Owner, including revisions made necessary, by adjustments in the Owner's program or Project budget;
- .2 required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents or
- .3 due to changes required as a result of the Owner's failure to render decisions in a timely manner.

3.3.2 Providing services required because of significant changes in the Project including, but not limited to, size, quality, complexity, the Owner's schedule, or the method of bidding or negotiating and contracting for construction, except for services required under Subparagraph 5.2.5.

3.3.3 Preparing Drawings, Specifications and other documentation and supporting data, evaluating Contractor's proposals, and providing other services in connection with Change Orders and Construction Change Directives.

3.3.4 Providing services in connection with evaluating substitutions proposed by the Contractor and making subsequent revisions to Drawings, Specifications and other documentation resulting therefrom.

3.3.5 Providing consultation concerning replacement of Work damaged by fire or other Cause during construction, and furnishing services required in connection with the replacement of such Work.

3.3.6 Providing services made necessary by the default of the Contractor, by, major defects or deficiencies in the Work of tile Contractor, or by failure of performance of either the Owner or Contractor under the Contract for Construction.

3.3.7 Providing services in evaluating an extensive number of claims submitted by the Contractor or others in connection with the Work.

3.3.8 Providing services in connection with public hearing, arbitration proceeding or legal proceeding except where the Architect is party thereto.

3.3.9 Preparing documents for alternate, separate or sequential bids or providing services in connection with bidding, negotiation or construction prior to the completion of the construction Documents Phase.

3.4 OPTIONAL ADDITIONAL SERVICES

3.4.1 Providing analyses of the Owner's needs and programming the requirements of the project.

3.4.2 Providing financial feasibility or other special studies.

3.4.3 Providing planning surveys, site evaluations or comparative studies of prospective sites.

3.4.4 Providing special surveys, environmental studies and submissions required for approvals of governmental authorities or others having jurisdiction over the Project.

3.4.5 Providing services relative to future facilities, systems and equipment. .

3.4.6 Providing services to investigate existing conditions or facilities or to make measured drawings thereof.

3.4.7 Providing services to verify the accuracy of drawings or other information furnished by the Owner.

3.4.8 Providing coordination of construction performed by separate contractors or by the Owner's own forces and coordination of services required in connection with construction performed and equipment supplied by the Owner. .

3.4.9 Providing services in connection with the work of a construction manager or separate consultants retained by the Owner.

3.4.10 Providing detailed estimates of Construction Cost.

3.4.11 Providing detailed quantity surveys or inventories of material, equipment and labor.

3.4.12 Providing analyses of owning and operating costs.

3.4.13 Providing interior design and other similar services required for or in connection with the selection, procurement or installation of furniture, furnishings and related equipment.

3.4.14 Providing services for planning tenant or rental spaces.

3.4.15 Making investigations, inventories of materials or equipment, or valuations and detailed appraisals of existing facilities.

3.4.16 Preparing a set of reproducible record drawings showing significant changes in the Work made during construction based on marked-up prints, drawings and other data furnished by the Contractor to the Architect. .

3.4.17 Providing assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.

3.4.18 Providing services after issuance to the Owner of them final Certificate for Payment, or in the absence of a final Certificate for Payment, more than 60 days after the date of Substantial Completion of the Work.

3.4.19 Providing services of consultants for other than architectural, structural, mechanical and electrical engineering portions of the Project provided as a part of Basic Services.

3.4.20 Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural practice.

ARTICLE 4 OWNER'S RESPONSIBILITIES

4.1 The Owner shall provide full information regarding requirements for the Project, including a program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.

4.2 The Owner shall establish and update an overall budget for the Project, including the Construction Cost, the Owner's other costs and reasonable contingencies related to all of these costs.

4.3 if requested by the Architect, the Owner shall furnish evidence that financial arrangements have been made to fulfill the Owner's obligations under this Agreement.

4.4 The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project. The Owner or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

4.5 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a project benchmark.

4.6 The Owner shall furnish the services of geotechnical engineers when such services are requested by the Architect. Such services may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity, tests, including necessary operations for anticipating sub-soil conditions, with reports and appropriate professional recommendations.

4.6.1 The Owner shall furnish the services of other consultants when such services are reasonably required by the scope of the Project and are requested by the Architect.

4.7 The Owner shall furnish structural, mechanical, chemical, air and water pollution tests, tests for hazardous materials, and other laboratory and environmental tests, inspections and reports required by law or the Contract Documents.

4.8 The Owner shall furnish all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services the Owner may require to verify the

Contractor's Applications for Payment or to ascertain how or for what purposes the Contractor has used the money paid by or on behalf of the Owner.

4.9 The services, information, surveys and reports required by Paragraphs 4.5 through 4.8 shall be furnished at the Owner's expense, and the Architect shall be entitled to rely upon the accuracy and completeness thereof.

4.10 Prompt written notice shall be given by the Owner to the Architect if the Owner becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents.

4.11 The proposed language of certificates or certifications requested of the Architect or Architect's consultants shall be submitted to the Architect for review and approval at least 14 days prior to execution. The Owner shall not request certifications that would require knowledge or services beyond the scope of this Agreement..

ARTICLE 5 CONSTRUCTION COST

5.1 DEFINITION

5.1.1 The Construction Cost shall be the total cost or estimated cost to the Owner of all elements of the Project designed or specified by the Architect.

5.1.2 The Construction Cost shall include the cost at current market rates of labor and materials furnished by the Owner and equipment designed, specified, selected or specially provided for by the Architect, plus a reasonable allowance for the Contractor's overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work during construction

5.1.3 Construction Cost does not include the compensation of the Architect and Architect's consultants, the costs of the land, rights-of-way, financing or other costs which are the responsibility of the Owner as provided in article 4.

5.2 RESPONSIBILITY FOR CONSTRUCTION COST

5.2.1 Evaluations of the Owner's Project budget, preliminary estimates of Construction Cost and detailed estimates of Construction Cost, if any, prepared by the Architect, represent the Architect's best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment, over the Contractor's method of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's Project budget or from any estimate of Construction Cost or evaluation prepared or agreed to by the Architect.

5.2.2 No fixed limit of Construction Cost shall be established as a condition of this Agreement by the furnishing, proposal or establishment of a Project budget, unless such fixed limit has been agreed upon in writing and signed by the parties hereto. If such a fixed limit has been established, the Architect shall be permitted to include contingencies for design, bidding and price escalation, to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents, to make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids to adjust the Construction Cost to the fixed limit. Fixed limits, if any, shall be increased in the amount of an increase in the Contract Sum occurring after execution of the Contract for Construction.

5.2.3 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, any Project budget or fixed limit of Construction Cost shall be adjusted to reflect changes in the general level of prices in the construction industry between the date of submission of the Construction Documents to the Owner and the date on which proposals are sought.

5.2.4 if a fixed limit of Construction Cost (adjusted as provided in Subparagraph 5.2.3) is exceeded by the lowest bonafide bid or negotiated proposal, the Owner shall:

- .1 give written approval of an increase in such fixed limit;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 if the Project is abandoned, terminate in accordance with Paragraph 8.3; or
- .4 cooperate in revising the Project scope and quality as required to reduce the Construction Cost.

5.2.5 If the Owner chooses to proceed under Clause 5.2.4.4, the Architect, without additional charge, shall modify, the Contract Documents as necessary to comply with the fixed limit, if established as a condition of this Agreement. The modification of Contract Documents shall be the limit of the Architect's responsibility arising out of the establishment of a fixed limit. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

ARTICLE 6

USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

6.1 The Drawings, Specifications and other documents prepared by the Architect for this Project are instruments of the Architect's service for use solely with respect to this Project and, unless otherwise provided, the Architect shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. The Owner shall be permitted to retain copies, including reproducible copies, of the Architect's Drawings, Specifications and other documents for information and reference in connection with the Owner's use and occupancy of the Project. The

Architect's Drawings, Specifications or other documents shall not be used by the Owner or others on other projects, for additions to this Project or for completion of this Project by others, unless the Architect is adjudged to be in default under this Agreement, except by agreement in writing and with appropriate compensation to the Architect.

6.2 Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the Architect's reserved rights.

ARTICLE 7 **ARBITRATION**

7.1 Claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be subject to and decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect unless the parties mutually agree other-wise.

7.2 Demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statutes of limitations.

7.3 No arbitration arising out of or relating to this Agreement shall include, by consolidation, joinder or in any other manner, an additional person or entity not a party to this Agreement except by written consent containing a specific reference to this Agreement signed by the Owner, Architect, and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

7.4 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

ARTICLE 8 **TERMINATION, SUSPENSION OR ABANDONMENT**

8.1 This Agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially

to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

8.2 If the Project is suspended by the Owner for more than 30 consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect's compensation shall be equitable adjusted to provide for expenses incurred in the interruption and resumption of the Architect's services.

8.3 This Agreement may be terminated by the Owner upon not less than seven days' written notice to the Architect in the event that the Project is permanently abandoned. If the Project is abandoned by the Owner for more than 90 consecutive days, the Architect may terminate this Agreement by giving written notice.

8.4 Failure of the Owner to make payments to the Architect in accordance with this Agreement shall be considered substantial nonperformance and cause for termination.

8.5 If the owner fails to make payment when due the Architect for services and expenses, the Architect may, upon seven days' written notice to the Owner, suspend performance of services under this Agreement. Unless payment in full is received by the Architect within seven days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services.

8.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Paragraph 8.7

8.7 Termination Expenses are in addition to compensation for Basic and Additional Services, and include expenses which are directly attributable to termination. Termination Expenses shall be computed as a percentage of the total compensation for Basic Services and Additional Services earned to the time of termination, as follows:

- .1 Twenty percent of the total compensation for Basic and Additional Services earned to date if termination occurs before or during the predesign, site analysis, or Schematic Design Phases; or
- .2 Ten percent of the total compensation for Basic and Additional Services earned to date if termination occurs during the Design Development Phase; or
- .3 Five percent of the total compensation for Basic and Additional Services earned to date if termination occurs during any subsequent phase.

ARTICLE 9 MISCELLANEOUS PROVISIONS

9.1 Unless other-wise provided, this Agreement shall be governed by the law of the principal place of business of the Architect.

9.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement.

9.3 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts or failures to act occurring prior to Substantial Completion, or the date of issuance of the final Certificate for Payment for acts or failures to act occurring after Substantial completion.

9.4 The Owner and Architect waive all rights against each other and against the contractors, consultants, agent and employees of the other for damages but only to the extent covered by property insurance during construction, except such rights as they may have to the proceeds of such insurance as set forth in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement. The Owner and Architect each shall require similar waivers from their contractors, consultants and agents.

9.5 The Owner and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither Owner nor Architect shall assign this Agreement without the written consent of the other.

9.6 This Agreement represents the entire and integrated agreement between the Owner and Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

9.7 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

9.8 Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.

9.9 The Architect shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Architect's promotional and professional materials. The Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect on the construction sign and in the promotional materials for the Project.

ARTICLE 10
PAYMENTS TO THE ARCHITECT

10.1 DIRECT PERSONNEL EXPENSE

10.1.1 Direct Personnel Expense is defined as the direct salaries of the Architect's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave holidays, vacations, pensions and similar contributions and benefits.

10.2 REIMBURSABLE EXPENSES

10.2.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and Architect employees and consultants in the interest of the Project, as identified in the following Clauses.

10.2.1.1 Expense of transportation in connection with the Project; expenses in connection with authorized out-of-town travel; long-distance communications; and fees paid for securing approval of authorities having jurisdiction over the Project. .

10.2.1.2 Expense of reproductions, postage and handling of Drawings, Specifications and other documents for bidding and permitting purpose. Incidental design phases expense of reproductions, postage and handling of Drawings, Specifications and other documents prior to bidding is included as a Basic Service.

10.2.1.3 If authorized in advance by the Owner, expense of overtime work requiring higher than regular rates. .

10.2.1.4 Expense of rendering, models and mock-up requested by the Owner. .

10.2.1.5 Expense of additional insurance coverage or limits, including professional liabilities insurance, requested by the Owner in excess of that normally carried by the Architect and Architect's consultants. .

10.2.1.6 Expense of computer-aided design and drafting equipment time when used in connection with the Project. .

10.3 PAYMENTS ON ACCOUNT OF BASIC SERVICES

10.3.1 An initial payment as set forth in Paragraph 11.1 is the minimum payment under this Agreement.

10.3.2 Subsequent payments for Basic Services shall be made monthly and, where applicable, shall be in proportion to services performed within each phase of service, on the basis set forth in Subparagraph 11.2.2.

