



MARCH 8, 2010

Opening of Meeting

Nondenominational Invocation

Roll Call

Approval of Minutes from February 2, and February 8, 2010 **(page 4)**

Approval/Amendments to Agenda

I. Consent Agenda:

- A. Adopt – Budget Ordinance Amendment to unappropriate funds in the General Fund and appropriate them in E-911 Special Revenue Fund (\$10,756) **(page 26)**
- B. Adopt – Budget Ordinance Amendment in the General Fund to unappropriate funds set aside in FY 09-10 budget for the purchase of land to build the new police station (\$100,000) **(page 28)**
- C. Adopt – Budget Ordinance Amendment for Stormwater Permit Review (\$2,000) **(page 30)**
- D. Adopt – Budget Ordinance Amendment for Senior Programs (\$1,500) **(page 32)**

II. Comments from the Public:

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

- A. None

IV. Public Hearing – Other:

- A. Hold P.H. – Close out of the FY07 CDBG Grant (Community Revitalization) **(page 34)**

V. Scheduled Public Appearances:

- A. None



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- VI. Correspondence and Special Reports from members of City Council:
- A. Discussion - Status of current grants **(page 36)**
 - B. Authorize – Congressional Letter of Support by Mayor Jennings **(page 38)**
- VII. Reports from Boards, Commissions and Committees:
- A. Human Relations Council **(page 40)**
 - B. Tourism Development **(page 41)**
 - C. DWOW **(page 42)**
 - D. Financial Reports (e-mailed under separate attachment)
 - 1. General
 - 2. Enterprise Funds
- VIII. Appointments:
- A. Appointment – to the Economic Development Commission to fill the expired term of Lentz Stowe, with a term to expire December 30, 2012 **(page 43)**
 - B. Appointment – to the Recreation Advisory Committee to fill the unexpired term of Lisa Williams Baker, term to expire June 30, 2012. Appointment is inside the city limits **(page 43)**
 - C. Appointment – An ex-officio member on the Chamber of Commerce Board **(page 43)**
- IX. Old Business:
- A. Presentation – Washington Housing Incorporated Quarterly Report **(no write-up)**
 - B. Report –Northgate Subdivision **(page 47)**
 - C. Adopt – Resolution designating the City of Washington and its extraterritorial jurisdiction a ‘recovery zone’ **(page 59)**
 - D. Adopt – Resolution fixing date for public hearing on the non-contiguous satellite annexation of LJ’s Body Shop Inc. **(page 64)**



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- E. Approve and Authorize – Director of Parks and Recreation to execute Waterfront Docking Agreement with the Little Washington Sailing Club **(page 69)**
- F. Approve and Authorize – Director of Parks and Recreation to execute Waterfront Docking Agreement with Pamlico Marine Services LLC (Sea\\Tow) **(page 77)**
- G. Accept – Sewer Assessment Review Committee Recommendations **(page 85)**
- H. Accept – Site Selection Committee Recommendation **(page 96)**
- I. Authorize – Mayor to enter into proposed Joint/Use Agreement with Beaufort County Board of Education (Kugler Field) **(page 99)**
- J. Authorize – Mayor to enter into Joint/Use Agreement with John Cotton Tayloe **(page 111)**

- X. New Business:
 - A. Authorize – City Manager to execute Agreement with Southeastern Power Administration (SEPA) Funding **(page 119)**

- XI. Any Other Items From City Manager:
 - A. None

- XII. Any Other Business from the Mayor or Other Members of Council
 - A. None

- XIII. Closed Session – Under NCGS 143-318.11(a)(3) Attorney/Client Privilege, NCGS 143-318.11(a)(6) Personnel, NCGS 143-318.11(a)(5) Potential acquisition of real property owned by Annie Mayo and Samuel Moore adjacent to the McConnell Complex for recreation purposes and NCGS 143-318.11(a)(7). **(no write-up)**

- XIV. Adjourn - Until Monday, March 22, 2010 at 5:30 pm in the Council Chambers at the Municipal Building.

**CITY COUNCIL MINUTES
WASHINGTON, NORTH CAROLINA**

FEBRUARY 2, 2010

The Washington City Council met in a continued session on Tuesday, February 2, 2010 at 8:00am in the City Council Chambers at the Municipal Building. Present were: Doug Mercer, Councilman; Ed Moultrie, Councilman; William Pitt, Councilman; Gil Davis, Councilman; Bobby Roberson, Mayor Pro tem; Jim Smith, City Manager; Cynthia Bennett, City Clerk; and Franz Holscher, City Attorney. Mayor Jennings joined the meeting at 8:20am.

Also present were: Matt Rauschenbach, Chief Financial Officer; Robbie Rose, Acting Fire Chief; Allen Lewis, Public Works Director; Gloria Moore, Library Director; John Rodman, Planning Director; Keith Hardt, Electric Director; Philip Mobley, Parks & Recreation Director; Mick Reed, Police Chief; Ray Midgett, Information Technology Director; Mike Voss, of the Washington Daily News and Delma Blinson, of the Beaufort Observer.

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

APPROVAL/AMENDMENTS TO AGENDA

Mayor Pro tem Roberson added two items to the agenda (1) the possibility of Town Hall meetings in the 4 precincts in Washington (2) possibility of a "City Page" in the newspaper on a weekly basis.

DISCUSSION – WATER QUALITY STANDARD REVISIONS

Public Works Director, Allen Lewis discussed the pending proposed water standards. These standards are significantly more stringent than what is in effect now and it is State wide.

Councilman Mercer expressed his concerns on several items: (1) the number generated by the State Environmental Management Agency, (2) the reduction in total phosphorous and nitrogen (3) the need for Council to stay abreast of any meetings concerning this topic and to ensure someone from the City is in attendance at such meetings. We will need to retrieve any data that is out there because we will be looking at standards that can't possibly be achieved or measured. Mr. Lewis stated the Tar/Pam Basin Association has scheduled a meeting on February 12, 2010 in Rocky Mount and the State will be coming in to talk about the nutrient side of this proposed rule.

Mr. Smith noted that the League of Municipalities would be taking a position on this as well. Mr. Lewis stated they would be bringing a resolution back to Council regarding this issue in the near future.

SET – BUDGET SCHEDULE DATES

Chief Financial Officer, Matt Rauschenbach explained the budgetary & strategic planning retreat would involve a session with Council and Department Heads to discuss objectives for the coming budget. External agency budget requests & hearings would entail outside agencies that have submitted a formal request stating why and what the request will be used for. Councilman Mercer commented if we have outside agencies that we are providing funding for, he would prefer to have some general idea about their budgets. Mr. Smith added that we requested a lot of detailed information from the agencies concerning expenditures and revenues as well as other entities they are receiving funding from.

Mr. Rauschenbach stated the CIP has been published on the intranet and has been internally reviewed by staff and the City Manager. This would give City Council a month to review the document and discuss it during the month of February. Please note that last year the focus was on the fiscal year and ended up being a basis for the budget. Mr. Rauschenbach suggested looking at years 2-5 as a planning tool and year 1 as the basis for capital budgets next year. Mayor Jennings directed Mr. Rauschenbach to post a memo explaining this process alongside the CIP. Mr. Rauschenbach requested if something worthwhile comes up that was not included in the CIP that Council would listen to the request during the budget process.

Mayor Pro tem Roberson asked Council to consider moving the Electric Fund up in the process, looking at them as the starting point and not last. Mayor Jennings requested the final budget be presented to Council on June 14, 2010. Mayor Pro tem Roberson requested to submit along with the Budget and Performance Measures to finance staff an item that wasn't in the budget last year as summary page for our new Council members. Mayor Jennings referenced the two year budget he requested to be submitted last year, if it was going to be a good tool for this year. Mr. Smith reported he and staff discussed this in a meeting yesterday and decided not to do that this year since it would not be a good planning tool.

Mayor Jennings and Council instructed Mr. Rauschenbach to submit an executive summary along with the parameters they would like to be used as a measurement tool. Date was set for Monday February 15, 2010 @ 4:30 pm on having data submitted to City Council.

Councilman Mercer volunteered to attend the meeting with Mayor Jennings and NCDOT on Monday, February 15, 2010 @ 3:00 pm. Mr. Smith noted he would like Council to keep in mind the \$1.7 million owed to NCDOT as a consequence of the Highway 17 bypass project.

Councilman Pitt along with Councilman Mercer volunteered to attend the ElectriCities meeting scheduled for March 10, 2010 @ 3:00 pm with Mayor Jennings. Mayor Jennings noted the tentative date for the ribbon cutting ceremony on new bypass scheduled for Friday, February 26, 2010 at 2:00 pm.

DISCUSSION – EMERGENCY COMMUNICATION E911

Mr. Smith recommended not going forward with the study and to hold off in order to stay consistent with what gives us the quickest response times to calls. Mr. Smith stated his experience is coordination between all departments' protocols was more cost effective but not the most effective for the citizens.

Councilman Pitt explained that being employed as a Telecommunicator and having experience with the E-911 systems, said the City should "handle our own" E-911 system and stay as a stand-alone agency, we are not a centralized district. Citing that by doing so, there would be 24-hour presence at the police station. The Police Department is a leader in the community and does a great job protecting the citizens of Washington which requires immediate assistance. Council Moultrie stated he would prefer to leave the system as it is and Councilman Davis agreed stating until we can get a better handle on what is happening we should leave it as is. Chief Reed agreed that maintaining what we have now is the best option. Mayor Pro tem Roberson voiced his concerns over addressing. Councilman Mercer has been an advocate for combining the two systems, with the County taking over the responsibility of handling E-911 calls. He believes by doing this would save taxpayer's money by avoiding duplication of services. All concerns from Council members were addressed with Mayor Jennings recapping the discussion.

By consensus Council agreed that a study would not be needed.

Mayor Jennings stated this issue and all other concerns would be addressed at the February 8, 2010 meeting and Council will take action at that time.

Mr. Rauschenbach asked for direction from Council citing page 19 of the agenda packet which addresses how to pay for the upgrades of the 911 system. Council directed Mr. Rauschenbach to have this on the February 8, 2010 meeting as an action item.

Council recessed for a break and reconvened @ 9:57 am.

By motion of Mayor Pro tem Roberson, seconded by Councilman Davis, Council unanimously agreed to extend the meeting to 11:00 am.

DISCUSSION – POLICE FACILITY PROJECT

Special projects, Bianca Gentile introduced Mr. Kevin Radagen with ADG Architect. They will be seeking direction from Council on how to move forward with this project. Mayor Jennings expanded the direction needed from Council to staff as (1) what are we looking for in a facility? (2) Funding – how much we can invest in a new Police facility?