10.3.3 If and to the extent that the time initially established in Subparagraph 11.5.1 of this Agreement is exceeded or extended through no fault of the Architect, compensation for any services rendered during the additional period of time shall be computed in the manner set forth in Subparagraph 11.3.2.

10.3.4 When compensation is based on a percentage of Construction Cost and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Subparagraph 11.2.2, based on (1) the lowest bonafide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent preliminary estimate of Construction Cost or detailed estimate of Construction Cost for such portions of the Project.

10.4 PAYMENTS ON ACCOUNT OF ADDITIONAL SERVICES

10.4.1 Payments on account of the Architect's Additional Services and for Reimbursable Expenses shall be monthly upon presentation of the Architect's statement of services rendered or expenses incurred.

10.5 PAYMENTS WITHHELD

10.5.1 No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the Work other than those for which the Architect has been found to be liable.

10.6 ARCHITECT'S ACCOUNTING RECORDS

10.6.1 Records of Reimbursable Expenses and expenses pertaining to Additional Services and services performed on the basis of a multiple of Direct Personnel Expense shall be available to the Owner or the Owner's authorized representative at mutually convenient times.

ARTICLE 11
BASIS OF COMPENSATION

Owner shall compensate the Architect as follows:

11.1 AN INITIAL PAYMENT of **None**

shall be made upon execution of this Agreement and credited to the Owner's account at final payment.

11.2 BASIC COMPENSATION

11.2.1 FOR BASIC SERVICES, as described in Article 2, and any other services included in Article 12 as part of Basic Services, Basic Compensation shall be computed as follows:

(Insert basis of compensation, including stipulated sums, multiples or percentages, and identify phases to which particular methods of compensation apply, if necessary.)

Lump Sum fee of \$19,350.00 as described below

1. Prepare plans, specs and bid documents	\$ 12,350.00
2. Bidding Phase	\$ 2,500.00
3. Construction Phase services	\$ 4,500.00

11.2.2 Where compensation is based on a stipulated sum or percentage of Construction Cost, progress payments for Basic Services in each phase shall total the following percentages of the total Basic Compensation payable:

(insert additional phases as appropriate.)

At completion of each phase 1 and phase 2 described above, phase 3 shall be invoiced monthly prorated according to construction progress.

11.3 COMPENSATION FOR ADDITIONAL SERVICES

11.3.1 FOR PROJECT REPRESENTATION BEYOND BASIC SERVICES, as described in Paragraph 3.2, compensation shall be computed as follows:

Hourly Rates are as follows:	Professional Time:	\$105/ per hour
	Professional intern:	\$65/ per hour
	Technical Time:	\$55 / per hour
	Clerical Time	\$35 / per hour

11.3.2 FOR ADDITIONAL SERVICES OF THE ARCHITECT, as described in Articles 3 and 12, other than (1) Additional Project Representation, as described in Paragraph 3.2, and (2) services included in Article 12 as part of Basic Services, but excluding services of consultants, compensation shall be computed as follows:*(Insert basis of compensation, including rates and /or multiples of Direct Personnel Expense for Principals and employees, and identify Principals and classify employees, if required. Identify specific services to which particular methods of compensation apply, if necessary.)*

Hourly Rates are as follows:	Professional Time:	\$105/ per hour
	Professional intern:	\$65/ per hour
	Technical Time:	\$55 / per hour
	Clerical Time	\$35 / per hour

11.3.3 FOR ADDITIONAL SERVICES OF CONSULTANTS, including additional structural, mechanical and electrical engineering services and those provided under Subparagraph 3.4.19 or identified in Article 12 as part of Additional Services, a multiple of **one and two tenths (1.2)** times the amounts billed to the Architect for such services.

(Identify specific types of consultants in Article 12, if required.)

11.4 REIMBURSABLE EXPENSES

11.4.1 FOR REIMBURSABLE EXPENSES, as described in Paragraph 10.2, and any other items included in Article 12 as Reimbursable Expenses, a multiple of **one and one tenths (1.1)** times the expenses incurred by, the Architect, the Architect's employees and consultants in the interest of the Project.

11.5 ADDITIONAL PROVISIONS

None Applicable

11.5.1 IF THE BASIC SERVICES covered by this Agreement have not been completed within **twenty-four (24)** months of the date hereof, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as provided in Subparagraphs 10.3.3 and 11.3.2.

11.5.2 Payments are due and payable **fifteen (15)** days from the date of the Architect's invoice. Amounts unpaid **thirty (30)** days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect. *(Insert rate of interest agreed upon.)*

One percent (1%) per month

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Architect's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Specific legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

11.5.3 The rates and multiples set forth for Additional Services shall be annually adjusted in accordance with normal salary review practices of the Architect.

ARTICLE 12 OTHER CONDITIONS OR SERVICES

(Insert descriptions of other services, identify Additional Services included within Basic Compensation and modifications to the payment and compensation terms included in this Agreement.)

The attached letter of proposal from MSA to Mr. Philip Mobley dated December 6, 2010 describing the scope of proposed services shall be incorporated into this agreement and shall take precedent over any conflict in scope of services that may be present above.

This Agreement entered into as of the day and year first written above.

OWNER **City of Washington**

ARCHITECT **Mark Smith Architect
2020-A Cambria Drive
Greenville, North Carolina 27834**

(Signature)

(Signature)

(Printed name and title)

Mark Joseph Smith
(Printed name and title)



Mark Smith Architect

December 6, 2010

Mr. Philip W. Mobley, CPRP
Director, Parks & Recreation
PO Box 1988
310 West Main Street
Suite 200, Peterson Building
Washington, NC 27889-1988

**Re: Festival Park Development
Water Street, Washington, NC**

Mr. Mobley,

Thank you for your consideration of MSA for your design needs, I look forward to working with you. The following fee proposal is submitted for your review and acceptance based upon our conversation. Please call if any of the following assumptions are incorrect, if you have any questions or require additional information.

This proposal is based on providing Design and Construction Administration Services for the City of Washington Parks and Recreation Festival Park Phase 1 project. Scope of project includes construction of two (2) pre-manufactured park buildings, site work, building foundations, and building electrical work. Complete design services shall include the project bidding and construction administration.

Following are the Scope of Design Services proposed:

Schematic Design

- Meetings and reviews with the Owner to establish and document the desired design objectives, plan configuration, appearances and design features.
- Note – this proposal is based on the preliminary designs already completed by the City of Washington – establishment of a Schematic Site plan prepared by Waters Surveying and building design prepared by Poligon.
- This proposal is based on the work prepared by Waters Surveying and Poligon being made available in electronic format for our use.

Site Planning and Civil Engineering Services

- Site Grading and Layout Plan
- Site Details
- Exclusions:
 - Surveying is not included
 - No Stormwater Management is anticipated
 - No CAMA permit is anticipated
 - No Erosion Control permit is anticipated
 - No NCDENR permit is anticipated

Architectural Design Services

- None proposed – Buildings are by others

Structural Engineering Services

- Foundation Plans
- Schedules and Details
- Exclusions:
 - Building design is by others; foundation reactions shall be provided
 - This proposal is based on concrete spread footings; no piling design included.
 - Owner shall provide geotechnical subsurface investigation report.

Plumbing Engineering Services

- None included

HVAC Engineering Services

- None included

Electrical Engineering Services

- Building Power and Lighting Plans / schedules / details
- Site electrical service; utility company coordination
- Site lighting is not proposed

Project Manual / Specifications

- General Conditions and Bidding Documents
- Site work
- Concrete
- Electrical
- Pre-manufactured building specifications are by others.

Bidding / Negotiations with Contractors

- Assist the Owner with selection of Bidders
- Distribute Bid Documents, conduct pre-bid conference, coordinate bidder's questions and requests for clarifications.
- Conduct bid opening, evaluation and recommend award.
- Negotiate contract as required.

Construction Administration Services

- Conduct Pre-Construction conference
- Review submittals
- Perform periodic construction site visits as required based on activities and progress; note this proposal includes six (6) site visits – more than six (6) shall be additional services.
- Conduct monthly Construction Progress meetings; note this proposal includes three (3) meetings – more than three (3) shall be additional services

Printing and Reproduction

- Normal printing and reproduction incidental to design is included in the fee.
- Three final sets and a .pdf file is included
- Multiple sets for bidding and construction shall be reimbursable expense.

Compensation

Services as described above	Lump Sum Fee	\$19,350
-----------------------------	--------------	----------

Hourly Rates

For proposed hourly services and for services by your request and approval beyond the scope described herein the following hourly rates shall apply:

- Professional \$105 / hr
 - Professional Intern \$65 / hr
 - Technical \$55 / hr
 - Clerical \$35 / hr
-

If you are in agreement with the Scope of Design Services and Compensation as described above we will draft an AIA Document B 141 Standard Form of Agreement between Owner and Architect.

Thank you for your consideration of this Proposal. Please call if you have any questions or require additional information.

Sincerely,



Mark J. Smith
Mark Smith Architect



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Philip Mobley, Director Parks and Recreation
Date: Dec 13, 2010
Subject: Authorize Mayor to execute Withdrawal of Deed of Easement and Reconveyance and execute new Deed of Easement with the Partnership For The Sounds Inc.

Applicant Presentation: None
Staff Presentation: None

RECOMMENDATION:

1. I move that City Council authorize the Mayor to execute a Withdrawal of Deed of Easement and Reconveyance with the Partnership for The Sounds, Inc.

2. I move that City Council Authorize the Mayor to execute a new Deed of Easement with the Partnership For The Sounds, Inc.

BACKGROUND AND FINDINGS:

On February 8th, 2010 City Council granted a request by the N. C. Estuarium, a subsidiary of the Partnership For The Sounds, Inc. (PFS), to relocate the western Boundary of the easement over City property located immediately to the west of its facility that the City originally had granted to PFS in 1996.

Tom Stroud of PFS and I had been talking about this proposed change since December 2009. Tom has been a member of the "Festival Park" Planning Team since the conception of the PARTF Grant Application. This proposal works for both the Estuarium and the "Festival Park" site.

PREVIOUS LEGISLATIVE ACTION

February 8th 2010 City Council Minutes

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

Map of area
Withdrawal of Deed of Easement & Reconveyance
New Deed of Easement

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: *pr* Concur _____ Date _____ (if applicable)
 _____ Recommend _____ Denial _____ No Recommendation *12/7/10* Date

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PREPARED BY AND RETURN TO:
RODMAN, HOLSCHER, FRANCISCO & PECK, P. A.
Attorneys at Law
320 North Market Street
Post Office Box 1747
Washington, NC 27889
Telephone: (252) 946-3122

**STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT**

THIS DEED OF EASEMENT, made and entered into this _____ day of _____, 2010, by and between the **CITY OF WASHINGTON**, a North Carolina municipal corporation with an address of P.O. Box 1988, Washington, Beaufort County, North Carolina 27889, hereinafter referred to as "**GRANTOR**", and the **PARTNERSHIP FOR THE SOUNDS, INC.**, a North Carolina non-profit corporation with an address of P.O. Box 55, Columbia, Tyrrell County, North Carolina 27925, hereinafter referred to as "**GRANTEE**".

WITNESSETH

WHEREAS, the City Council of the City of Washington at a meeting on the 13th day of December, 2010, authorized the proper City officials to execute and deliver to **GRANTEE** this Deed of Easement for such purposes as are described below, subject to the conditions hereinafter stated.

NOW, THEREFORE, in consideration of the mutual covenants as well as agreements herein and the sum of Ten Dollars (\$10.00) and other valuable considerations, the receipt and legal sufficiency of which are hereby acknowledged, **GRANTOR** does hereby give, grant, bargain and sell, and does hereby convey unto **GRANTEE**, its successors and assigns, a non-

**THE GRANTORS HEREIN STATE THAT THE PROPERTY DESCRIBED IN THIS DEED IS _____
OR IS NOT _____ THEIR PRINCIPAL RESIDENCE. (Please initial correct blank)**

**NO TITLE WORK REQUESTED OR PERFORMED BY
RODMAN, HOLSCHER, FRANCISCO & PECK, P.A.**

exclusive easement over the tract of land lying and being in the City of Washington, County of Beaufort, State of North Carolina and more particularly described as follows:

That certain area designated as Easement Area as shown on that certain survey of Waters Surveying, Inc. dated January 12, 2010, a copy of said survey being recorded in the Beaufort County Registry in Plat Cabinet _____, Slide _____. Reference is herein made to said survey and the same is incorporated herein for a more complete and adequate description.

This Deed of Easement is made subject to the following conditions.