Mr. Radagen addressed the space needs and design work for the new Police Facility. He has been working on this project approximately a year and stated the space needs assessment was completed in 2003. Mr. Radagen stated there is a serious issue

with being on the Pamlico and it being prone to flooding, there is a requirement of being outside of a 500 year flood plain for federal funding. This will limit the number of site candidates that the City can look at. Issues relative to service (impact on the community) size of the site and funding.

Questions and Answers Session

(Q) - Taking the needs analysis- amendable to addressing our current needs and then be able to add as the need presents itself in the future?

(A) - Absolutely- recommends if the money is available, building in expansion space (shell space). Council addressed different options.

(Q) - Ball park number for useable space for a facility

(A) - Hard/soft cost - \$4 million would include value of land of \$200,000

(Q) - Public needs to know why we can't expand the current facility

(A) - Mayor Jennings and Council discussed different funding options. Mr. Rauschenbach addressed different approaches or alternatives to funding and explained Emergency Fund Balance along with the Public Safety Capital Reserve Fund. Mr. Rauschenbach noted that \$1 million on Public Safety Capital Reserve Fund was designated for the Police Facility. Councilman Mercer requested ADG pursue options for building a 15,000 sq. ft. facility. Mayor Pro tem Roberson commented on the need to revisit the list to exclude 100/500 year flood plain. Mr. Smith noted the need for establishing a site location and Mr. Radagen noted the site location is a critical issue and potentially looking at existing buildings. Councilman Mercer requested acknowledging the Sheriff's Office for a possible combined facility and Mr. Smith advised that Sheriff Alan Jordan would like a facility close/adjacent to the jail and there is not enough space for both in the City. Ms. Gentile addressed several grant opportunities.

Council instructed Ms. Gentile to revisit the list and remove sites that were in the 100 year flood plain and visit members of the public for suggestions of possible sites. Also, reconvene the police-site committee to work on a new list to present to Council. Criteria for possible sites:

- 2.5 acres for 15,375 building
- 3.5 for expandable shell space
- Existing facilities
- Committee to discuss funding sources (includes two members of Council) 1st round members of City Council – Councilman Davis and Councilman Moultrie, 2nd round Councilman Pitt and Mayor Pro tem Roberson.

Mayor Jennings requested a sub-committee be formed consisting of City Manager, Mayor and two members of City Council. *Note: members listed above.

SET – SEWER ASSESSMENT REVIEW COMMITTEE DATE

Councilman Mercer requested tabling this item until further information is received. Mr. Rauschenbach stated the information should be on the way to Council in a couple of days.

Mayor Jennings suggested this item be included as an action item on the agenda for February 8, 2010. Council will have the sewer information by that time and will be able to discuss it, Mr. Rauschenbach agreed.

DISCUSSION – FINANCIAL REPORT

Chief Financial Officer, Matt Rauschenbach reviewed financial sheets with Council. Councilman Mercer expressed concerns with the Electric Fund Sales and Revenues, Mr. Rauschenbach explained the figures. Also, he addressed if line items can be added that are not in the original budget. Mr. Rauschenbach will review this request and return with an answer at a later date. Councilman Mercer inquired why there was an extra \$200,000 in the Worker's Compensation Fund and Mr. Rauschenbach provided the answer.

Mayor Jennings suggested Council forward any financial questions by email to Mr. Rauschenbach as to give him ample time to provide answers.

ADJOURN

By motion of Councilman Davis seconded by Mayor Pro tem Roberson, Council adjourned the meeting until February 8, 2010 at 5:30 pm in the Council Chambers at the Municipal Building for the Regular Council Meeting.

(Subject to the Approval of the City Council)

**Cynthia S. Bennett
City Clerk**

**CITY COUNCIL MINUTES
WASHINGTON, NORTH CAROLINA**

FEBRUARY 8, 2010

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

Also present were: Matt Rauschenbach, Chief Financial Officer; Robbie Rose, Acting Fire Chief; Allen Lewis, Public Works Director; Gloria Moore, Library Director; John Rodman, Planning Director; Keith Hardt, Electric Director; Philip Mobley, Parks & Recreation Director; Mick Reed, Police Chief; Ray Midgett, Information Technology Director; Mike Voss, of the Washington Daily News; Delma Blinson of the Beaufort Observer; and Brandia Deatherage of Beaufort County NOW.

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

APPROVAL OF MINUTES

By motion of Mayor Pro tem Roberson, seconded by Councilman Pitt, Council unanimously approved the minutes of January 4, and January 19, 2010 as presented.

APPROVAL/AMENDMENTS TO AGENDA

Mayor Pro tem Roberson requested to add the following items: drainage issues at Iron Creek, this item was added as Old Business – Item J. Discussions regarding employee evaluations, this item was added as Old Business – Item L.

Councilman Mercer requested to move all the consent agenda items to other locations on the agenda.

- A. Adopt – Budget Ordinance for Reallocation of Property, Casualty, & Liability Insurance Cost **(page30) moved to New Business - Item D**
- B. Declare – Surplus/Authorize Electronic Auction of Vehicles through GovDeals **(page 33) moved to New Business – Item E**
- C. Adopt – Budget Ordinance Amendment to provide funds for the PSAP compliant wireless upgrade of the E-911 phone system \$88,502 **(page 34) moved to Old Business – Item K**

Mayor Jennings requested moving Item VI. A. Adopt – Goals for City Manager to Closed Session with the designation of NCGS 143-318.11(a)(6) Personnel.

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

APPROVAL OF CONSENT AGENDA

- A. Adopt – Budget Ordinance for Reallocation of Property, Casualty, & Liability Insurance Cost **moved to New Business - Item D**
- B. Declare – Surplus/Authorize Electronic Auction of Vehicles through GovDeals **moved to New Business – Item E**
- C. Adopt – Budget Ordinance Amendment to provide funds for the PSAP compliant wireless upgrade of the E-911 phone system \$88,502 **moved to Old Business – Item K**

COMMENTS FROM THE PUBLIC

There were no comments from the public at this time.

UPCOMING MEETINGS

Council rescheduled the February 15, 2010, CIP review meeting to 4:30pm instead of 5:30pm. The Mayor’s Association meeting is at 6:30pm on February 11, 2010 at Fish Hook’s in Belhaven. Mayor Jennings requested someone from Council plan to attend in his absence. The February 22nd Committee of the Whole was moved from 5:30pm to 8:30am. Mayor Jennings reminded Council of the Essentials of Municipal Government Class in Greenville on February 17th and 18th. Council will meet for dinner after the course ends on February 18th.

DOTTIE MOORE – WASHINGTON UTILITY RATES

Ms. Dottie Moore came forward to discuss utility rates and voiced concern over the recent high bills. Ms. Moore suggested Council do a study regarding the possibility of lowering the utility rates. Mayor Jennings thanked Ms. Moore for coming forward regarding this topic and stated Council is looking for possible solutions.

MARC FINLAYSON– HIGHWAY 17 ASSOCIATION UPDATES

Marc Finlayson, Executive Director, Highway 17 Association gave a brief review of current Highway 17 projects.

1. US 17 Wilmington Bypass (TIP Project No. R-2633 A/B)
2. US 17 Hampstead Bypass (TIP Project No. R-3300)
3. US 17 Jacksonville Bypass to Drummer/Kellum Road (TIP Project No. U04007)
4. US 17 Belgrade to New Bern (TIP Project No. R-2514 B, C, & D)
5. US 17 New Bern Bypass (TIP Project No. R-2301 A)
6. US 17 New Bern to Washington (TIP Project No. R-2513)
7. US 17 Washington Bypass (TIP Project No. R-2510)
8. US 17 Washington to Williamston (TIP Project No. R-2511)
9. US 17 Mills Street in Bridgeton to NC 43 (TIP Project No. R-3403)
10. US 17-74-76/NC 133 Widening in Wilmington (TIP Project No. R-3601)

Mayor Jennings noted the City has a position on the Highway 17 Association Board, which is currently vacant; this item will be addressed under Appointments on the Agenda to fill the vacancy.

**THORNTON GORHAM – DRAINAGE DITCH BESIDE HIRAM LODGE #11 -
RESPESS & 5TH STREET**

Thornton Gorham came forward representing Hiram Lodge #11 to discuss the drainage ditch located beside the lodge building. The ditch is deteriorating and causing the 143 year old building to lean to the North. He is requesting that the City apply for a Community Development Block Grant to install piping in this drainage ditch to help with the problem. In years past the ditch was dredged out in turn taking part of the property beside the lodge. Mr. Gorham read letters from surrounding neighbors supporting the repair of the drainage ditch in order to save the Hiram Lodge building.

Councilman Mercer inquired if this was a City maintained ditch? Allen Lewis, Public Works Director stated this is a blue line ditch/stream that is maintained by the City. Jim Smith stated we have applied on several occasions for grants to resolve this issue without any success. Mr. Smith stated because this is a blue line ditch/stream we can't alter it without approval from the Corps of Engineers and in order to pipe the ditch, much larger pipes would have to be installed than a regular open ditch. Mr. Lewis stated a blue line ditch/stream constantly has water in it and could possible serve as a migration route for fish. Mayor Jennings asked staff to give their best faith effort to try and find a solution for this issue to protect the 143 year old building. Mr. Lewis will contact the Corps of Engineers and will update Council at the Committee of the Whole on February 22nd. The ditch has been approximately the same size for the past 45 years

Mr. Gorham also discussed the need for sidewalks on Pierce Street, 15th Street, 13th Street, 11th Street and Washington Street.

MARISOL BARR & WILLIAM BARNVILLE, JR. – UPDATE WEATHERIZATION PROGRAM

William Barnville, Jr. is the Weatherization Coordinator for Martin County Community Action which serves, Beaufort, Martin, Wilson, Nash, Edgecombe and Pitt Counties. A total of 213 applications have been received for Beaufort County with 18 complete and 195 pending due to additional information needed from the applicant. "Regular" weatherization production goals were to be completed before "recovery" weatherization commencement. "Regular" weatherization one year goals were met in six months with the exception of one unit that was rescheduled in Pitt County. The fifteen units mandated for Beaufort County are complete. An additional seven units were completed in Washington as part of the Piedmont Natural Gas project between July 1, 2009 and December 31, 2009. Martin County Community Action is leasing space in partnership with the City of Washington. Two staff members occupy the office to conduct recruitment, eligibility, and other public relations and administrative functions. Currently bids are being reviewed for services for audits, electrical, heating/air, plumbing, insulation, air sealing, etc. Auditors, contractors, and crews will be assigned to Beaufort County and additional labor relative to the need.

Councilman Mercer hopes these projects will be completed soon to help alleviate some of the high utility bills, due to improper weatherization of homes. Mr. Barnville discussed income requirements of applicants and explained some minor items that could be changed to help

weatherize a home. Such examples are, changing lighting to compact florescent bulbs, wrapping hot water heaters, cleaning and tuning of HVAC system, health and safety needs, etc. The approximate yearly savings after weatherization is complete is \$350 per home. Renters may have completed the applications, but the property owner still needs to complete certain information, this may be the reason so many applications were incomplete. We are working diligently to reach out to the applicants to get that information complete as soon as possible. Marisol Barr stated income information is needed for all adults in the home and that takes quite a bit of time.

DISCUSSION - STATUS OF CURRENT GRANTS

Jim Smith noted that last month Council asked for a monthly report of all grant applications underway and the status of them. Ms. Bianca Gentile, Special Projects updated Council on the 2010 Departmental, American Recovery and Reinvestment Act (ARRA) and Non-ARRA funding opportunities.

February Table highlights:

1. Emergency Operation Center grant submitted on behalf of the Police Department to the Department of Homeland Security (total project -\$610,000 total request -\$457,000). Project: Fund the construction of an emergency operations center in the new police facility.
2. State Historic Preservation Grant will be submitted to NC State Historic Preservation Office on behalf of the Planning and Community Development Department, February 12, 2010 (total request \$10,000, 40% match required). Project: Architectural Survey and Construction Plan Development for Old City Hall
3. Work First: Human Resources Department submitted request to Joblink to use stimulus funds to place workers in transitional/temporary work opportunities. For example, stimulus funds will 100% (pay up to \$8.75/hour) of workers wage to assist the Library with front desk work. No match required
4. PARTF: Parks and Recreation Trust Fund grant was submitted in a timely fashion by the Parks and Recreations Department to fund the construction of festival park. Project Total: \$575,000/match 50%, over three years)
5. The State Energy Office is set to release a Request for Proposals for the Main Street Energy Fund, a program designed to assist NC Main Street municipalities with energy upgrades in the central business district. Up to \$250,000 is available for interested small business owners and municipalities. Currently, running is an ad on the Public Access Channel to inform citizens of potential funding availability.

Councilman Mercer inquired about the State Historic Preservation Grant and asked Ms. Gentile if she was asking for permission to submit this grant. Mr. Gentile stated that they were seeking permission for submission.

John Rodman, Planning Director stated this grant application was submitted to Council in December with the intent to apply in February. Mayor Jennings stated that as new grant opportunities come forward denote with an asterisk the items that require approval from Council in order to move forward with the process.

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council authorized staff to apply for the State Historic Preservation Grant which will be submitted to the NC State Historic Preservation Office on behalf of the Planning and Community Development Department by February 12, 2010 (total request \$10,000, 40% match required). Project: Architectural Survey and Construction Plan Development for Old City Hall.

Ms. Gentile reminded Council of the Police Station Funding Committee meeting on February 23, 2010 at 9:00am consisting of Councilman Moultrie and Councilman Davis. She further mentioned that once a site has been selected we can formally withdraw Site A and submit the information for the new site. Upon recommendation from Susan Christiansen, USDA Edenton office this would slow down the Federal application for the loan package, but once the site has been selected Site A will be formally withdrawn.

Mayor Pro tem Roberson asked for a monthly update on new items and continue the existing activity report in its current form.

**ADOPT – RESOLUTION DESIGNATING THE WATERFRONT HARBOR DISTRICT
AND REPORT FROM C4R**

Chris Furlough, Chairman of Citizens for Revitalization updated Council on the establishment of the Harbor District.

- As suggested by Visualization & Reinvestment Strategy and presented by Chris Furlough at the Nov. 9, 2009 City Council meeting, Citizens for Revitalization would like the council to establish a “Washington Harbor District” to be used for branding purposes only.
- Citizens for Revitalization has addressed the recommendations made by Council at the Nov. 9, 2009 meeting and would like to suggest the boundaries outlined in the attached graphics. Which shows the boundaries of the district as: The water’s edge of the river on the South. Bridge Street (both East and West sides of the street) to the West, Third Street (both sides) to Market Street on the north and then north on Market Street to midway between Third and Fourth Streets (corresponding to the current B1H Zoning). Then from Market Street East along Water Street (both sides) to include the Builder’s First Source Property.

Councilman Mercer asked for confirmation that this is strictly a marketing tool with no regulatory restrictions. Mr. Furlough stated that was correct, if at some point in time if Council wanted to change that they could do so, but the initial establishment is for a “branding” tool only.

Councilman Davis and Mayor Pro tem Roberson suggested some alterations to the boundaries of the Harbor District. They suggested the following General Boundaries: Beginning at the north side of the Pamlico River and following the properties to the west of Bridge Street to West Martin Luther King Jr. Drive and thence east following the boundaries of the B-1H(Business Historic) Zoning District to the railroad trestle and then following the western edge of the railroad trestle to southern shore of the Pamlico River and then west along the Pamlico River, including the properties along the southern shore to US Hwy 17 Business and then north along the western edge of the Hwy 17 Business (Bridge Street) Bridge to the Beginning as indicated on the map entitled “City of Washington-Washington Harbor District”.

By motion of Mayor Pro tem Roberson, seconded by Councilman Davis, Council adopted the Resolution designating the Waterfront Harbor District with the following boundaries: General

Boundaries: Beginning at the north side of the Pamlico River and following the properties to the west of Bridge Street to West Martin Luther King Jr. Drive and thence east following the boundaries of the B-1H(Business Historic) Zoning District to the railroad trestle and then following the western edge of the railroad trestle to southern shore of the Pamlico River and then west along the Pamlico River, including the properties along the southern shore to US Hwy 17 Business and then north along the western edge of the Hwy 17 Business (Bridge Street) Bridge to the Beginning as indicated on the map entitled "City of Washington-Washington Harbor District".

A RESOLUTION DESIGNATING THE WATERFRONT HARBOR DISTRICT OF THE CITY OF WASHINGTON, NORTH CAROLINA

WHEREAS, the City Council of the City of Washington has adopted the Waterfront Visualization and Reinvestment Strategy for revitalization of the downtown waterfront; and

WHEREAS, the Visualization and Reinvestment Strategy recognizes the importance of establishing a waterfront harbor district; and

WHEREAS, the City Council of the City of Washington has received a request from the Citizens for Revitalization Committee to designate said district for the purposes of branding; and

WHEREAS, the Citizens for Revitalization Committee has addressed the recommendations made by Council at the Nov. 9, 2009 meeting and would like to suggest the boundaries outlined in the attached graphics; and

WHEREAS, the City Council of the City of Washington desires to adopt this resolution to designate a Waterfront Harbor District;

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF WASHINGTON recommends approval of the Washington Waterfront Harbor District.

DULY ADOPTED this 8th day of February, 2010.

**s/Cynthia S. Bennett
City Clerk**

**s/N. Archie Jennings, III
Mayor**

RESTROOMS AND DOCKMASTER FACILITY

Mr. Furlough updated Council on the restrooms and dockmaster facility. Following the adoption of the City's Waterfront Visualization and Reinvestment Strategy the Citizens for Revitalization Committee proposed a list of priorities for the implementation strategy of the new plan. One of the priorities established was the development of restroom and dock master facilities for the western end of Stewart Parkway. This area would be known as the "Maritime Quarter". Maritime activity was a core component of Washington's downtown waterfront. Following community direction, a series of improvements were developed and shown as part of the vision for the western end of the parkway and the maritime quarter.

The conceptual drawings were created by LandDesign to show the proposed new dock master building and related restroom and support facilities. The dock master building is shown

as a two story structure with the ground floor dedicated to boater, visitor and community information and a new restroom area. The upper level of the building will provide an office and a harbor observation area. The building is designed architecturally to reflect the historic Pamlico Lighthouse. John Rodman, Planning Director noted the possibility of grant for this facility. We plan on applying for a CAMA Land Use Planning Grant in the amount of \$350,000 and this requires only a 10% match due to Washington being in a Tier 1 County. We may see the application as early as next month if the grant notifications are released. Mr. Furlough acknowledged the building is architecturally designed to represent the historic Pamlico Lighthouse.

Mr. Furlough stated Hank Coleman from the National Development Council will be here on Thursday, February 25, 2010 from 3:00-5:00pm, in order to identify and put together additional funding opportunities for the projects we are working on.

ECONOMIC DEVELOPMENT COMMISSION (EDC)

Councilman Mercer submitted the minutes from the January 2010 Economic Development Commission Board of Directors meeting.

(begin EDC report) The meeting opened with a discussion on Bath and the events surrounding the potential release of the remains of a man reported to be a Blackbeard crew member named Edward Salter, Sr. The discussion also centered on the coincidence of the grave site from which the remains were removed being located on the same track of land, according to the State, that was reportedly the village of Secoton, a tribe of the Algonquin Nation.

The Secoton connection was important because it was supposedly was the site where John White, the Governor of the Lost Colony, did a series of 18 water colors on a visit to North Carolina prior to the establishment of the Lost Colony. The board discussed the issues at length, especially the economic impact of having such a nationally sufficient historic site in its own backyard. The Executive Director said he would send copies of the State report to all the board members and allow the Bath Town Council to review it prior to making any comment.

There was no Belhaven report given the absence of board member Guy Nelson. Vernon Howell said there was no economic activity in the Pantego area. In the absence of Al Kutzing, Tom Thompson informed the board that two wood pellet plants were looking at the site that had previously been targeted by an ethanol company. He said these two plants would more than likely try to export wood chips to Europe through the barge site at Aurora and subsequently through the port at Morehead City. He also informed the board of a gentleman wanting to build a motel in Aurora and he is currently working with that gentleman and the town board to ascertain the feasibility of such a venture. The benefit to Aurora would be that the hundreds of sales people and contractors that visit the site everyday might be enticed into spending the night and therefore increasing economic activity in the town. The Executive Director referenced the town of Plymouth with five motels, including a Holiday Inn Express.

Joy McRoy said there was no substantial economic activity in Chocowinity although the Executive Director told the board that the pellet plants looking at Aurora were also interested in Chocowinity. He also said there was a German company that had a projected employment of 550 people looking for a site to do sand castings. He said he had been working with the

company about three months and that the previous week had occasioned yet another inquiry from the company on details of the site.

In the absence of Archie Jennings, Doug Mercer, said the Festival Park plans had been adopted by the City. The Executive Director informed the board that a German company needing 50,000 square feet had made an inquiry on the Quick State II building in the Industrial Park, which is in the city limits of Washington, and that he is working with the NC Department of Commerce to pursue this company.

Lentz Stowe reported that 1426 students had registered at the community college in the recent registration and also informed the board of a series of seminars on QuickBooks for the local area.