1. Said easement is given for the sole purpose of being used as an area complimentary to the Estuarine Education Center, also known as the North Carolina Estuarium and hereinafter referred to as the "Estuarium", that is maintained by **GRANTEE** and located on an adjoining parcel identified as North Carolina Estuarium on the above referenced map. **GRANTEE**, its successors and assigns, shall use this easement for pathways; walls; steps; lights; exhibits; signage; information markers; benches; waste paper receptacles; site drainage; telephone, plumbing and electrical services; and landscape planning. This Deed of Easement is not to be considered as an easement given to the exclusion of **GRANTOR**, its successors and assigns, or to others later granted a similar right in said land by **GRANTOR**.

2. **GRANTEE**, its successors and assigns, and any subsequent owner of this easement does hereby agree and shall assume any and all liability for any injuries or damages which may be suffered by **GRANTEE**, its successors and assigns, invitees, licensees, business invitees, or any subsequent owner of this easement as a result of using said easement. Further, **GRANTEE**, its successors and assigns, and any subsequent owner of this easement shall indemnify and save harmless **GRANTOR**, its successors and assigns, from all damages growing out of or in any way connected with the use of said easement by **GRANTEE**, its successors and assigns, invitees, licensees, and business invitees, and the same shall apply to any subsequent owner.

3. This easement shall continue until such time as **GRANTEE** no longer operates the adjoining tract as the Estuarium. **GRANTEE** agrees to execute such documentation, if any, required by **GRANTOR**, its successors or assigns, to properly terminate said easement upon the cessation of using the adjoining property as the Estuarium.

TO HAVE AND TO HOLD said easement as described herein, to it, **GRANTEE**, its successors and assigns, subject to those terms and provisions described hereinabove.

IN TESTIMONY WHEREOF, GRANTOR, has caused this instrument to be executed in its name by its Mayor, attested by its City Clerk, and its corporate seal to be affixed hereto, all by proper corporate authority duly given, this the day and year first above written.

**CITY OF WASHINGTON
a North Carolina Municipal Corporation**

BY: _____ (Seal)
N. ARCHIE JENNINGS, III, MAYOR

ATTEST:

CYNTHIA S. BENNETT, CITY CLERK

COUNTY OF BEAUFORT
STATE OF NORTH CAROLINA

I, _____, a Notary Public of the State and County aforesaid, certify that CYNTHIA S. BENNETT personally appeared before me this day and acknowledged that she is City Clerk of the CITY OF WASHINGTON, a North Carolina municipal corporation, and by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by N. ARCHIE JENNINGS, III, its Mayor, sealed with its corporate seal and attested by herself as its City Clerk.

WITNESS my hand and official seal, this the ____ day of _____, 2010.

NOTARY PUBLIC

My Commission expires: _____.

PREPARED BY AND RETURN TO:
RODMAN, HOLSCHER, FRANCISCO & PECK, P. A.
Attorneys at Law
320 North Market Street
Post Office Box 1747
Washington, NC 27889
Telephone: (252) 946-3122

**STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT**

THIS WITHDRAWAL OF DEED OF EASEMENT AND RECONVEYANCE, made and entered into this _____ day of _____, 2010, by and between the **PARTNERSHIP FOR THE SOUNDS, INC.**, a North Carolina non-profit corporation with an address of P.O. Box 55, Columbia, Tyrrell County, North Carolina 27925, hereinafter referred to as “**GRANTOR**”, and the **CITY OF WASHINGTON**, a North Carolina municipal corporation with an address of P.O. Box 1988, Washington, Beaufort County, North Carolina, hereinafter referred to as “**GRANTEE**”.

WITNESSETH

WHEREAS, GRANTEE conveyed to **GRANTOR** a Deed of Easement dated July 8, 1996, and recorded in Book 1053, Page 857 of the Beaufort County Registry.

WHEREAS, said Deed of Easement provided to **GRANTOR** a non-exclusive easement over the entire tract of land more particularly described as Parcel Two (2) as shown on that certain survey of Hood Richardson, P.A., attached thereto, entitled “Property of Partnership For The Sounds North Carolina Estuarium”, dated January 22, 1996, and revised February 21, 1996 and March 5, 1996.

WHEREAS, the parties have agreed to alter or change the location of said

**THE GRANTORS HEREIN STATE THAT THE PROPERTY DESCRIBED IN THIS DEED IS _____
OR IS NOT _____ THEIR PRINCIPAL RESIDENCE. (Please initial correct blank)**

**NO TITLE WORK REQUESTED OR PERFORMED BY
RODMAN, HOLSCHER, FRANCISCO & PECK, P.A.**

December 13, 2010
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easement, and desire to withdraw, terminate, and reconvey from Grantor to Grantee that Deed of Easement referred to above, in its entirety.

NOW, THEREFORE, in consideration of the mutual covenants as well as agreements herein and the sum of Ten Dollars (\$10.00) and other valuable considerations, the receipt and legal sufficiency of which are hereby acknowledged, **GRANTEE** and **GRANTOR** do hereby withdraw, terminate, and reconvey from **GRANTOR** to **GRANTEE** any and all rights and interests conveyed in that Deed of Easement dated July 8, 1996, and recorded in Book 1053, Page 857, and **GRANTOR** does hereby specifically convey and quit claim back unto **GRANTEE** any and all rights and interests obtained by **GRANTOR** as a result of said Deed of Easement recorded in Book 1053, Page 857, of the Beaufort County Registry.

TO HAVE AND TO HOLD, said withdrawal, termination, reconveyance from **GRANTOR** to **GRANTEE**, and conveyance unto **GRANTEE**, it being agreed that the rights and interests created in that Deed of Easement recorded in Book 1053, Page 857, are hereby withdrawn, terminated, reconveyed from **GRANTOR** to **GRANTEE**, and conveyed to **GRANTEE**.

The **GRANTOR** covenants with the **GRANTEE** that it has done nothing to impair such title as **GRANTOR** originally received and that it will warrant and defend the title against the lawful claims of all persons claiming by, under, or through said **GRANTOR**.

IN WITNESS WHEREOF, **GRANTOR** has caused this instrument to be executed in its name by its Executive Director and **GRANTEE** has caused this instrument to be executed in its name by its Mayor, attested by its City Clerk, all by proper authority duly given.

This the _____ day of _____, 2010.

PARTNERSHIP FOR THE SOUNDS, INC.
a North Carolina non-profit corporation

By: _____
JACKIE WOOLARD,
EXECUTIVE DIRECTOR

ATTEST:

CITY OF WASHINGTON
a North Carolina municipal corporation

By: _____ By: _____
CYNTHIA S. BENNETT, CITY CLERK N. ARCHIE JENNINGS, III, MAYOR

STATE OF NORTH CAROLINA
COUNTY OF _____

I, _____, a Notary Public of the County and State aforesaid, certify that JACKIE WOOLARD, who is personally known by me or has produced satisfactory evidence of identity, appeared before me this day and acknowledged that she is Executive Director of the Partnership for the Sounds, a non-profit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed by JACKIE WOOLARD, as Executive Director.

Witness my hand and official seal, this the _____ day of _____, 2010.

NOTARY PUBLIC

My Commission expires: _____

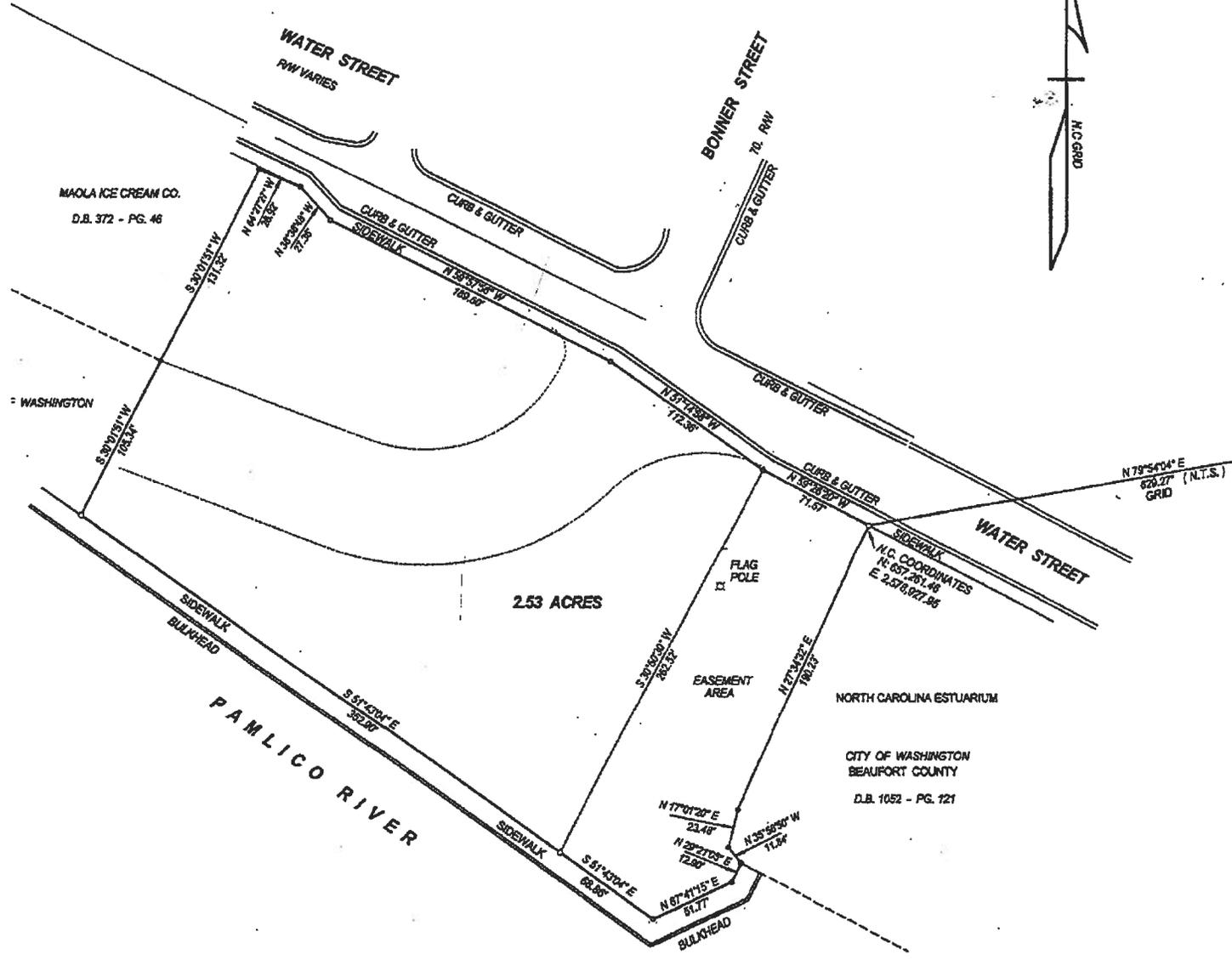
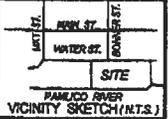
STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT

I, _____, a Notary Public of the State and County aforesaid, certify that CYNTHIA S. BENNETT, personally appeared before me this day and acknowledged that she is City Clerk of the CITY OF WASHINGTON, a North Carolina municipal corporation, and as the act of the corporation, the foregoing instrument was signed in its name by N. ARCHIE JENNINGS, III, its Mayor, sealed with its corporate seal and attested by herself as its City Clerk.

Witness my hand and official seal, this the _____ day of _____, 2010.

NOTARY PUBLIC

My Commission expires: _____



NCGS MON. "HARVEY"
NAD 83
SCALE FACTOR = 0.9999851
N: 657,371.80
E: 2,579,547.47

- REFERENCES
- M.B. 20 - PG. 60
 - M.B. 20 - PG. 76
 - M.B. 21 - PG. 44, 46, 47, 50, 80
 - D.B. 1140 - PG. 95
- THIS PROPERTY ACQUIRED FROM THE REDEVELOPMENT COMMISSION OF THE CITY OF WASHINGTON BY DISPOSAL PARCELS AS SHOWN ON THE REFERENCED MAPS.



City of Washington REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Keith Hardt, P.E., Electric Director *KAH*
Date: 2 December 2010
Subject: Award Contract for Energy and Demand Reduction Technologies
Applicant Presentation: Bob Gary, e-dux Energy Reduction Technologies
Staff Presentation: Keith Hardt, P.E., Electric Director

RECOMMENDATION:

I recommend that the City of Washington award a contract in the amount of \$20,000 to e-Dux Energy Reduction Technologies for 50 residential demand and energy controllers as part of a pilot project.

BACKGROUND AND FINDINGS:

Mr. Bob Gary with e-dux Energy Reduction Technologies came before the City Council during their November Committee of the Whole meeting to discuss their residential demand and energy reduction technology. Mr. Gary was asked to present his program to the Washington Electric Utilities Advisory Committee. The Committee met on Wednesday, 1 December 2010. A quorum of the Committee was not present, but the Committee members present did endorse the program.