Buster Humphreys discussed the Workforce Partnership and pointed out the need for establishing strong ties with Vic Rogers' replacement.

Zoph Potts produced a handout for the board on US 17 projects which is attached to these attached minutes. Six hundred million was yet to be budgeted for US 17 projects and, although progress had been made, there is still a long way to go. There was some discussion concerning the change in political atmosphere in North Carolina due to the upcoming census. It was widely expected that the Piedmont would gain representation in the legislature and that the East would lose representation. The presumption is that the redistricting would lead to less enthusiasm for highway projects in Eastern North Carolina as evidence by the recent pressure put on by the governor to complete the I-485 corridor around Charlotte.

The executive director informed the board that Rachel Midgette had resigned effective the end of January to allow her to spend more time with her four children and that a replacement was being sought. He said that Laura Tetterton would be moving into Rachel's position and that a replacement for Laura would then be sought as a temporary employee. That salary is currently being paid by the Committee of 100. The director also told the board that Impressions Marketing was still interested in having the Hamilton Beach facility upgraded to make it more effective and in compliance with building codes but that the current employment level precluded any possibility of Golden Leaf grant help. He also gave the board a briefing on Fountain Powerboats and the upcoming court case on February 3rd on which date an owner for Fountain would be announced by the bankruptcy judge. Lastly, he discussed NC20 and its goals for the coming year, pointing out that the insurance increases imposed on the coastal area last year were primarily due to the lack of any control over the Insurance Commission itself. He said there were no checks and balances of any kind and that the Insurance Commissioner decision was final and permitted no appeal. He also suggested that the previous topic of transportation might be improved by the consolidation of political powers through a group such as NC20.

The executive director discussed some additional items in closed session and there being no further business, the chairman adjourned the meeting. (end report)

HUMAN RELATIONS COUNCIL

The following report was submitted by the Human Relations Council. (begin report)

Update – Project Next Step

Chief Reed introduced Gang Investigator, Detective Issac Barrett. The call in session that was held in April identified five new clients and they were placed in the program.

Brotherhood/Sisterhood Month & “Taste of Washington”

This event has been scheduled for Thursday, February 25 from 6 – 8 pm. Restaurants should be contacted ahead of time for flyers and information on delicacies they would like to have included.

Proclamation – Ed (Edward) Peed Day

Edward Peed was the first known fire fighter to die in the line of duty in North Carolina. It was suggested that Council Liaison Pitt contact the Fire Department and the Mayor to schedule time and place for this event.

Dixon Social Interactive Services, Inc. (DSIS)

Council discussed inviting DSIS to one of their meeting for a presentation. DSIS believes that anyone who experiences any mental health illness or substance abuse has an opportunity to recover and/or sustain, believing that people have the ability to transform their lives if they are empowered with the knowledge to do so. Presently, they are serving 13 counties.

DSIS provides the following services:

- Community Support/Mentoring
- Day Treatment Enrichment program
- Individual and Family Therapy
- Diagnostic Assessment
- Intensive in home services
- Mediation
- Sex Offender/Forensic Counseling
- Music/Play Therapy
- Crisis Intervention
- Community Support Team (Peer Support) (end report)

APPOINTMENTS – HIGHWAY 17 ASSOCIATION

Council discussed the vacancy on the Highway 17 Association. Mayor Pro tem Roberson voiced interest in serving on this board. Councilman Mercer noted he currently attends these meetings and would agree to continue serving.

By motion of Councilman Davis, seconded by Councilman Moultrie, Council appointed Councilman Mercer to the Highway 17 Association with Mayor Pro tem Roberson serving as an alternate member.

APPOINTMENTS – ECONOMIC DEVELOPMENT COMMISSION (EDC)

Councilman Mercer stated Lentz Stowe’s term on the EDC has expired and Council needs to fill that position. Council, by consensus agreed to advertise the vacancy in the paper to receive applications for this position.

FINANCIAL REPORTS

Matt Rauschenbach, Chief Financial Officer noted the financial reports will be discussed in full at the Committee of the Whole meeting. Council members will email Mr. Rauschenbach their questions regarding the financial statements.

APPROVE – REPAYMENT SCHEDULE TO NCDOT FOR WATER/SEWER INFRASTRUCTURE RELOCATION

Jim Smith, City Manager gave a brief history of this project, stating as discussed numerous times over the last 3+ years, the City has incurred cost for the relocation of water and sewer lines as a result of the US 17 Bypass project. These costs total \$1,753,129 and are now due as a result of the utilities being within existing NCDOT right of ways through encroachment agreements prior to the bypass project. Last year, NCDOT came to us and suggested withholding \$100,000 of our Powell Bill money for 18 years. Late Fall last year NCDOT stated they were not authorized to make that offer. Subsequently they offered for us to pay this back over 12 years. Most recently we found out that an additional \$175,000 is due for work completed in the Cherry Run Road area. After many meetings between City staff and NCDOT staff, NCDOT is willing enter into an agreement allowing for the repayment of these costs over a twelve (12) year period. It is our suggestion to accept the 12 year payback, but to ask for forgiveness during the first two years to allow our debt service to begin to decline in FY 2013/2014. This would amount to ten years of payments and asking for 1/6 forgiveness. We need to continue negotiations with the State to come up with some alternatives to lessen the burden on the City. We have received no new utilities out of this. The case could be made that the economic impact of the new bypass may not be all positive if people choose to avoid coming through Washington.

Councilman Mercer stated it's his understanding that if your municipality is below 5500 population, then you don't have to pay. If this would have been a county owned line, regardless of population served we wouldn't have to pay at all. It seems we are being penalized while other groups get this service at no charge. Mayor Jennings stated there is a meeting with the NCDOT on Monday and he is requesting permission from Council to discuss this item during that meeting and possibly offer a deeply discounted counter-offer at some future time.

AUTHORIZE - MAYOR TO ENTER INTO PROPOSED JOINT/USE AGREEMENT WITH BEAUFORT COUNTY BOARD OF EDUCATION (KUGLER FIELD)

Mayor Pro tem Roberson requested a better map to be included in the agreement to better reflect the property boundary and suggested the agreement be recorded to protect all parties involved.

Jim Smith noted many years ago, the Kugler family donated a large parcel of land located in the City's east end to the Washington School district for use by the community for athletic events. The donation transferred to the Beaufort County Board of Education when the County and City districts merged. The City of Washington operated Kugler Field for the benefit of the community for many years, facilitating its use by several entities including the Board of Education baseball, soccer, football and various athletic leagues. In recent years, school athletic programs have moved to Washington High School and other school campuses rather than utilizing Kugler Field. Two years ago, the school superintendent entered into an agreement with the Washington Youth Football League authorizing their exclusive use of Kugler Field during the

league's football season. The City continued to operate and maintain Kugler during the balance of the year, primarily for the use of the church softball leagues as well as some youth baseball practice. The City has offered to assume ownership and operation responsibilities for Kugler Field. However, the Board of Education has indicated it wishes to retain ownership. The proposed agreement lays out the terms of the City's use of Kugler Field between April 1st and August 9 annually and recognizes the Board of Education's intent to authorize third parties to utilize Kugler Field at other times. It also contains miscellaneous provision with regard to maintenance and liability.

Councilman Davis made a motion to authorize the Mayor to enter into the proposed agreement with Beaufort County Board of Education for the joint use of Kugler Field. Franz Holscher, City Attorney stated he has had discussions with Councilman Davis regarding the terms of the agreement. This agreement gives us the right to use the field between April 1st and August 9th. If you want to use the field outside of those dates you have to get permission from a different entity. Council could authorize someone to not only execute this agreement but to potentially authorize a rewritten agreement that would span the dates of March 15th to August 15th, if that became appropriate that authority should be given as well. Councilman Davis asked to include the expanded dates of March 15th to August 15th as an amendment to his motion. Mayor Pro tem Roberson seconded the motion with the amendment. Councilman Mercer stated if there is a legal document with the football league and the school board that covers those dates, the school board can't give an agreement overlapping the dates. Mayor Jennings stated he couldn't understand why Church league softball couldn't be finished before August 9th. Philip Mobley, Parks and Recreation Director stated he could work with the football league to work out any issues of overlapping dates and work with the deadlines we have in the agreement. He suggested we leave the agreement as it is and work the details out with the football league. Councilman Davis stated he was okay with leaving the dates as written in the agreement that was presented tonight. Mayor Pro tem Roberson and Councilman Davis agreed to go with the original motion that was made to authorize the Mayor to enter into the proposed agreement that was presented in the packet with Beaufort County Board of Education for the joint use of Kugler Field.

By motion of Councilman Davis, seconded by Mayor Pro tem Roberson, Council approved the agreement as presented in the agenda packet to authorized the Mayor to enter into the proposed agreement with Beaufort County Board of Education for the joint use of Kugler Field as presented in the agenda packet with the dates of use from April 1st to August 9th. The amendment to the motion to expand the period of annual use from March 15th to August 15th was withdrawn by Councilman Davis. The vote was unanimous to approve the presented joint use agreement.

(copy attached)

ACCEPT – REQUEST OF NC ESTUARUM TO RELOCATE THE WESTERN BOUNDARY OF THEIR JOINT-USE AGREEMENT

Councilman Mercer asked last month that this item be continued to avoid some complications with a grant application. This item has been discussed thoroughly and extends their boundary approximately 10 feet west of the flag pole.

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council agreed to grant the request by the Estuarium to relocate the western boundary of their joint-use agreement.

Franz Holscher stated he would propose a withdrawal of the original easement which would convey that property back to us. Then the City would convey a new easement to them with the mutually agreed upon boundaries.

SET DATE – SEWER ASSESSMENT REVIEW COMMITTEE MEETING

Councilman Mercer requested additional time to review the information. He further stated he will call Cynthia Bennett, City Clerk to set the date to advertise the sewer assessment review committee meeting. Mayor Pro tem Roberson inquired about an assessment agreement regarding MacsWoods.

SET DATE – CIP PROJECT REVIEW SESSIONS

By motion of Councilman Davis, seconded by Mayor Pro tem Roberson, Council set the date for the CIP review session for February 15, 2010 at 4:30 in the City Council Chambers.

ACCEPT – BUDGET SCHEDULE

Councilman Mercer requested to postpone setting the budget workshops until the budget is presented to Council on April 12th. By consensus, Council agreed to set budget workshops when they receive the budget on April 12th. Councilman Mercer requested a breakdown of personnel needs by department showing full time and part-time employees.

ADOPT – ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION REGARDING TIME, CHANGE IN DATE, AND ORDER OF BUSINESS OF CITY COUNCIL MEETINGS

Councilman Mercer stated that when a new Council holds their organizational meeting in January, this ordinance gives them the flexibility to set the time of the meeting and the structure of the agenda.

By motion of Councilman Mercer, seconded by Councilman Moultrie, Council adopted an ordinance amending Chapter 2, Administration, of the Code of the City of Washington, NC to establish a new order of business for City Council's regular meetings.

(copy attached)

ADOPT – ORDINANCE ADOPTING AND ENACTING A NEW CITY CODE

Franz Holscher, City Attorney provided a history of the project and stated this item was continued last month in order to give Council additional time to review the same and to allow for consideration from Council and those comments were included in the agenda. Discussion was held regarding the amount of time required for special called meetings notice. General Statute requires 6 hours notice to Council members, while open meetings law requires 48 hours notice to media. By concurrence, Council required 48 hours notice of Special Called meetings to Council and media. Mayor Pro tem Roberson discussed some additional items that needed to be changed, such as the mention of a Tax Collector. Mr. Holscher stated there are multiple substantive changes that need to be amended after the codification is adopted.

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council adopted an ordinance adopting and enacting a new code for the City of Washington, North Carolina with the exception of Section 2-97(i); providing for the repeal of certain ordinances not included therein; providing a penalty for the violation thereof; providing for the manner of amending such code; and providing when such code and this ordinance shall become effective.
(copy attached)

AUTHORIZE - CITY MANAGER TO SIGN THE AUTHORIZED AGENT CONSENT AGREEMENT TO OBTAIN THE TEMPORARY CAMA PERMIT FOR THE WATERFRONT

On January 19, 2010 City Council approved the Little Washington Sailing Club to attach their floating dock to a free dock on the waterfront for their program for the 2010 season. In order for the LWSC to attach a floating dock to our dock, CAMA requires them to have a Temporary CAMA permit.

By motion of Councilman Davis, seconded by Councilman Mercer, Council authorized the City Manager to sign the Authorized Agent Consent Agreement as the property owner to obtain the Temporary CAMA permit on the waterfront.

(copy attached)

DRAINAGE ISSUES AT IRON CREEK

Allen Lewis, Public Works Director stated he learned prior to tonight's meeting that a beaver has moved into the creek that drains Iron Creek and is causing problems with the drainage. Councilman Mercer requested the Public Works Department look at the swale between 107-109 Ore Court. A full report will be submitted at the Committee of the Whole meeting.

ADOPT – BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDS FOR THE PSAP COMPLIANT WIRELESS UPGRADE OF THE E-911 PHONE SYSTEM \$88,502

Councilman Mercer requested this item be pulled from the Consent Agenda due to the change in the amount from \$77,627 to \$88,502. Anita Radcliffe, Assistant Finance Director stated the \$10,875 was brought forward under the General Fund, we found out this amount was eligible to be paid out of the 911 Fund and we thought it prudent to be paid by that fund instead of the General Fund. Councilman Mercer felt the \$10,875 should be submitted as a separate budget ordinance and suggested the budget ordinance submitted in January should be adopted for approving the \$77,627 and then next month submit a budget ordinance for \$10,875 to decrease this encumbrance in the General Fund and transfer to the E911 Fund.

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council adopted a budget ordinance to re-appropriate funds in the amount of \$77,627 from the Fiscal Year 2008/2009 to Fiscal Year 2009/2010. These funds are to pay for wireless E91 1 upgrades.

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2009-2010**

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

Section 1. That the Estimated Revenues in the E-911 Surcharge Fund be increased in the amount of \$46,670 in the account Fund Balance Appropriated, account number 14-70-3991-9910.

Section 2. That account number 14-70-4310-7400, Capital Outlay, E-911 Surcharge Fund appropriations budget be increased in the amount of \$77,627 to provide funds to pay for wireless upgrade.

Section 3. That account number 14-70-4310-4501, Contract Services — E911 System, E-91 1 Surcharge Fund appropriations budget be decreased in the amount of \$30,957.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. This ordinance shall become effective upon its adoption.

Adopted this the 8th day of February, 2010.

s/Cynthia S. Bennett
City Clerk

s/N. Archie Jennings, III
Mayor

DISCUSSION –EMPLOYEE EVALUATIONS

Jim Smith, City Manager updated Council on the process for employee evaluations, per Mayor Pro tem Roberson's request. Mr. Smith stated we have computer software(HRN) that notifies him of upcoming evaluations as well as notifying the employee for when they have to do their self-evaluation. Mr. Smith stated he actually sets aside time to leave the office to enable him to complete the evaluations in a timely manner. He further stated he is within the sixty-ninety day time span of when the evaluations are due, which is on the anniversary of the employees hire date.

ADOPT – RESOLUTION FOR CLERK TO INVESTIGATE A NON-CONTIGUOUS SATELLITE ANNEXATION PETITION FOR LJ'S BODY SHOP INC.

On January 20, 2010 LJ's Body Shop Inc presented a petition for a non-contiguous satellite annexation for the property located on Hwy 264 East approximately 1000' east of the Beaufort County Animal Shelter. The property contains 2.96 acres and is currently vacant. When a petition for annexation is received the governing body must direct the clerk to investigate the sufficiency of the petition.

Mayor Pro tem Roberson stated he has concerns with annexing this property as it is out of the extra-territorial zoning jurisdiction. Councilman Mercer also voiced concern over the long distance annexation and would like a cost benefit analysis. Mayor Jennings noted the cost benefit analysis should be part of the investigation for the annexation petition.

By motion of Councilman Mercer, seconded by Councilman Pitt, Council adopted a resolution directing the City Clerk to investigate a non-contiguous satellite annexation petition received under General Statute 160A-58.1 which will included a cost benefit analysis.

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G.S. 160 A-58.1**

WHEREAS, a petition requesting annexation of an area described in said petition was received on February 8, 2010 by the Washington City Council; and

WHEREAS, CS. 160A-58.2 provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

WHEREAS, the City Council of the City of Washington deems it advisable to proceed in response to this request for annexation:

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Washington that:

The City Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the City Council the result of her investigation.

s/Cynthia S. Bennett
City Clerk

s/N. Archie Jennings, III
Mayor

AWARD – AUDIT CONTRACT FOR FISCAL YEAR 2009-2010 TO MARTIN-STARNES AND ASSOCIATES, CPA, PA \$38,000

Martin, Starnes and Associates, CPA, PA has submitted their proposal for performing the City’s annual audit for fiscal year 2009-2010, in the amount of \$38,000. This proposal is at the same cost as the audits for the previous two fiscal years. City staff has been very pleased with the services provided by Martin, Starnes, and Associates, CPA, PA and highly recommends to Council the awarding of this year’s audit contract to them.

Councilman Mercer voiced concern that there is no competitive bid for this project. He feels after several years, maybe this should be re-bid. Mr. Smith agreed with Councilman Mercer and stated we have looked at prices each year and have decided to extend them an additional year under the current contract, then we will send out for RFP’s for additional firms at this time next year. Anita Radcliffe, stated Martin, Starnes does only governmental audits and performs 33 out of the 100 county audits in North Carolina. They have agreed to keep their audit fees at the same rate they were two years ago due to the current economic situation. Mayor Jennings noted future contracts would be for multiple years.

By motion of Councilman Pitt, seconded by Councilman Moultrie, Council awarded a contract to audit accounts for fiscal year 2009-2010 to Martin, Starnes, and Associates, CPA, PA located in Hickory, NC at a cost of \$38,000.

ADOPT – BUDGET ORDINANCE FOR REALLOCATION OF PROPERTY, CASUALTY, & LIABILITY INSURANCE COST

The property, casualty, and liability insurance cost has been reallocated among areas using a method that more closely matches the risk of what’s insured. The actual premiums were charged to each area based on the reallocation and a budget amendment is necessary to realign the budget accordingly. Councilman Mercer inquired why this needed to be done now, eight months into the current budget. Couldn’t this been done during the budget work sessions

for next year’s budget? Anita Radcliffe noted she took the prior year actual number and added a 2% increase to determine a cost estimate for the current budget. When the actual bill came in, Matt Rauschenbach ran a listing of all vehicles and buildings and allocated the premiums based on that. Ms. Radcliffe stated she was unsure of the way prior year budgets had this item allocated. There is no overall fiscal impact. Mayor Jennings noted this is a more precise allocation than the 2% estimate used previously during the budget process.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council adopted a Budget Ordinance to reallocate the property, casualty, and liability insurance cost.
(copy attached)

DECLARE – SURPLUS/AUTHORIZE ELECTRONIC AUCTION OF VEHICLES THROUGH GOVDEALS

Councilman Mercer questioned the mileage on vehicle #658 – 1996 Jeep Cherokee with only 66,644 miles. Ms. Radcliffe noted the mileage was correct, this vehicle has a blown engine.

By motion of Councilman Mercer, seconded by Councilman Pitt, Council declared surplus and authorized the sale of the following vehicles through electronic auction using GovDeals.

Vehicle Number	Make/Model	Serial Number	Odometer Reading
620	2002 Ford Ranger Truck	1FTYR1 0U12TA68200	148,261
658	1996 Jeep Cherokee 4X4	1 J4FJ28S1 TL202335	66,644

DISCUSSION – TOWN HALL STYLE MEETING

By consensus, Council agreed to have the Town Hall Style meeting discussion during the Committee of the Whole meeting.

DISCUSSION – CITY PAGE IN NEWSPAPER

By consensus, Council agreed to have the City Page ad discussion during the Committee of the Whole meeting.

CLOSED SESSION – UNDER NCGS 143-318.11(A)(3) ATTORNEY CLIENT PRIVILEGE/LITIGATION DEKEVION ROULHAC, A MINOR BY AND THROUGH HIS GUARDIAN AD LITEM SHEKUITA CLEMMONS, AND SHEKUITA CLEMMONS INDIVIDUALLY AND IN HER CAPACITY AS PARENT/NATURAL GUARDIAN V. CITY OF WASHINGTON, CITY OF WASHINGTON FIRE DEPARTMENT, AND MARTIN COUNTY COMMUNITY ACTION, INC. AND NCGS 143-318.11(A)(6) PERSONNEL

By motion of Mayor Pro tem Roberson, seconded by Councilman Mercer, Council agreed to go into Closed Session at 8:45pm under NCGS 143-318.11(a)(3) Attorney Client Privilege/Litigation Dekevion Roulhac, a minor by and through his Guardian Ad Litem Shekuita Clemmons, and Shekuita Clemmons individually and in her capacity as Parent/Natural Guardian v. City of Washington, City of Washington Fire Department, and Martin County Community Action, Inc. and NCGS 143-318.11(a)(6) Personnel

ADJOURN

By motion of Councilman Davis seconded by Mayor Pro tem Roberson, Council recessed the meeting until February 15, 2010 at 4:30pm in the Council Chambers at the Municipal Building the Capital Improvement Plan review.