Mr. Gary will be presenting his program and requesting your approval to commence with a 50 unit project in Washington.

PREVIOUS LEGISLATIVE ACTION

None.

FISCAL IMPACT

Currently Budgeted (Account _____) Requires additional appropriation
 No Fiscal Impact

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: December 13, 2010 (if applicable)
City Manager Review: *pic* Concur Page 12 of 219 Recommended Denial _____ No Recommendation *12/7/10* Date

SUPPORTING DOCUMENTS

To be distributed at the City Council meeting.



City of Washington

P. O. Box 1988, Washington, NC 27889-1988

MEMORANDUM

DATE: December 2, 2010
TO: Mayor Jennings & Members of City Council
FROM: John Rodman, Planning & Development
RE: Draft Minimum Housing Code

Attached is a copy of the Planning Board's 1st draft and review for the update of the Washington Minimum Housing Code. The Planning Board with the assistance of the Planning Department, the City Attorney's Office and the Code Enforcement Division has prepared the attached Code. The Planning Department took a comprehensive approach to preparing the Minimum Housing Code which included: reviewing existing codes, comparing other local government housing codes, and reviewing recommendations from the NC General Statutes for minimum housing codes. Adoption of a minimum housing code is recommended as part of the Comprehensive Plan.

Planning Staff request the Council review the draft code. The code will be scheduled for a future meeting for further discussion. Staff requests feedback for corrections or changes to the draft code.

December 13, 2010

ARTICLE V. HOUSING CITY OF WASHINGTON

GENERAL PROVISIONS

Sec. -----. General.

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

Sec. 6-109. Finding; Purpose of article.

- (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 and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering such dwellings unsafe or unsanitary, and dangerous and detrimental to the health, safety and morals, and 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-441 ~~et seq.~~, *Art. 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 fully as though set forth in this section as the housing code of the city. ~~The housing code applies to the city limits and the extraterritorial jurisdiction of the city.~~
(Code 1972, § 9-1; Code 1993, § 4-86)

~~Sec. 6-110. Chief of Fire-Rescue-EMS-Inspections-Duties.~~

~~The Chief of Fire-Rescue-EMS-Inspections is hereby designated as the officer to enforce the provisions of this article and to exercise the duties and powers herein prescribed. It shall be the duty of the Chief of Fire-Rescue-EMS-Inspections:~~

- ~~(a) To investigate the dwelling conditions, and to inspect dwellings and 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 effect 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 herein prescribed.~~

Sec. -----. **Scope.**

- (a) *The provisions of this Article shall apply to any existing dwelling and to all 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 Chapter.*
- (b) *The provisions of this Article shall be applicable within the corporate limits of the City and extends one (1) mile into its extraterritorial planning jurisdiction.*

Sec. -----. **Definitions.**

The following definitions shall apply in the interpretation and enforcement of this Chapter:

Abandoned Structure. *Any structure, whether designed and intended for residential or other uses, which is vacant or not in active use, regardless of purpose or reason, for the past one-year period and which is determined by the director 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 an 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 the inspector that a dwelling or dwelling unit complies with the requirements of this Chapter and all other applicable provisions of the Washington City Code, and NC General Statutes.*

Code Official.. *The person duly designated by the City Council to administer and enforce the Housing Code.*

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 chapter at a cost not in excess of 50% of its value, as determined by finding of the Housing Administrator.*

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 chapter except at a cost in excess of 50% of its value, as determined by finding of the Housing Administrator.*

Dwelling. *Any building, structure, 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 methods approved by the Housing Administrator.

Garbage. The organic waste resulting from the handling, preparation, cooking and consumption of food.

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 communicating 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 is designed for living, sleeping, cooking or eating for extended periods 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 or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants 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 body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 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 HUD and complies with the standards established under the Act. 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 32 feet in length and over eight feet in width. "Manufactured home" also means a double-wide manufactured home, which is two 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 32 feet in length and over eight feet in width.

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

Occupant. Any person over one 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:

- (1) Shall have title to any dwelling, dwelling unit or rooming unit, with or without accompanying actual possession thereof;
- (2) Shall be a mortgagee of record for any dwelling, dwelling unit or rooming unit;
- (3) 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 chapter, and of 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 or more rooming units, in which space is let by the owner or operator to three 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 utilities system on the same premises for more than 30 consecutive days.

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

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.

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

MINIMUM HOUSING STANDARDS

Sec. -----. 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 requirements of Section ----- through Section ----- 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.

Sec. -----. 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 (33) percent or more damage or deterioration, or non-supporting, enclosing or outside walls or covering which shows fifty (50) percent 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, decay, unsanitary conditions or disrepair which is dangerous to the health, safety or welfare of the occupants or other people in the city or jurisdiction.*
- (f) *Inadequate facilities for egress in case of fire or panic.*
- (g) *Defects significantly 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 a definite 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 reasons is not receiving a flow of potable water to the tap.*

Sec. -----. 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 re-infestation.*
- (e) *Pipes, ducts, conductor, 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 structurally sound 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. -----. *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 water standing.*
- (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 weathertight without holes or cracks which permit excessive air to penetrate rooms.*
- (4) *There shall be no loose flooring.*
- (5) *Bathroom and kitchen flooring surface 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 covering shall be constructed and maintained 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 weathertight, 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 a protective coating or covering 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 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 allowed.

(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. -----. 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 water 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 closet shall be functional and free of leaks.*
- (6) *Water closet 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 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 all habitable rooms, bathrooms and water closet compartments 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 central or electric heating system are 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 all habitable rooms with a minimum temperature of 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 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 will 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 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 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 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 State Electrical Code (Volume IV of the State 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 in which it was designed.

Sec. -----.

Minimum Standards for Smoke Detectors.

- (a) *Every owner of a residential 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. -----.

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 of the required area of glazing shall be operable. 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 of the area of the common wall is open and unobstructed and provides an opening of not less than one-tenth of the floor area of the interior room or 25 sq ft., whichever is greater. Exceptions to this standard are as follows:*
- (1) *The glazed areas need not be operable where the opening is not required by Section 310 of Volume VII of the State 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 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.*
- (2) *The glazed areas may be omitted in rooms where the opening is not required by Section 310 of Volume VII of the State 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 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 6 foot candles (6.46 L/s) over the area of the room at a height of 30 inches above the floor level.*
- (b) *All exterior windows and doors shall be reasonably weathertight, 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 3 square feet, one-half of which must be operable. 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 12 minutes are provided. Bathroom exhausts shall be vented directly to the outside.*

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

(a) Room Size.

- (1) *Every dwelling unit shall have at least one habitable room which shall have not less than 150 square feet of floor area. Other habitable rooms shall have an area of not less than 70 square feet. Every kitchen shall not have less than 50 square feet of floor area. Habitable rooms except kitchens, shall not be less than 7 feet in any horizontal dimension.*
- (2) *In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one 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.

Habitable rooms, except kitchens, shall have a ceiling height of not less than 7 feet 6 inches for at least 50 percent of their required areas. Not more than 50 percent of the required area may have a sloped ceiling less than 7 feet 6 inches in height with no portion of required areas less than 5 feet in height. If any room has a furred ceiling, the prescribed ceiling height is required for at least 50 percent of the area thereof, but in no case shall the height of the furred ceiling be less than 7 feet. A portion of a room with a sloping ceiling measuring less than 5 feet 0 inches or a furred ceiling measuring less than 7 feet 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:

- (1) *Beams and girders spaced not less than 4 feet on center may project not more than 6 inches below the required ceiling height.*
- (2) *All other rooms including kitchens, baths and hallways may have a ceiling height of not less than 7 feet measured to the lowest projection from the ceiling.*
- (3) *Ceiling height in basements without habitable spaces may not be less than 6 feet 8 inches clear except for under beams, girders, ducts or other obstructions where the clear height shall be 6 feet 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 watertight.

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

(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. -----. Minimum Standards to Means of Egress.

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

(b) Every exterior, cellar or basement door and 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 insure 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 weathertight, 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 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 44 inches above the floor.

(h) All egress or rescue windows from sleeping rooms must have a net clear opening of 4.0 square feet. The minimum net clear opening height shall be 22 inches. The minimum net clear opening width shall be 20 inches. Each egress window from sleeping rooms must have a minimum total glass area of not less than 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. ----- Minimum Standards for Porches or Raised Platform.

- (a) *Foundation flooring, ceiling and roofing for porches and raised platforms shall be equal to standards set forth in Section ----- except sills and joists need not be level if providing drainage of floor and floors need not be weathertight.*
- (b) *Roof post and attached railings shall be structurally sound.*
- (c) *Every porch terrace or raised platform located at least forty (40) 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 inch sphere cannot pass through any opening.*

Sec. ----- 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) *Where steps and stairs that must be replaced due to deterioration, construction must comply 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 30 inches nor more than 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 42 inches high.*
- (g) *Gripping surfaces shall be continuous without interruption.*

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

- (a) *Screens. In every dwelling unit, for protection against mosquitoes, flies, and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device, where an air condition is not provided. Every window or other device with openings to outdoor space shall be supplied with screens, where an air condition 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 of any insects, rodents, or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination 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 shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any structure or in the shared or public parts of any structure containing two or more dwelling units, extermination 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 --- gallon outside garbage can will be required for single family residents.*

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

All the provisions of this Chapter, and all of the minimum standards and requirements of this Chapter, 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 closet, hand lavatory and bath 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 (1) of this section shall be located within the rooming house and within a room or rooms which afford privacy and are separate from habitable rooms, which are accessible from a common hall and 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, and for the sanitary maintenance of every other part of the rooming house; he shall further be responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.*

Sec. -----. **Responsibilities of Owners and Occupants.**

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

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

(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 the article and is reasonably clean, sanitary and fit for human occupancy.*

Sec. -----. **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.

ADMINISTRATION AND ENFORCEMENT

Sec. -----. ~~Chief of Fire-Rescue-EMS Inspections~~ **Duties of the Code Official.**

~~The Chief of Fire-Rescue-EMS Inspections~~ *The Director of Planning & 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 ~~Chief of Fire-Rescue-EMS Inspections~~ Code Official:*

(a) *To investigate the dwelling conditions, and to inspect dwellings and 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 effect 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 herein prescribed.

Sec. -----. ~~Chief of Fire-Rescue-EMS Inspections~~ **Powers of the Code Official.**

The ~~Chief of Fire-Rescue-EMS Inspections~~ *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 herein granted:

- (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. -----. ~~Right of entry of Inspectors~~ **Inspections: Right of Entry**

For the purpose of making inspections, the ~~Chief of Fire-Rescue-EMS Inspections~~ *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 ~~Inspector~~ *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. -----. **Housing Appeals Board.**

The Board of Adjustment, provided for under Chapter 40, pertaining to zoning, shall serve as the Housing Appeals Board, to which appeals may be taken from any decision or order of the ~~Chief of Fire-Rescue-EMS Inspections~~ *Code Official*, as provided by Section ----- . Such Board shall perform the duties prescribed by Section -----, 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. -----.

Procedure for Enforcement.

- (a) Preliminary investigation; notice; hearing. Whenever a petition is filed with the ~~Inspector~~ *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 Inspector upon inspection, 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 and containing a notice that a hearing will be held before the ~~Chief of Fire-Rescue-EMS-Inspections~~ *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 Inspector.
- (b) Procedure after hearing. After such notice and hearing, the ~~Chief of Fire-Rescue-EMS-Inspections~~ *Code Official* shall state in writing his determination whether such dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.
- (1) If the ~~Chief~~ *Code Official* determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article within a specified period of time, not to exceed ninety (90) days or to vacate and close the same. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations and improvements have been made.
- (2) If the ~~Chief~~ *Code Official* determines that the dwelling is dilapidated, he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to vacate and close the dwelling, and to repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article, or to remove or demolish the same within a specified period of time not to exceed ninety (90) days.
- (c) Failure to comply with order. The following remedies are available upon the failure of an owner to comply with any order issued hereunder:
- (1) In personam remedy. If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the ~~Chief~~ *Code Official* to repair, alter or improve the same within the time specified therein, or if the owner of a dilapidated dwelling shall fail to comply with an order of the ~~Chief~~ *Code Official* to

vacate and close, and repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness or remove or demolish the same within the time specified therein. The ~~Chief Code Official~~ shall submit to the City Council at its next regular meeting a resolution directing the City Attorney to petition the Superior Court for an order directing such owner to comply with the order of the Chief, as authorized by G.S. 160A-446(g).