(Subject to the Approval of the City Council)

**Cynthia S. Bennett
City Clerk**

DRAFT



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Matt Rauschenbach, CFO
Date: March 8, 2010
Subject: Budget Amendment for General Fund and E911 Special Revenue Fund (\$10,756)
Applicant Presentation: N/A
Staff Presentation: N/A

RECOMMENDATION:

I move that City Council adopt a budget ordinance amendment in the amount of \$10,756 to unappropriate funds in the general fund and appropriate them in the E-911 Special Revenue Fund.

BACKGROUND AND FINDINGS:

The upgrades to the E-911 phone system enabled the City to regain PSAP (Public Safety Answering Point) compliance. Seventeen months of past funding (\$105,364) was restored in the last fiscal year and \$6,198 per month for the current year is being received (\$74,374 annually).

The total upgrade cost for equipment was \$88,502 with \$77,746 currently being paid out of the E-911 Special Revenue Fund and \$10,756 being funded by the General Fund. Recently, City staff learned that some expenses to be paid by the General Fund are eligible for payment from the E-911 Special Revenue Fund. Thus, we are requesting to unappropriate \$10,756 from the General Fund and appropriate the same amount in the E-911 Special Revenue Fund.

PREVIOUS LEGISLATIVE ACTION

September, 2009 budget amendment for \$10,756 General Fund capital outlay
February, 2010 budget amendment for \$77,746 E-911 Special Revenue Fund capital outlay

FISCAL IMPACT

Currently Budgeted (Account 10-10-4311-7400) 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 _____ Denial _____ No Recommendation _____
3/8/10 Date March 8, 2010

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2009-2010**

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

Section 1. That the Estimated Revenues in the E-911 Surcharge Fund be increased in the amount of \$10,756 in the account Fund Balance Appropriated, account number 14-70-3991-9910.

Section 2. That account number 14-70-4310-7400, Capital Outlay, E-911 Surcharge Fund appropriations budget be increased in the amount of \$10,756 to provide funds to finish paying for the wireless upgrade.

Section 3. That the Estimated Revenues in the General Fund be decreased in the amount of \$10,756 in the account Fund Balance Appropriated, account number 10-00-3991-9910.

Section 4. That account number 10-10-4311-7400, Capital Outlay, E-911 portion of the General Fund appropriations budget be decreased in the amount of \$10,756 to unappropriate funds.

Section 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. This ordinance shall become effective upon its adoption.

Adopted this the 8th day of March, 2010.

MAYOR

ATTEST:

CITY CLERK



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Archie Jennings & Members of the City Council
From: Matt Rauschenbauch, CFO
Date: March 8, 2010
Subject: Adopt a budget ordinance amendment in the General Fund (\$100,000)
Staff Presentation: N/A

RECOMMENDATION:

I move that Council adopt a budget ordinance amendment in the amount of \$100,000 in the General Fund to unappropriate the funds set aside in the original fiscal year 2009/2010 budget for the purchase of land to build the new police station.

BACKGROUND AND FINDINGS:

\$100,000 was originally appropriated in the FY 09/10 budget as the estimated cost of acquiring property to construct the new police station. Subsequently, Council has adopted a capital project budget ordinance for the police station and transferred \$1,000,000 from the general fund to the capital project fund. The capital project fund includes an appropriation in the amount of \$210,000 for the purchase of land. Therefore, the \$100,000 appropriation in the general fund is no longer needed.

PREVIOUS LEGISLATIVE ACTION

June 2009 FY 09/10 Budget Adoption
July 2009 Capital Project Budget Ordinance Adoption

FISCAL IMPACT

X Currently Budgeted (Account 10-10-4310-7100) 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: JPK Concur Recommend Denial No Recommendation
 3/2/10 Date

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2009-2010**

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

Section 1. That account number 10-10-4310-7100, Land, Police Department portion of the General Fund appropriations budget be decreased in the amount of \$100,000 to unappropriate the funds for the acquisition of land.

Section 2. That the Estimated Revenues in the General Fund be decreased in the amount of \$100,000 in the account Fund Balance Appropriated, account number 10-00-3991-9910.

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 8th day of March, 2010.

MAYOR

ATTEST:

CITY CLERK



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: 02-25-10
Subject: Adopt Budget Ordinance Amendment for Stormwater Permit Review.
Applicant Presentation: N/A
Staff Presentation: Allen Lewis

RECOMMENDATION:

I move that Council adopt the attached budget ordinance amendment to increase funds in the stormwater permit fees and expenditure line items.

BACKGROUND AND FINDINGS:

As you may recall, the professional services stormwater permit review expenditure line item (34-90-5712-0400) is funded on the revenue side by the stormwater permit fees line item (34-90-3571-5105). The revenue line item should cover all of the expenses in the corresponding expense line item. As a result of several projects being reviewed this FY, we have the need to increase both line items by an equal amount. The attached budget amendment should cover this need for the rest of this FY.

PREVIOUS LEGISLATIVE ACTION

Last action item included budget ordinance amendment on November 9, 2009.

FISCAL IMPACT

Currently Budgeted (Account) Requires additional appropriation No Fiscal Impact

SUPPORTING DOCUMENTS

See attached Budget Ordinance Amendment.

City Attorney Review: _____ Date By: _____ (if applicable)
 Finance Dept Review: _____ Date By: March 8, 2010 (if applicable)
 City Manager Review: *AL* Concur _____ Recommend _____ Denial _____ No Recommendation *3/3/10* Date

Page 30 of 148

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2009-2010**

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

Section 1. That the Estimated Revenues in the Storm Water Fund be increased in the amount of \$2,000 in the account Permit Fee Revenue, account number 34-90-3571-5105.

Section 2. That account number 34-90-5712-0400, Professional Services –Permit Review, Nutrient Control portion of the Storm Water Management Fund appropriations budget be increased in the amount of \$2,000 to provide funds for engineers to review permits.

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 8th day of March, 2010.

MAYOR

ATTEST:

CITY CLERK



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
 From: Philip Mobley, Parks and Recreation Department Director *pmw*
 Date: March 8, 2010
 Subject: Adopt Budget Ordinance Amendment in the amount of \$1,500
 Applicant Presentation:
 Staff Presentation:

RECOMMENDATION:

I move that City Council adopt a budget ordinance amendment in the amount of \$1,500 for Senior Programs Division of Parks and Recreation

BACKGROUND AND FINDINGS:

The Parks and Recreation Department would like to accept this \$1,500 for Elderly and Disabled Transportation Program Supplement for the budget year 09-10. These funds will be rewarded in the form of a check from Beaufort County upon the approval and acceptance of City Council. There will be no match required in funding for this money. The only paperwork will be this City Council Action with attached Budget Ordinance Amendment.

The Recreation Advisory Committee, at its regular February 15th, 2010 meeting, voted in support of accepting the \$1,500 for the Elderly and Disabled Transportation Program Supplement

PREVIOUS LEGISLATIVE ACTION

December 8, 2008 – City Council accepted \$1,500 for Disabled Transportation Program Supplement/

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: *JM* Concur March 8, 2010 Recommend Denial _____ No Recommendation 3/9/10 Date
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**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2009-2010**

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

Section 1. That the Estimated Revenues in the General Fund be increased in the amount of \$1,500 in the account EDTAP – Seniors Grant, account number 10-40-3622-3300.

Section 2. That account number 10-40-6123.4515, EDTAP – Seniors Grant, Senior Programs portion of the General Fund appropriations budget, be increased in the amount of \$1,500 to provide funds for gas cards for volunteers.

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 8th day of March, 2010.

Mayor

ATTEST:

City Clerk



City of Washington

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

MEMORANDUM

DATE: 3, March 2010

TO: Mayor and City Council

FROM: Chris Hilbert, Project Manager, Holland Consulting Planners, Inc.

SUBJ: FY07 CDBG- Community Revitalization Grant

The City has been working on the FY07 CDBG- Community Revitalization project in two areas on West 6th and West 7th Street. The City is in the process of completing the remaining activities and it is required that a public hearing be held prior to closing out the grant.

March 8, 2010

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CITY OF WASHINGTON, NORTH CAROLINA

**NOTICE OF CLOSE-OUT PUBLIC HEARING
FISCAL YEAR 2007 COMMUNITY DEVELOPMENT
SMALL CITIES BLOCK GRANT PROGRAM
(COMMUNITY REVITALIZATION CATEGORY)**

Notice is hereby given that the City of Washington City Council will hold a public hearing on Monday, March 8, 2010 at 6:00pm., in the councils' meeting room, City of Washington municipal Building, 102 East Second Street, Washington, NC 27889. The purpose of this hearing is to review the budget and activities that have been accomplished through the city's FY07 CDBG-CR Program. The program activities are complete, and the city is in the process of closing out the program.

All interested citizens are encouraged to attend this public hearing, and all comments are welcome. Written comments concerning the close-out of this grant should be submitted to Ms. Cynthia Bennett, City Clerk, City of Washington, PO Box 1988, 102 E 2nd St., Washington, NC 27889, no later than 5:00pm., Friday March 5, 2010.



CITY OF WASHINGTON

MEMORANDUM

DATE: 26 February 2010
TO: Mayor and City Council
FROM: Bianca Gentile, Special Projects
SUBJ: 2010 Departmental, American Recovery and Reinvestment Act (ARRA) and Non-ARRA funding opportunities

Respectfully submitted is a departmental and ARRA project update.

Application awards:

- **USDA Loan/Grant application** approved for construction of police facility. Offer good through 8-31-10 (loan: \$4,064,000 and grant: \$100,000). Department: Police Department.
- **2009 Fire Act Grant:** Project tentatively awarded (awaiting award letter). Funds will assist with replacing 22 complete sets of turn-out gear. Total project: \$50,930, cities match: \$2,546. Department: Fire. Project awaiting official award notice.

Application Notifications:

- **Urgent Repairs Program** to NC Housing Finance Agency: proposed to use funds to make home repairs for seniors and low to moderate families. Project was not funded, highly competitive grant environment. Department: Planning and Development.
- **CDBG Housing Development application:** Project would allow Washington Housing Authority to purchase 14 lots to construct low to moderate income family homes while offering first time homebuyer education/ credit counseling services. Total request: \$250,000 (no local match). Grant notification forthcoming.

Application Submittals:

- **Historic Preservation Grant** submitted to NC State Historic Preservation Office. This project proposes to use funds to develop a renovation plan and conduct a structural analysis for Old City Hall. Total Project: \$10,000/local match: \$4,000. Department: Planning and Community Development. Application pending.
- **NC Governors Crime Commission/Criminal Justice Improvements:** Project renewal submitted 1-20-10. Funds will be used to continue with Project Next Step an additional two years. Total project: \$69,370/city match: \$17,342. Department: Police. Application pending.