- (2) In rem remedy. After failure of an owner of a deteriorated dwelling or dwelling unit, or of a dilapidated dwelling, to comply with an order of the ~~Chief Code Official~~ within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in subsection ----- of this section, the ~~Chief Code Official~~ shall submit to the City Council an ordinance ordering the owner to cause such dwelling or dwelling unit to be repaired, altered, improved or vacated and closed and removed or demolished, as provided in the original order of the Inspector, and pending such removal or demolition, to placard such dwelling, as provided by G.S. 160A-443(4) and Section -----.
- (d) Appeals from orders of the ~~Chief Code Official~~. An appeal from any decision or order of the ~~Chief 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 ~~Inspector 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 ~~Chief 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 ~~Chief Code Official~~ shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the ~~Chief 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 ~~Chief 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 Board, unless the ~~Chief Code Official~~ certifies to the 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 his 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's written notice to the ~~Chief Code Official~~, by the Board or by a court of record upon petition made pursuant to G.S. 160A-446(f) and subsection ----- of this section.
- (1) The 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 or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the ~~Chief Code Official~~, but the concurring vote of four (4) members of the Board shall be necessary to reverse or modify any decision or order of the ~~Inspector Code Official~~. The Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the

ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

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

(e) Petition to Superior Court by owner. Any person aggrieved by an order issued by the ~~Chief~~ *Code Official* or a decision rendered by the Board shall have the right, within thirty (30) days after issuance of the order or rendering of the decision, to petition the Superior Court for a temporary injunction restraining the ~~owner~~ *Code Official* pending a final disposition of the cause, as provided by G.S. 160A-446(f).

Sec. -----. ***Methods of Service of Complaints and Orders.***

Complaints or orders issued by the ~~Chief of Fire-Rescue-EMS-Inspections~~ *Code Official*, pursuant to this Article, shall be served upon persons either personally or by registered or certified mail. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the ~~Chief~~ *Code Official* in the exercise of reasonable diligence, and the ~~Chief~~ *Code Official* makes an affidavit to that effect, then the serving of the complaint or order upon the unknown 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. -----. ***In Rem Action by Inspector; Placarding.***

(a) After failure of an owner of a dwelling or dwelling unit to comply with an order of the ~~Chief of Fire-Rescue-EMS-Inspections~~ *Code Official* issued pursuant to the provisions of this article, and upon adoption by the City Council of an ordinance authorizing and directing him to do so, as provided by G.S. 160A-443(5) and Section -----, the ~~Chief~~ *Code Official* shall proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this article or to be vacated and closed and removed or demolished, as directed by the ordinance of the City Council and shall cause to be posted on the main entrance of such dwelling or dwelling unit 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." The occupation of a building so posted shall constitute a misdemeanor.

(b) Each such ordinance shall be recorded in the office of the Register of Deeds in the county wherein the property is located, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160A-443(5).

Sec. -----. ***Abandonment of Property***

(a) If the ~~Code Official~~ *Code Official* has issued an order for a dwelling to be repaired, altered, improved or vacated and closed, as provided in Section ----- of this Article, and if the

owner has vacated and closed such dwelling and kept it vacated and closed for a period of one year pursuant to the ordinance or order, then if the City Council shall find that:

- (1) The owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation;*
 - (2) That the continuation of the dwelling in its vacated and closed state would be inimical to the health, safety, and welfare of the municipality in that the dwelling would continue to deteriorate;*
 - (3) That the dwelling would create a fire and safety hazard;*
 - (4) That the dwelling would be a threat to children and vagrants;*
 - (5) That the dwelling would attract persons intent on criminal activities;*
 - (6) That the dwelling would cause or contribute to blight and the deterioration of property values in the area; and*
 - (7) That the dwelling would render unavailable property and a dwelling which might have otherwise have been made available for decent and affordable housing in the City, 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 setting forth the following:*
 - (a) If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost of fifty percent (50%) or less of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling with 90 days; or*
 - (b) If it is determined that the repair of the dwelling to render it fit for human habitation can only be made at a cost exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.*
- (b) The ordinance in subsection (a) of this section shall be recorded in the office of the Register of Deeds and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the inspector shall effectuate the purpose of the ordinance.*

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

As provided by G.S. 160A-443(6), the amount of the cost of any repairs, alterations or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the ~~Chief of Fire-Rescue-EMS-Inspection~~ *Code Official* pursuant to Section --- --, shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. 160A, art. 10 (G.S. 160A-216 et seq.).

Sec. -----. **Alternative Remedies.**

Neither this Article nor any of its provisions shall be constructed to impair or limit in any way the power of the City to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this Article by criminal process as authorized by G.S. 14-4 and Section -----, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy provided herein or in other ordinances or laws.

Sec. -----. **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. -----. **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, or to vacate and close and remove or demolish the same, upon order of the ~~Inspector~~ *Code Official* duly made and served as herein provided, within the time specified in such order, and each day that any such failure, neglect or refusal to comply with such order 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 has been issued, pursuant to Section -----, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, 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.



City of Washington

P. O. Box 1988, Washington, NC 27889-1988

MEMORANDUM

DATE: December 7, 2010
TO: Mayor Jennings & Members of City Council
FROM: John Rodman, Planning & Development
RE: Lease Agreement – Moss Property Partners

Attached is a copy of a proposed lease agreement between the City and Moss Property Partners, owners of Moss Marina, to utilize City property for the possible location of an upland bathhouse facility as an accessory use to the marina. This would replace the proposed floating bathhouse planned for the marina area.

The property is located to the south of the current pump station property that adjoins Moss Landing and contains .11 acres. Moss Property Partners are seeking to construct an upland bathhouse facility that will serve the owners and users of boating slips located at the marina.

washington

**STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT**

LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter referred to as "Agreement") is made and entered into as of the _____ day of _____, 20____, by and between the **CITY OF WASHINGTON**, a municipal corporation of the State of North Carolina (hereinafter referred to as "Lessor") and **MOSS PROPERTY PARTNERS, LLC**, a North Carolina Limited Liability Company having an address of 100 West Main Street, Washington, North Carolina (hereinafter referred to as "Lessee").

WITNESSETH

WHEREAS, Lessor owns that certain property of record at Book 1710, Page 483 in the Beaufort County Registry and as more specifically described in Exhibit "A" attached hereto and incorporated herein by reference (hereinafter referred to as "Premises").

WHEREAS, Lessor has found said Premises to be surplus to its current needs.

WHEREAS, Lessee desires to lease said Premises from Lessor in order to utilize the same for a contemplated bathhouse facility as an accessory use to The Marina at Moss Landing Condominium (hereinafter referred to as "Marina") that is being developed by Lessee.

WHEREAS, Lessor desires to lease said Premises to Lessee in an effort to, among other things, boost the local economy, including but not limited to downtown business, and tourism.

WHEREAS, after proper, legal notice, the City Council passed a Resolution authorizing this Agreement.

NOW, THEREFORE, subject to the terms and conditions hereinafter set forth, Lessor does hereby lease and let unto Lessee and Lessee hereby takes and accepts, together with all privileges and appurtenances thereto, the Premises. In consideration of the mutual promises and covenants herein contained, the benefits to the Lessor and Lessee, and for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties do hereby agree as follows.

1. **Premises**. The Premises are as defined hereinabove.
2. **Contingency**. Lessee's taking possession of the Premises is subject to Lessee obtaining all necessary variances, permits, and any other type of permissions that may be required by any legal authority in order to locate said contemplated bathhouse facility on the Premises.
3. **Condition of Premises**. Lessee's taking possession of the Premises shall be conclusive evidence as against Lessee that Lessee has accepted said Premises as is and that Lessor

is under no duty to repair anything, furnish any services for, or otherwise improve in any way the Premises.

4. **Term.** The term of this Agreement shall be for ten (10) years and shall commence as of the _____ day of _____, 20____, and shall expire on the ___ day of _____, 20____. This Agreement may be terminated prior to the expiration of the term upon mutual consent of the parties. In order to effectuate said early termination by mutual consent, either party must give the other party written notice of its desire to terminate this Agreement at least one hundred eighty (180) days prior to any such termination; in which case, this Agreement shall terminate on the date contained in said notice if the other party provides written consent to such termination within the applicable time period. Notwithstanding the above or anything herein to the contrary, Lessor, in its sole discretion and without incurring any expense other than that expense provided for hereinafter, may unilaterally terminate this Agreement at any time by giving Lessee at least _____ (____) days written notice of such termination. Other than the expense provided for hereinafter, Lessee shall have and make no claim, for damages or otherwise, upon Lessor should Lessor elect to exercise its right to early, unilateral termination hereunder.

a. **Subsequent Agreement.** Should Lessee desire to seek a subsequent agreement beyond the initial ten (10) year term, then, in that event, Lessee shall notify Lessor one hundred eighty (180) days prior to the end of the initial period. The parties hereby agree that, upon such notice, the parties will enter negotiations concerning a subsequent agreement, with the understanding that this provision shall not be construed as an option to renew or extend this Agreement under North Carolina General Statute § 160A-272 and that Lessor is under no legal obligation to enter a subsequent agreement.

5. **Rental.** Rental shall be Five Hundred Dollars (\$500.00) per year and shall be payable in advance on _____ of each year, beginning _____, 20____.

a. **Security Deposit.** Lessee shall, upon execution of this Agreement and upon every anniversary of said execution including any such anniversary during any extension period, deposit with Lessor the sum of _____ (\$_____) per year to secure the faithful performance of Lessee's promises and duties contained herein (hereinafter referred to as the "Security Deposit"). Lessor shall not be required to pay any interest to Lessee upon the Security Deposit. Upon any termination of the tenancy herein created, including any month to month tenancy created from a holdover, Lessor may deduct from the Security Deposit amounts sufficient to pay (i) any damages sustained by Lessor as a result of Lessee's non-payment of rent, non-fulfillment of the terms of this Agreement, or breach of any term or condition of this Agreement, including but not limited to failure to remove improvements and return the Premises to its original condition as more specifically provided for hereinafter; (ii) any damages to the Premises for which Lessee is responsible; (iii) any unpaid bills which become a lien against the Premises due to Lessee's occupancy; and (iv) any court costs incurred by Lessor in connection with terminating the tenancy. After having deducted the above amount, Lessor shall refund to Lessee the balance of the Security Deposit along with an itemized statement of any deductions therefrom.

6. **Assignment.** Lessee shall not assign its interest in this Agreement, sublease any portion of the Premises, or permit third parties to occupy or use any portion of the Premises without Lessor's prior written consent, which consent may be withheld in Lessor's sole discretion. Notwithstanding the foregoing, Lessor hereby expressly authorizes Lessee to utilize the Premises as an accessory use (bathhouse facility) to the Marina and expressly authorizes Lessee to provide such access to the Premises as is necessary to and for third parties to exercise their rights to and/or interests in the Marina.

7. **Use of Premises.** Lessee shall use the Premises during the term of this Agreement for the purposes specified herein and none other. The Premises described herein may be used by Lessee only for purposes that are in furtherance of and consistent with Lessee's operation of an accessory use (bathhouse facility) to the Marina. Lessee shall not make any unlawful or offensive use of the Premises and agrees to keep the same in good maintenance and aesthetically pleasing appearance.

8. **Care and Maintenance.** Lessor shall not be responsible for any maintenance of the Premises and Lessee agrees, at Lessee's own expense as additional consideration for this Agreement, to maintain the Premises in an attractive manner, including but not limited to keeping the contemplated bathhouse facility and any and all grass, bushes, shrubs, and trees in an aesthetically pleasing appearance and in compliance with any and all ordinances of the City of Washington, including but not limited to zoning and public nuisance ordinances. Lessee shall adequately secure the Premises when Lessee is not utilizing the same in order to prevent unauthorized access by the public. Lessee shall pay for the repair of any and all damages to the Premises caused by the public or Lessee, its agents, employees, invitees, guests, customers, or their successors and assigns or any of them.

9. **Improvements and Alterations.** The parties recognize that Lessee has made and must make certain improvements and alterations to the Premises in order to use the Premises as hereinbefore provided. In addition to any other permitting or approval process that may be required, Lessee shall submit a written plan, including sketch, for all such improvements and alterations to and receive approval thereof from the City Manager/City Council. Lessee shall continually modify any existing improvements and alterations to the Premises as may be necessary to conform with such approval. It is expressly understood that such approval is subject to modification, in the discretion of the City Manager/City Council, and that, if such approval is modified, Lessee shall modify its improvements and alterations as may be necessary to comply with such modified approval. Any alteration or improvement that is made by Lessee without written consent from Lessor or that is inconsistent, in Lessor's sole discretion, with Lessor's written consent shall constitute default hereunder. All such improvements and alterations shall be properly maintained by Lessee, in Lessor's sole discretion.