- **National Telecommunications and Information Administration (NTIA)** is disbursing \$7.2 billion in American Recovery and Reinvestment Act for broadband projects. Brown library was asked to partner on a state application with the NC Library System. The state system is proposing to use funds to assist job seekers, deploy broadband, and increase access to computers/internet. There is no city match required as The Bill and Melinda Gates Foundation will match the state's application. Application is due: 3-15-10 (second and final round of funding). Potential impact on City's library: \$30,086. Department: Library. Application pending.

Potential projects:

- **NC State Energy Office Student intern:** Local government offers internship program for students studying public administration or public policy. Internship will focus on planning and/or implementing energy efficiency and/or renewable energy program and policies directed at the local government or broader community. Two semester long internships, total request: \$30,000/City Match is staff time only/oversight (cost YTBD)
- **Recovery Zone Economic Development Bonds:** An ARRA Build American Bond subset. Bonds can be used for private or public use to finance nearly any capital expenditures that promotes economic development or economic activity in the recovery zone. Potential municipal use: public infrastructure (roads, water, sewer, storm water), industrial and small business development, public buildings. Step one: Designate area as a recovery zone.
- **Main Street Energy Fund:** The State Energy Office is set to release a Request for Proposals in near future. Program is designed to assist NC Main Street municipalities with energy upgrades in the central business district. Up to \$250,000 available for interested small business owners and municipalities. Currently, running an ad on the Public Access Channel to inform citizens of potential funding availability and will request Technical Assistance (no cost to the City) for proposal development.
- **Compact Fluorescent Light bulb (CFL) Drive:** Using ElectriCities annual donation in conjunction with the municipality's marketing dollars we could host a CFL recycling drive where utility customers trade old light bulbs in for the more energy efficient CFLs. Martin County Community Action Agency and ElectriCities may be able to donate promotional and educational materials. May be able to bring the CFL drive on the road to "town hall" meetings. Project details to follow.

Council FYI:

Per Council's recommendation Mrs. Marisol Barr, Weatherization Assistance Coordinator, with Martin County Community Action appeared before the Beaufort County Commissioners on Monday, March 1 2010 to discuss the availability of funds for the Weatherization Assistance Program and the opening of a local office in City Hall.

CITY OF WASHINGTON

P.O. Box 1988, 102 E. 2nd Street
Washington, NC 27889-1988
Telephone 252 975-9300 - Fax 252 946-1965



January 29, 2010

XXXXX
CXXXXX

Dear Congressman:

The City of Washington is writing to request a **Congressional Letter of Support** on behalf of a proposal submitted to a state administrative office (NC Department of Crime Control and Public Safety) to the Department of Homeland Security's competitive grant opportunity entitled "FY 2010 Emergency Operations Center Grant application". The \$457,000 request will be used to construct an Emergency Operations Center within the new municipal police facility.

The North Carolina Emergency Management Act, North Carolina General Statute 166-A requires the City to maintain coordinated efforts to prepare for, response to, and recover from emergencies and disasters. However, the existing Emergency Operations Center, which was dedicated as a temporary EOC, impedes the implementation of coordinated response and relief efforts as it is vulnerable to natural and man-made threats, is undersized and under-equipped. Construction of an Emergency Operations Center will assist municipal, regional and federal efforts to respond to pre-planned or no-notice events in a space that allows for appropriate staffing levels and modern technology, two critical components currently lacking in the municipality's temporary EOC. Additionally, cohabitating the EOC with the new Washington Police Department and Communications Center capitalizes on coordination of emergency and public safety assets and ensures communication efforts and relief services are delivered uninterrupted at critical times.

It is important to note that since the Department of Homeland Security implemented this competitive grant program no North Carolina municipality or county has been award funds. We feel the City Washington is strong candidate as 1). Beaufort County boasts more shoreline than any other County in the state, making us extremely vulnerable to natural disasters like a hurricanes and storm surges and thus increasing our need for coordinated response efforts 2). DHS funds will be paired with both a local match of 20% (\$153,000) and a loan through USDA's Community Facilities Program, promoting interagency coordination in the name of public safety on the federal and local level.

For your ease, included is a project narrative, should more details be needed for you to make an informed decision when writing a letter of support. We appreciate your hard work and dedication and as also offer the same to you.

Sincerely,

Archie Jennings
Mayor, City of Washington

March 8, 2010
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Overall purpose of investment:

The City of Washington is undertaking efforts to construct a centrally located Emergency Operations Center to protect its citizens in the event of natural and other emergencies. Funds will be used to construct a new Emergency Operations Center (EOC) and purchase modern technology. The City of Washington's EOC will enhance emergency management capabilities within the jurisdiction by addressing the specific needs cited in the North Carolina State Preparedness Report for a central platform on the local level, which is also interoperable with regional, state and other EOCs. The City of Washington's EOC will provide for continuation of government and a reliable mechanism for notification and appropriate response for government officials, first responders, and public safety personnel.

Need assessment:

The City of Washington Emergency Manger, Fire Chief Robert Rose, conducted a facility assessment on January 21, 2010. This assessment identified the hazards, vulnerabilities and resultant risks of the existing EOC. Currently, the municipal EOC, which was dedicated as a temporary EOC, is housed at the City's Fire Station #2. The existing EOC at 495 sq/ft is not large enough to hold the necessary participants needed to respond to an emergency. The City's Emergency Operation Plan requires at least 12 people to function within the EOC, however only 5 may do so properly according to NC Building Code. Furthermore, the current EOC cannot support modern technology, such as voice over internet protocol (VOIP) telephones, and wireless internet access, nor does it have accessible network ports for computers. There are not enough telephone connections to facilitate effective intra and interagency/party communications, as the temporary facility is located on the extreme western edge of the City's service area.

The proposed construction project will increase the square footage available for use by approximately 1,000 square feet, address the current technology power and cabling deficiencies, as well as provide space and capability for future technological advances. The proposed construction site is large enough to allow for future expansion and congruity with a contiguous Police, Fire, EMS communications center that will be sited in the same building. Cohabiting the EOC with the new Washington Police Department and Communications Center capitalizes on coordination of emergency and public safety assets and ensures communication efforts and relief services are delivered uninterrupted at critical times.

Cost effective strategies:

To enhance municipal emergency management capabilities in a cost effective manner, the City will utilize a variety of resources. EOC construction costs will be funded by the FY2010 Emergency Operations Center Grant Program. The police facility, which will simultaneously be under construction, received funding from the United States Department Agriculture's Rural Community Facilities Loan/Grant Program. The USDA loan will assist the City in financing a large capital improvement over a 30-year period. The local match will come from a City public safety reserve fund created in 2002. 3.3% of the City's tax revenue is set aside annually which has generated a \$1,000,000 fund dedicated to enhancing the function and delivery of public safety and emergency management efforts. Using these reserve funds in conjunction with a USDA loan and EOC grant monies ensures taxpayers that the City is being a good steward of its limited resources in this perennially depressed area and fiscally difficult climate.



HUMAN RELATIONS COUNCIL

102 East 2nd Street

Washington, NC 27889

Phone: 252-975-1280

Fax: 252-974-6461

Human Relations Council (HRC) Report Monday, March 8, 2010 City Council Meeting

Brotherhood/Sisterhood Month & 'Taste of Washington'

Event was held on Thursday, February 25, 2010 from 6 – 8 pm. Participation from the following establishments:

Mazatlan
Nana's & Papa's Diner
Moore's Sweets
Catering by Cake
Wal-Mart
Foodlion

Council members in attendance were Councilman Pitt and Councilman Moultrie. County Commissioner Ed Booth attended along with City Manager, James Smith. There was great participation from residents, law enforcement officials and past Council member Richard Brooks. This event created an environment where the citizens of Washington could speak with our community leaders. Much enthusiasm was generated from HRC board members when observing the participation and intermingling with the community that they planned to host it next year if possible.

Proclamation – Ed (Edward) Peed Day

Edward Peed was the first known fire fighter to die in the line of duty in North Carolina. The celebration was held on Saturday, February 20, 2010 at Fire Station #1. Members of City Council included Mayor Jennings, Councilman Pitt and Councilman Moultrie. James C. Smith, City Manager attended as well.

January-February Tourism Development Report

TDA BOARD

- The TDA adopted a resolution to protect the room occupancy tax. Federal legislation is being proposed exempting online travel companies from paying occupancy taxes. This could be detrimental to local governments and tourism entities who benefit from the tax.
- The TDA awarded a grant to the Beaufort County Arts Council to assist in the marketing and promotion of the upcoming Beaufort County Music Festival, April 9-11.

MEETINGS

- Tourism Development Director (TDD) participated in the Northeast Region State of the Region annual meeting in February. Department of Cultural Resources Secretary Linda Carlisle spoke about the important role of heritage tourism and the arts to the region.
- TDD attended a meeting to discuss joint marketing efforts for communities along Highway 17. This discussion is not new, but new ideas are slowly taking shape. An event is being coordinated for May that is in honor of Highway 17 being named the military highway.

MARKETING

- Three new billboards encouraging travelers to continue on Business 17 will be in place prior to the opening of the bypass in March. Two will be prior to the “decision point” south of Chocowinity and one will be north of the “decision point” north of Washington.
- Met with Eye Integrated to discuss ad campaign for FY10-11. We plan to introduce some new ideas the breath new life into our existing marketing efforts.
- A print ad is presently running in Our State magazine.
- Met with Catherine Glover, Joey Toler, Beth Byrd, and Scotty Henley to discuss ways to work more cohesively and possible cross promotion for upcoming events and activities.
- Search engine optimization and newsletter template are almost complete. This will end the work being done by Synergy Point for the website that was launched in November.
- I attended a mini-tourism summit held in Greenville, hosted by the Eastern Region. This was a great opportunity to learn about trail promotion, agri-tourism and sustainable tourism in the area.

MISCELLANEOUS

- A 10K race is scheduled for May 8 that will utilize portions of Business 17 and the Pamlico Tar River Bridge. This project has been a joint effort between local agencies and NCDOT. This will be an annual event hosted by the WTDA. By offering a certified course, the event is anticipated to grow each year by attracting serious competitors as well as locals.
- As the president elect for the North Carolina Travel Industry Association, I have been involved with the planning for the upcoming annual meeting in conjunction with the Destination Marketing Association of North Carolina. I am responsible for utilizing the valuable resources available at ECU as presenters for the conference.
- Contact has been made with departments at East Carolina University to help with interior improvements and upgrades for the Civic Center. As wallpaper and other finishes need to be replaced after 20+ years of wear, ECU students will help to develop interior design options that can be followed as the budget allows for improvements to be made.