10. **Inspections and Access.** Lessee does hereby agree that Lessor shall be allowed to inspect the Premises at any time. Lessee shall provide Lessor with such reasonable access over and across the Premises as may be necessary to enable and assist Lessor in the use, care, maintenance and improvement of Lessor's adjacent properties.

11. **Insurance.** Lessee shall, at its expense, obtain and maintain for the duration of this Agreement the following insurance coverages:

- a. Statutory Workers' Compensation Insurance in amounts required by law and, unless exempted by applicable law, employer's liability at a minimum of \$100,000.00 each accident and \$100,000.00 for bodily injury by disease each employee, with a policy limit of \$500,000.00 bodily injury by disease; and
- b. Commercial General Liability Insurance, including contractual liability, personal and bodily injury, property damage, advertising injury, premises, and operations coverage at a minimum of \$1,000,000.00 per occurrence and \$1,000,000.00 aggregate.

Each such policy shall list Lessor as additional insured and provide that it is not subject to cancellation or reduction in coverage except after thirty (30) days following notice to Lessor. Lessee shall deliver to Lessor certificates of insurance for all insurance policies required hereunder. Lessee shall, within a reasonable period of time prior to the expiration of any such policy, furnish Lessor with certificates of insurance evidencing renewal thereof. Lessor may, in its sole discretion, require Lessee to expand the form and/or increase the amounts of all such insurance.

12. **Personal Property Taxes.** Lessee shall pay or discharge prior to delinquency all taxes and other charges assessed against or levied upon its fixtures, equipment, furnishings, and its other personal property located on the Premises.

13. **Utilities.** The provision of utilities, including water, sewer, and electricity, if any, shall be covered under a separate agreement; however, Lessee shall be responsible for all applicable charges, including but not limited to "hook-up" and customary monthly charges for the same. Notwithstanding the foregoing, it is expressly understood by the parties that Lessee shall be responsible for installing, in the manner required by Lessor, and paying for any additional utilities that may be required.

14. **Release, Waiver of Claims and Indemnity.** Lessee shall occupy the Premises at Lessee's own risk. Lessee for itself, its invitees, customers and guests and their respective joint venturers, partners, parents, subsidiaries, affiliates, predecessors in interest, successors in interest, assigns and each of their respective officers, directors, employees, shareholders, agents, accountants, attorneys, insurance carriers, sureties, representatives, consultants and advisors, both past and present, hereby shall unconditionally waive, release, hold free and harmless, indemnify and defend Lessor and its present and former employees, officials, and elected officials in both their respective individual and official capacities, agents, personal representatives, attorneys, insurers, heirs, successors and assigns, and each of them, respectively, of, from, and for all and any manner of action or actions, cause and causes of action, claims, demands, costs, loss of services, expenses, attorney's fees, compensation and all consequential, compensatory, general, special and/or punitive damages or liabilities, known or unknown, which may result directly or indirectly from or be in any way related to, connected with or growing out of this Agreement, Lessee's occupancy as well as use of said Premises, including use by invitees,

customers, or guests of Lessee and Lessee's operation of an accessory use (bathhouse facility) to the Marina. This provision shall survive the termination of this Agreement and shall be in full force and effect beyond the term or termination of this Agreement, however terminated.

15. **Adherence to Regulations.** Lessee shall comply with all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of and agreements with all governments, departments, commissions, boards, Courts, authorities, agents, officials, officers and other parties, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to Lessee, Lessee's operation of an accessory use (bathhouse facility) to the Marina, and Lessee's use of the Premises. Further, Lessee shall comply with any and all local, state, federal or other rules and regulations as well as all applicable environmental rules and regulations, including but not limited to such rules and regulations regulating hazardous or similar substances or conditions, their storage or disposal. Lessee shall not intentionally and knowingly use the Premises, for any purpose or in any manner in violation of any law, ordinance, rule, or regulation adopted or imposed by any federal, state, county, municipal body, or other governmental agency. Lessee further agrees to indemnify and hold the City harmless for any and all damage of any kind arising from Lessee's failure to comply with the aforementioned rules and regulations, including, but not limited to, the cost of clean-up, restoration fees, mitigation costs, and attorney's fees caused or occasioned by Lessee.

16. **Reports.** If requested by the **City Manager/City Council**, Lessee shall provide a report of such matters involving the Premises or the Marina as may be required by the **City Manager/City Council**.

17. **Relationship of Parties.** In carrying out the terms and conditions of this Agreement, Lessee is an independent party from Lessor and is not an agent or employee of Lessor. Nothing contained in this Agreement shall create or be construed as creating a partnership, joint venture, or employee relationship between Lessor and Lessee.

18. **Waiver.** No waiver of any condition, covenant or restriction of this Agreement by either party shall be deemed to imply or constitute a further waiver of the same or any other condition, covenant or restriction of this Agreement.

19. **Surrender of Possession, Holding Over.** Upon the expiration or any other termination of this Agreement, Lessee shall quit and surrender the Premises to Lessor. Within ninety (90) days of any such expiration or any other termination of this Agreement, Lessee shall retain ownership of and shall remove any items of personal property and shall, upon notice from Lessor, remove any and all improvements and alterations described in such notice, including the bathhouse facility and other fixtures, made or placed on or about the Premises by Lessee and, consistent with such notice, return the Premises to its condition prior to any installation or placement of such item(s) or making of any such improvements or alterations thereon. Failure by Lessee to perform the obligations contained in this numbered paragraph 19 within said ninety (90) day period shall entitle Lessor to remove and dispose of said personal property, improvements, and alterations, including the bathhouse facility and other fixtures, and recover all of its costs and

expenses in doing so from Lessee, including but not limited to application of the security deposit provided for herein. If Lessee shall remain in possession of the Premises or any part thereof after the expiration of the term of this Agreement, either with or without Lessor's acquiescence, Lessee shall be deemed a tenant at will, and such holding over by Lessee shall in no way constitute a renewal of this Agreement. In the event that Lessee is not in default or in breach of this Agreement and i) this Agreement is terminated by other than mutual consent or ii) the parties do not enter a subsequent agreement, Lessor shall pay Lessee an amount equal to the then current value of said bathhouse facility, after appropriate deduction for depreciation.

20. **Lessee's Default.** Any default by Lessee in the performance of any of the promises, duties, or obligations herein agreed to by Lessee or imposed upon Lessee by law shall, at Lessor's option, constitute a material breach of this Agreement, giving Lessor, in addition to all other rights and remedies as provided herein, including but not limited to those rights provided for in numbered paragraph 19 hereof, and provided by law, the right without notice or demand at the option of the Lessor immediately to a) terminate this Agreement; b) reenter, without liability to anyone for trespass or otherwise, the Premises; and c) collect from Lessee any damages resulting from default, including the cost of repairing the Premises, returning the Premises to its original condition, and any reasonable attorney's fees incurred as a result of default. Upon any reentry pursuant to this paragraph, the Lessor may, without liability to anyone, remove any personal property located on or about the premises, whether belonging to Lessee or otherwise, and dispose of the personal property as Lessor deems proper or to store such property at Lessee's expense. Lessor is further authorized to sell or cause to be sold any such personal property so removed, the proceeds from which may be used to pay any storage charges against the property or to satisfy any delinquent rental or other obligation due Lessor by Lessee.

21. **Illegal Provisions, Governing Law.** If any provision of this Agreement shall be declared illegal, void, or unenforceable, the other provisions shall not be affected, but shall remain in full force and effect. This Agreement shall be governed by and construed in accordance with the laws of North Carolina.

22. **Entire Agreement.** This Agreement contains the entire agreement between the parties hereto with respect to the Lessee's use and occupancy of said Premises and all prior and contemporaneous agreements are merged herein, and this instrument shall not be altered or modified except in writing signed by all parties hereto.

(The Remainder Of This Page Intentionally Left Blank.)

IN WITNESS WHEREOF, after due authority given, the parties hereto have executed this Agreement as of the date first above written.

PRE-AUDIT CERTIFICATE

This Agreement has been pre-audited per North Carolina General Statute § 159-28 in the manner required by the Local Government Budget and Fiscal Control Act.

Matt Rauschenbach, Chief Financial Officer
City of Washington

LESSOR:

CITY OF WASHINGTON

ATTEST:

(SEAL)
Cynthia S. Bennett, City Clerk
City of Washington

By: _____ (SEAL)
Peter T. Connet, Interim City Manager
City of Washington

LESSEE:

MOSS PROPERTY PARTNERS, L.L.C.

By: _____ (SEAL)
Robert O. Wilson, Member/Manager

By: _____ (SEAL)
Terry Smithwick, Member/Manager

STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT

I, _____, a Notary Public of the State and County aforesaid, certify that **CYNTHIA S. BENNETT**, personally appeared before me this day and acknowledged that she is City Clerk of the **CITY OF WASHINGTON**, a North Carolina municipal corporation, and as the act of the corporation, the foregoing instrument was signed in its name by **PETER T. CONNET**, its Interim City Manager, sealed with its corporate seal and attested by herself as its City Clerk.

WITNESS my hand and official seal, this the ____ day of _____, 20__.

NOTARY PUBLIC

My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF _____

Before me, a Notary Public in and for the County and State aforesaid, this day personally appeared **ROBERT O. WILSON** and acknowledged that he is Member/Manager of **MOSS PROPERTY PARTNERS, L.L.C.**, and acknowledged the due execution by him of the foregoing instrument for the purposes therein expressed.

Witness my hand and official seal, this the ____ day of _____, 20__.

NOTARY PUBLIC

My Commission expires: _____

STATE OF NORTH CAROLINA
COUNTY OF _____

Before me, a Notary Public in and for the County and State aforesaid, this day personally appeared **TERRY SMITHWICK** and acknowledged that he is Member/Manager of **MOSS PROPERTY PARTNERS, L.L.C.**, and acknowledged the due execution by him of the foregoing instrument for the purposes therein expressed.

Witness my hand and official seal, this the ____ day of _____, 20__.

NOTARY PUBLIC

My Commission expires: _____

EXHIBIT "A"

That property conveyed by Special Warranty Deed from Moss Property Partners, LLC to City of Washington, North Carolina, as recorded in Book 1710, Page 483 of the Beaufort County Registry and being a portion of Lot "C" as shown on that map by Mayo and Associates, PA, titled "Moss Property Partners, LLC, Marina Riparian Lot" as recorded in Deed Book 1572, Page 847 in the Beaufort County Registry and being more particularly described as follows:

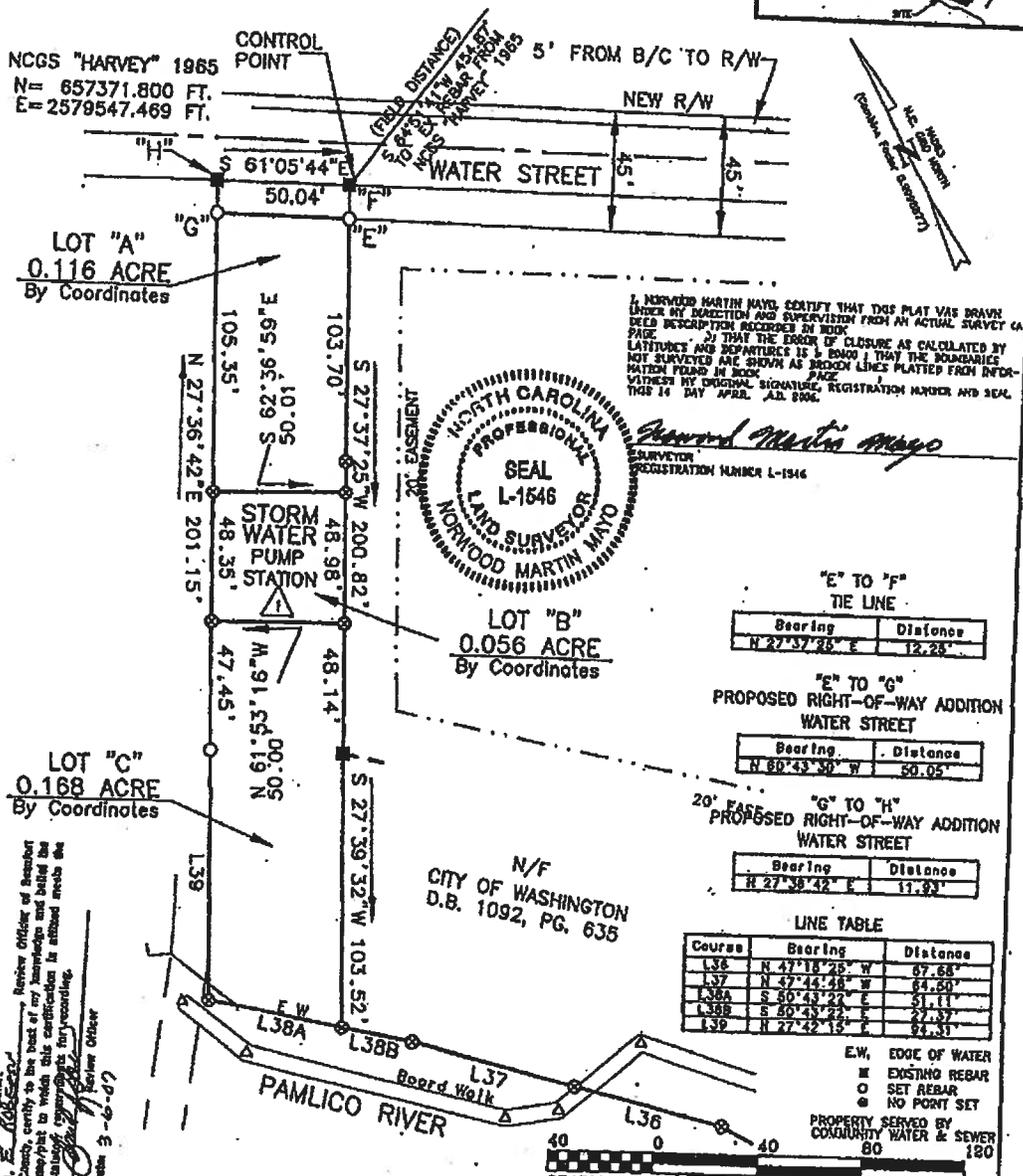
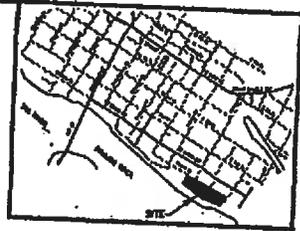
BEGINNING at an existing 2" x 2" fence post at the northwest corner of lot "C"; thence from said POINT OF BEGINNING South 61 degrees 53 minutes 16 seconds East for a distance of 38.27 feet to a set rebar; thence South 27 degrees 37 minutes 25 seconds West for a distance of 74.43 feet to a no point set; thence South 41 degrees 58 minutes 07 seconds West for a distance of 68.45 feet to a no point set; thence North 50 degrees 43 minutes 22 seconds West for a distance of 21.88 feet to a no point set; thence North 27 degrees 42 minutes 15 seconds East for a distance of 89.20 feet to a set rebar; thence North 27 degrees 36 minutes 42 seconds East for a distance of 47.45 feet to a 2" x 2" fence post which is the POINT OF BEGINNING. Said property contains 0.110 acres more or less.

APPROVAL
 THIS FINAL PLAN, **PLAT 2010-03** AND THE
 STREET NAME(S) HEREON WERE
 APPROVED BY THE WASHINGTON PLANNING
 AND ZONING COMMISSION AT A MEETING
 HELD THE **23** DAY OF **APRIL**, 2007.

SIGNED *James E. ...*
 CHAIRMAN
 SIGNED *Debra ...*
 CITY PLANNER

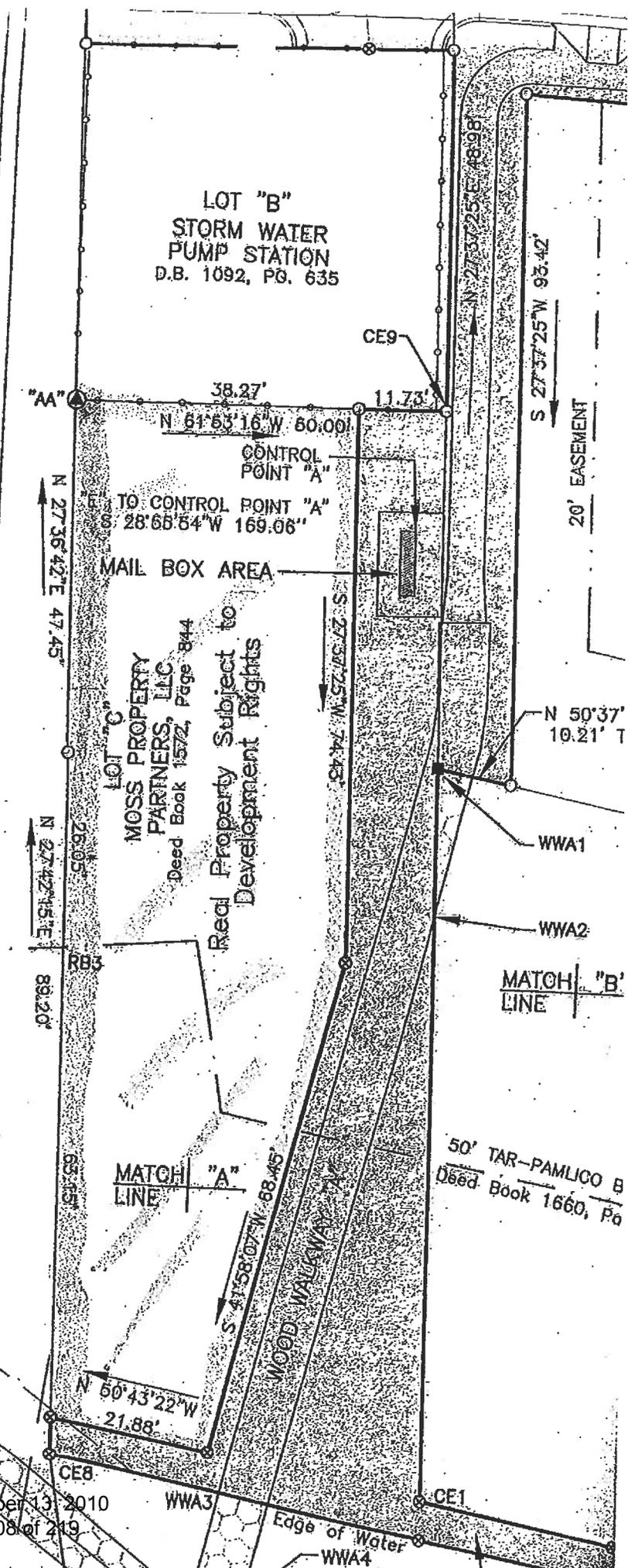
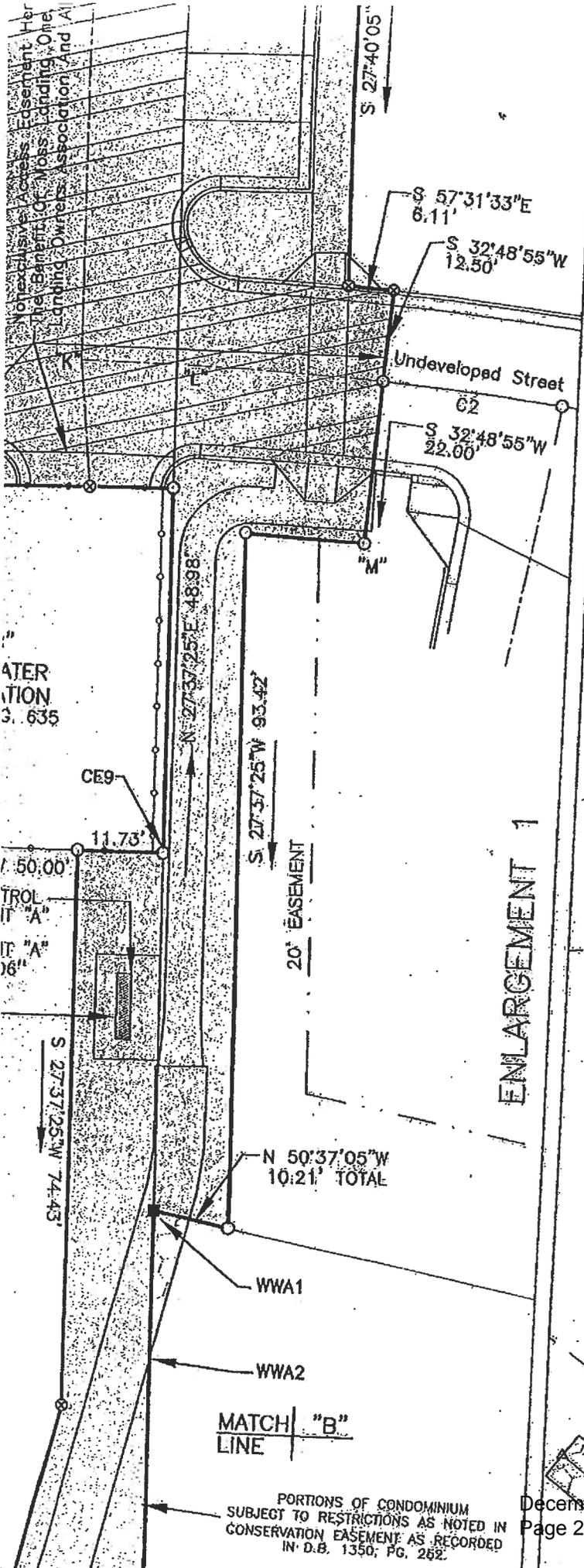
THAT THE SURVEY CREATES A SUBDIVISION OF LAND WITHIN
 THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN
 ORDINANCE THAT REGULATES PARCELS OF LAND.

Norwood Martin Mayo
 NORWOOD MARTIN MAYO
 PROFESSIONAL LAND SURVEYOR
 REGISTRATION NUMBER L-1516



State of North Carolina
 County of Johnston
 I, *James E. ...*
 County Clerk
 do hereby certify that the
 above described plat was
 recorded in accordance
 with the provisions of
 Chapter 42 of the
 General Statutes of
 North Carolina.
 Given under my hand and
 the seal of this office
 this 14th day of April,
 2006.

REVISIONS	1.	Revised to Show Stormwater Pump Station Site	01-02-07	<i>M.M.</i>
SURVEY FOR-				



Nonexclusive Access Easement. Her
 The Benefit Of Jobs, Including One
 Learning Drivers Association And A

ATER
 ION
 3. 635

CONTROL
 IT "A"
 IT "A"
 16"

N 50°37'05"W
 10:21' TOTAL

MATCH "B"
 LINE

PORTIONS OF CONDOMINIUM
 SUBJECT TO RESTRICTIONS AS NOTED IN
 CONSERVATION EASEMENT AS RECORDED
 IN D.B. 1350, PG. 262.

LOT "B"
 STORM WATER
 PUMP STATION
 D.B. 1092, PG. 635

TO CONTROL POINT "A"
 S 28°55'54"W 169.08"

LOT "C"
 MOSS PROPERTY
 PARTNERS, LLC
 Deed Book 1572, Page 844

MATCH "B"
 LINE

MATCH "A"
 LINE

N 50°43'22"W
 21.88'

December 13, 2010
 Page 208 of 219



Definition of Consumer

Consumer:

- a. An occupant of a single detached dwelling unit or a single unit contained within a multiple dwelling unit who used a covered device primarily for personal or home business use.
- b. A nonprofit organization with fewer than 10 employees that used a covered device in its operations.



North Carolina's Electronics Recycling Law



SESSION LAW 2010-67
SENATE BILL 887



<http://portal.ncdenr.org/web/wm/sw/electronics>



Why is this new law important to NC?

- Electronics – especially computers and televisions – are a rapidly growing waste stream.
- Toxic materials are involved in the manufacturing of electronics – thus need special handling.
- NC citizens want to do the correct thing and recycle to save resources, create jobs.
- NC county governments have limited resources for recycling programs.
- Manufacturers of electronics are often willing to be held responsible for their products at the end of life.



What is the law?

Session Law 2010-67 (Senate Bill 887)

Manufacturer responsibility law
Televisions and Computer Equipment (laptops, desktops, monitors, video displays, printers, scanners, printer-scanner-fax combos, keyboards and mice) from “consumers”

The law includes a ban on the disposal of computer equipment and televisions effective July 1, 2011.





What is the law?

Retailers

- Effective July 1, 2011, a retailer that sells or offers for sale new computer equipment or televisions must:
 - determine that all new covered devices are labeled
 - review the NC DENR web site to confirm that the manufacturer of a new covered device is on our list



What is the law?

Television Manufacturers

- Products must be labeled and registered in state in order for them to be sold
- \$2500 registration fee, \$2500 annual fee (does not apply to manufacturers that sell less than 1,000 televisions/year)
- TV manufacturer must recycle their market share
- TV manufacturer must conduct and document assessment of their recyclers to show that they use environmentally sound recovery standards
- Report once a year to DENR the weight of TVs collected



What is the law?

Public

- Landfill and Incinerator Bans effective July 1, 2011
- Public may find on electronics webpage:
 - Manufacturers' 1-800 numbers
 - Manufacturers' webpages
 - Location of Computer Equipment collection sites and events



<http://portal.ncdenr.org/web/wm/sw/electronics>



What is the law?

Computer Equipment Manufacturers

- Products must be labeled and registered in state in order for them to be sold
- Recycling Plan (fee does not apply to manufacturers that sell less than 1,000 items of computer equipment)
 - Level 1 (\$15,000 reg, \$15,000 annual)
 - Collect *only* their own products by mailback *OR* a collection site *OR* an event
 - Level 2 (\$10,000 reg, \$7,500 annual)
 - Collect *all* manufacturers products at 10 collection sites in the 10 most populated municipalities *AND* host 2 events
 - Level 3 (\$10,000 reg, \$2,500 annual)
 - Collect *all* manufacturers products at 50 collection sites in the 10 most populated municipalities *AND* host 2 events
- Report once a year to DENR the weight of collected equipment and a summary of their executed plan





What needs to be in plan?

- Info of recycling programs within county including types of equipment are to be collected and how will county market for recycling?
- How will you inform and educate public about the recycling program?
- How will county track and report the total tons of equipment collected?
- Will the county work with other governments to collect or recycle?
- How will the county account for the electronic management funding distributed to them?

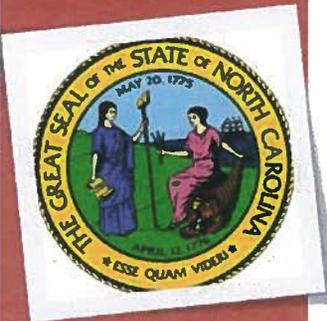


What is the law?

All State Agencies and governmental entities

No State agency, political subdivision of the State, or other public body shall purchase computer equipment or televisions or enter into a contract with any manufacturer that the Secretary determines is not in compliance with the manufacturers requirements. (list of manufacturers who have registered and paid fee).

The Office of Information Technology Services shall make the list available to political subdivisions of the State and other public bodies.



How is the money managed?

- TVs Fees are \$2500 / year
- Comp Fees are between \$2500 and \$15,000/ year
- Fees are received by the Programs Branch and deposited into the Electronics Management Fund
- Every Feb 15 a distribution will be made by the DENR controllers office to eligible counties.
- Fiscal Note estimates 1st year \$645,000 from CE, \$50,000 from TV.



What is the law?

Local Government

- Funding is available to support electronics collection programs. To be eligible:
 - Amend 10-Year Solid Waste Management Plan
 - Has there been an update within 3 yrs?
 - Yes, than an addendum or edit is allowed.
 - The towns covered by plan should acknowledge that they are aware of the plan changes by a letter.
 - Send copy of the plan to DWM-Solid Waste Section
 - Establish separate budget account for funds
 - As of Jan 1, 2013 contract must be with certified 'R2' or 'e-Steward' recycler
 - Complete Annual Local Government Solid Waste and Materials Management Report



More information available on web at:
<http://portal.ncdenr.org/web/wm/sw/electronics>

Or contact:
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What is the law?

Responsibility of DENR



- So far – registered 37 computer equipment and 27 television manufacturers (as of Aug 29, 2010)
- Next – assess computer equipment manufacturers’ plans and collect fees (due Nov 1, 2010)
- Review amendments to County’s Solid Waste plans to determine which are eligible to receive distribution (due Dec 31, 2010)
- Distribute proceeds from the Electronics Management Account to eligible counties (send Feb 15, 2011)



Dates to remember



- July 1, 2010 - Law Passed.
- Aug 1, 2010 – All manufacturers registration, Television fee due
- Oct 31, 2010 - Computer equip fee and recycling plan due
- Dec 31, 2010 (and subsequent years) - Counties solid waste plan must be in
- Feb 15, 2011 (and subsequent years) - Distribution of funds to eligible counties.
- July 1, 2011 - Retailers may not sell electronics made by Manufacturers who are not in compliance with law.
- Oct 1, 2011 - First annual report from television manufacturers due.

Details on Local Government Eligibility for Funding

- Only one local government per county eligible for funding, with one kind of exception.
- Local governments become eligible by amending solid waste plans with specific electronics components detailed in S887.
- First deadline for becoming eligible: December 31, 2010.
- Subsequent opportunities to become eligible each year.

Overview of Provisions Affecting Local Governments in Senate Bill 887

Components to be Amended to SW Plans

1. Information on existing or planned electronics recycling program, including:
 - a) Collection practices
 - b) Types of electronics collected
 - c) How electronics will be marketed
2. Information on public awareness and education program.
3. Information on methods to track and report tonnage of computer equipment, televisions, and other electronics.
4. Information on interactions with other local governments to operate electronics recycling programs.
5. Information on accounting of expenditure of funds.

Basic Local Government Provisions in S887

- Funding available from the Electronics Management Account for eligible local governments.
- TV recycling possibly subsidized depending on arrangements with processors.
- Opportunities to point citizens to other recycling services available through computer equipment manufacturers.

What if More Than One Local Government Per County Wants to Be Eligible for Funding?

- Local governments may enter into inter-local agreements to operate electronics collection programs and share funding.
- A local government may write a separate, comprehensive solid waste plan that includes the electronics components spelled out in S887.

Details on Funding

- Local governments making themselves eligible by December 31, 2010 will receive funding by mid-February, 2011.
- Local governments not making themselves eligible this year may make themselves eligible in subsequent years.
- Funding distributed on per capita share basis of all eligible local governments.
- Funds can be used for capital, operating, and education/promotion costs of programs.
- Exact available funding very difficult to predict – guesstimate of 3 to 5 cents per capita.

Procedures for SW Plans

- Has there been an update within the past 3 years?
- If Yes, than an addendum or edit is allowed.
- Submit copy of addendum or new/updated plan to Solid Waste Section Planning and Programs Branch.
- The municipalities (or other local governments) covered by plan should also officially acknowledge addendum by letter.
- If there has been no update in past 3 years, then an update is due and local governments can add the electronic components as desired.

Other Obligations for Eligible Local Governments

- Establish a separate account for the receipt and expenditure of state electronics funds.
- To remain eligible for funding after January 1, 2013, ensure that the designated processor is either R2 or E-Stewards certified.
- Keep and maintain program data for inclusion in annual Solid Waste and Materials Management Report to the State.
- Not purchase equipment from manufacturers out of compliance with their requirements.

Notes on Electronics Generation, Recovery Performance, and Material Value

- Estimates of generation for your community can be found at: <http://www.p2pays.org/electronics/data.asp>
- New Florida study estimates that “peak quantities” of CRTs will be discarded between 2012 and 2016.
- High-performing electronics programs will reach 4 lbs per capita or higher.
- Except for CRTs, much of electronics stream is slowly increasing in value.
- State electronics recycling convenience contract: <http://www.doa.state.nc.us/PandC/926a.pdf>

Additional Suggestions for Local Government Action

- Even if not operating a program, prepare for answering public questions about electronics recycling.
- Help make electronics generators and the public aware of the July 1, 2011 disposal ban.
- For local governments operating disposal facilities, take steps to make facility users aware of disposal ban and upgrade waste screening procedures.

How Do Manufacturer Requirements Affect Local Programs?

- All computer equipment manufacturers must establish at least basic take-back programs. In addition:
 - Manufacturers with Level 2 plans must establish drop-off programs in the 10 largest municipalities.
 - Manufacturers with Level 3 plans must establish drop-off programs in 50 counties, including the 10 most populous.
 - Level 2 and 3 manufacturers also must hold at least 2 collection events somewhere in the state.
- Local Governments can point their citizens to these programs to offer additional recycling options.
- Television manufacturer requirements may lead many to provide subsidized TV recycling through processors.

Key Dates for Local Governments

- December 31, 2010 – Solid Waste Plans amended with electronics components.
- February 15 (approx) – First distribution of funds to eligible local governments.
- July 1, 2011 – Effective date of disposal ban on computer equipment and televisions.
- December 31, 2011 and subsequent December 31sts – Additional local governments may make themselves eligible for funding.

Materials to Accept

- Work with vendor to determine full range of materials
- Make banned materials core of your program: computers, monitors, peripherals, televisions
- Add other materials as capacity allows: telephone equipment, cell phones, stereo equipment, anything with a plug...
- Welcome items that will make program more cost effective such as cable/wire and circuit boards



Implementing an Electronics Recycling Program

- Program Style
- Choosing a Vendor
- Materials to Accept
- Projecting Amount of Materials
- Attributes for Success
- Challenges
- Opportunity for Funding and Technical Assistance

Program Design

- One Day Event – least amount of infrastructure, high effort preparing and executing
- Permanent Drop-off – full time collection site at landfill, public works facility, convenience center , or other staffed location
- Collection from residents – handle like bulky waste or on-call, can be free or charge fee

Program Attributes for Success

- Permanent, with easy access for residents including weekends
- Free to participants
- Allow businesses, schools, non-profits to use program
- Integrate materials from local government and school system
- Offer collection option for large items, even if fee is charged
- Partnership with other local governments
- Create a depot where you consolidate materials and perform sorting and packaging (reduces cost to vendor)

Choosing a Vendor

- 3 vendors accessible through state convenience contract
- Look for vendor with certifications such as R2, e-steward, ISO 14000
- Determine need/desire for RFP process
- Perform due diligence by visiting vendor's facility, asking about down-stream auditing, and finding out about data security
- Look for vendors with relationships with manufacturers – will reduce your cost
- Work with your vendor for program advice and to customize your program to suit your needs

Challenges

- Finding staff time
- Making space in convenience centers
- Finding funding to build infrastructure
 - drop-off system pieces (trailers, signs)
 - Storage depot
 - loading dock is desirable
- Scavenging
- Avoiding workplace injury from lifting

Projecting Amount of Material

- Successful program should collect approximately 4 pounds per capita per year
- Example – if your served population is 25,000 people you might project to receive ~100,000 lbs or material, or 50 tons (four or five 53' trailer loads of material depending on how you pack)
- Programs in NC range from collecting less than 1 lb/person/year to collecting more than 7 lbs/person/ year.

Fluorescent Light and Mercury Thermostat Provisions in HI766

- HI766 amended a wide range of environmental laws and included provisions from HI247 from 2009.
- Three main provisions:
 - Recycling requirements for many public agencies.
 - Requirements to remove lamps and thermostats prior to building demolitions.
 - Disposal ban on lamps and thermostats in C&D landfills.
- Effective date of law is July 1, 2011.

Opportunities for Funding and Technical Assistance

- Funding Options
 - Tip-fee disbursements
 - Electronics fund disbursements (for those with updated plans)
 - State Grants (community waste reduction grant RFP late this year for projects implemented during FY 2011-12)
- Division of Environmental Assistance and Outreach offers technical assistance for local governments across the state – call or email

Recycling Requirements in HI766

- Affects: Each State agency, including the General Assembly, the General Court of Justice, universities, community colleges, public schools, and political subdivisions using State funds for the construction or operation of public buildings.
- Must implement program to recycle fluorescent lights and mercury thermostats
- All affected agencies must report to DENR and DOA on compliance by December 1, 2011.
- HI766 recycling provisions reinforce requirements under federal and state hazardous waste laws.

Questions on S887 or Electronics Programs???

Easy and Cheap Solution for Thermostats

- **Thermostat Recovery Corporation (TRC):**
 - Can be used for both public collection programs and by generators (including government agencies, demolition contractors, etc).
 - Collection start-up cost \$25 for initial box; additional boxes free.
 - Some wholesalers also collecting thermostats.
- For more info, contact Tom Rhodes: 919-715-6516 or tom.rhodes@ncdenr.gov

Inexpensive Solution for Recycling Fluorescent Lights

- **State Convenience Contract:**
 - Two vendors with competitive rates: e.g., tube lamps at 4 cents/foot
 - Other mercury containing devices also covered in the contract.
- **Website:**
<http://www.doa.state.nc.us/PandC/926b.pdf>

Requirements Regarding Demolition

- **Affects: Demolition Contractors and Owners of buildings to be demolished.**
- **Required to remove fluorescent lights and mercury thermostats prior to demolition.**
- **DENR recommendation for local governments:**
 - Ensure that demolition activities for local government buildings are in compliance.
 - Work to make sure demolition contractors communities are aware of the law.

Disposal Bans on Fluorescent Lights and Mercury Thermostats

- **Affects: Unlined C&D landfills and any other landfill that is unlined.**
- **Effective date: July 1, 2011**
- **Suggestions for local governments:**
 - For all local governments: 1) Help inform private landfills, contractors, and others in your community and 2) help generators find recycling opportunities
 - For those with unlined C&D landfills: 1) take steps to let customers know about the ban, and 2) upgrade waste screening procedures.