**Downtown Washington on the Waterfront (DWOW) Report
Monday, March 08, 2010 City of Washington Council Meeting**

Downtown Merchants/Restaurateurs

Chief Mick Reed met with the downtown merchants at the February 9, 2010 Merchant Meeting. The parking situation downtown was discussed. Some merchants feel that the 2 hour parking restriction does not allow enough time for consumers to stay downtown to eat and shop. Different scenarios were discussed that might possibly fix that situation. The merchants fully endorsed the idea that DWOW go before Council to inquire into the possibility of changing the 2 hour restriction to 3 hour. The DWOW board did not meet during the month of February but Beth Byrd will seek the Board's approval to move forward with this project at the March 17th Board Meeting.

Music in the Streets

After seeking feed back from a broad range of the community it was decided to proceed with the 8th season of Music in the Streets. Committees are being formed and logistics are being reconstructed.

DWOW Design Committee

Spring Cleanup Day is planned for Sat. March 27. Rain date Sun. March 28. This is a day when the Washington Garden Club, the Washington Historic Foundation, DWOW and other volunteers come out to spruce up our Downtown from the river to Main and Market Streets.

Movies in the Park

Details have not been finalized but DWOW is trying to work out the feasibility of bringing "Movies in the Park" Series to downtown Washington. The movies would be free to the public and would encourage the community to come downtown, perhaps purchase or bring a picnic dinner and relax and enjoy a movie. We would hope to present 6 or 7 movies throughout the series. More details will follow.



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Cynthia S. Bennett, City Clerk
Date: February 25, 2010
Subject: Appointments to Economic Development Commission and Recreation Advisory Board
Applicant Presentation: N/A
Staff Presentation: N/A

RECOMMENDATION:

A. Economic Development Commission

I move that the City Council appoint _____ to the Economic Development Commission with a term to expire December 30, 2012.

B. Recreation Advisory Committee –

I move that the City Council appoint _____ to the Recreation Advisory Committee to fill the unexpired term of Lisa Williams Baker, term to expire June 30, 2012.

C. Ex-Officio member to the Chamber of Commerce –

I move that the City Council appoint _____ as an ex-officio member on the Chamber of Commerce Board.

BACKGROUND AND FINDINGS:

Block advertisements were placed in the Washington Daily News for vacancies for expiring terms on the aforementioned boards and commissions. Lisa Williams Baker submitted a letter of resignation from the Recreation Advisory Board. This position should be filled with a person inside the City limits. Lentz Stowe's term ended on December 30, 2009 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. There is also a vacancy on the Chamber of Commerce Board that should be filled by a member of Council, this position will serve as an ex-officio member.

PREVIOUS LEGISLATIVE ACTION

N/A

FISCAL IMPACT

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

SUPPORTING DOCUMENTS

Applications

City Attorney Review: _____ Date March 8, 2010 (if applicable)
 Finance Dept Review: _____ Date Page 43 of 148 (if applicable)
 City Manager Review: _____ Concur _____ Recommend Denial [Signature] No Recommendation 3/12/10 Date

Primary Board EDC Other Boards _____

CANDIDATES REQUEST FOR APPOINTMENT TO BOARDS, COMMISSIONS, AND/OR AUTHORITY OF THE CITY OF WASHINGTON

NAME LENTZ STOWE

ADDRESS 304 ISABELLA AVENUE

PHONE NO. (WORK) 940-6306 (HOME) 975-1527

DO YOU LIVE WITHIN THE CORPORATE LIMITS OF WASHINGTON? YES () NO

HOW LONG HAVE YOU BEEN A RESIDENT OF BEAUFORT COUNTY? 45 YEARS

YEARS OF EDUCATION 16

HAVE YOU SERVED ON A BOARD/COMMISSION OF THE CITY? YES NO ()

IF YES, PLEASE INDICATE TOURISM (DURING THEIR EARLY YEARS)

DO YOU ANTICIPATE A CONFLICT OF INTEREST BY SERVING AS A MEMBER OF A BOARD/COMMISSION? NO IF YES, EXPLAIN _____

STATE REASONS WHY YOU FEEL QUALIFIED FOR THIS APPOINTMENT (s) (OPTIONAL): Use back of sheet if additional space is needed.

I HAVE SERVED ON THE EDC SINCE 2005. THE WORK I DO AS DIRECTOR OF BUSINESS & INDUSTRY SERVICES @ BCCC MESHES WELL WITH ECONOMIC & WORKFORCE DEVELOPMENT STRATEGIES OF THE EDC.

NOTE: This information will be used by the City Council in making appointments to Boards and Commissions AND, in the event you are appointed, it may be used as a news release to identify you to the community.

Jerry Stowe Signature

3/2/10 Date

Primary Board Recreation ^{Advisory} Other Boards _____

CANDIDATES REQUEST FOR APPOINTMENT TO BOARDS, COMMISSIONS,
AND/OR AUTHORITY OF THE CITY OF WASHINGTON

NAME Kendra D. Windley

ADDRESS 208 The Courtyards, Washington NC 27889

PHONE NO. (BUSINESS) (252) 975-4647 ext 7 (HOME) (252) 946-0195

DO YOU LIVE WITHIN THE CORPORATE LIMITS OF WASHINGTON? YES () NO ()

HOW LONG HAVE YOU BEEN A RESIDENT OF BEAUFORT COUNTY? 33 YEARS

YEARS OF EDUCATION 17

HAVE YOU SERVED ON A BOARD/COMMISSION OF THE CITY? YES () NO ()
IF YES, PLEASE INDICATE _____

DO YOU ANTICIPATE A CONFLICT OF INTEREST BY SERVING AS A MEMBER OF A
BOARD/COMMISSION? No IF YES, EXPLAIN _____

STATE REASONS WHY YOU FEEL QUALIFIED FOR THIS APPOINTMENT (s)

(OPTIONAL): Use back of sheet if additional space is needed.

I am passionate about service and making the Original Washington
a better place. Furthermore, I believe I can offer innovative
ideas and a new perspective.

NOTE: This information will be used by the City Council in making appointments to Boards and
Commissions AND, in the event you are appointed, it may be used as a news release to identify you to the
community.

Kendra D. Windley
Signature

2/25/2010
Date

NOTE: Application will remain on file for six (6) months. Expiration Date: _____

February 10, 2010

Lisa Williams Baker
212 West 13th street
Washington, NC 27889

Washington City Council
P.O. Box 1988
Washington, NC 27889

Dear Council Members:

I am writing to officially resign my seat on the Recreation Advisory Committee. I feel that at this time the committee would be better served with someone else.

I have enjoyed working with the committee and the Recreation Department during my time on the committee, and I look forward to seeing the good works they have planned come to fruition.

Thank you for allowing me to serve the city of Washington for the years I have.

Yours truly,

A handwritten signature in cursive script that reads "Lisa Williams Baker".

Lisa Williams Baker

pc: Phil Mobley, Parks and Recreation Director
Recreation Advisory Committee



City of Washington

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

MEMORANDUM

DATE: February 26, 2010
TO: Mayor Jennings & Members of City Council
FROM: John Rodman, Planning & Development
Franz Holscher, City Attorney
RE: Report, Northgate Subdivision
Infrastructure Project I-2, CHAF-00-D-133

In 2002 and as a result of Hurricane Floyd, the City of Washington, in conjunction with Northgate Development, LLC (Northgate), was awarded a grant in the amount of \$1,620,000 under the Crisis Housing Assistance Program from the North Carolina Department of Crime Control and Public Safety through the North Carolina Redevelopment Center. The grant funds were used to construct infrastructure improvements consisting of water, sewer, streets and drainage improvements to vacant lots through Northgate Subdivision. Of the 162 projected lots, the developer originally was required by the grant to convey 81 lots with homes constructed thereon to Hurricane Floyd victims. The requirements of the grant have been modified over time by the granting agency to require, among other things, conveyances to low to moderate income (LMI) persons, instead of Hurricane Floyd victims, as the benchmark for grant compliance. Furthermore, the number of lots required to be sold to LMI has been decreased by the granting agency from 81 to 32 lots. To date, 18 lots have been confirmed as qualifying conveyances to LMI, leaving 14 additional sales to LMI being required. The build out date for the Northgate project and the expiration date for the grant originally was October of 2007. The granting agency granted a first extension of that deadline to December 31, 2009. In November of 2009, the City and Jason Briley, Manager of Northgate, requested, among other things, a second extension of the project. The State has granted a second extension of the project to December 31, 2010, contingent upon the City and Northgate reaching an acceptable agreement regarding compliance with the grant and a source for recapture of grant funds if the grant requirements are not met. A \$250,000 Letter of Credit from Northgate had been established as a source for recapture of grant funds (measured at \$10,000/lot) to cover any lots that were not sold to LMI up to the number of 32 (there were 7 qualifying conveyances at that time). However, that Letter of Credit expired on March 1, 2010. As part of the agreement for the

March 8, 2010
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second extension of the project, a new \$140,000 Letter of Credit is required in order to provide a source for the recapture of \$10,000 for every lot that is not sold to LMI, up to 32.

Attached is a copy of the February 9th correspondence from Ms. Cheryl Perry, Assistant Attorney General, that discusses the project and confirms the extension. Also attached is a copy of the new Letter of Credit.

We are asking the City Council to consider accepting/ratifying the Letter of Credit from Northgate and authorizing the City Attorney or the City Manager to effectuate the City's authority thereunder in accordance with its terms at the appropriate time if it becomes necessary.



State of North Carolina

Department of Justice
PO Box 629
Raleigh, North Carolina
27602

ROY COOPER
ATTORNEY GENERAL

February 9, 2010

Via Facsimile Transmission
(252) 946-3125 and (252) 758-9777
and First Class U.S. Mail

Franz F. Holscher
Rodman, Holscher, Francisco & Peck, P.A.
320 North Market Street
Post Office Box 1747
Washington, North Carolina 27889

James A. Nelson, Jr.
Owens, Nelson, Owens & Dupree, P.L.L.C.
201 West Third Street
Post Office Box 36
Greenville, North Carolina 27835

Re: City of Washington Crisis Housing Assistance Funds (CHAF) Northgate Subdivision
Infrastructure Project; 00-D-133; Your File No.: 02-55-10455

Dear Messrs. Holscher and Nelson:

The N.C. Department of Crime Control and Public Safety and the N.C. Redevelopment Center (NCRC) requested that I respond to your letters dated November 20 and 23, 2009 to NCRC Director Yolanda Abram. Please accept this letter as response to your letters dated November 20 and November 23, 2009 to NCRC Director Yolanda Abram regarding the City of Washington CHAF Northgate Subdivision Infrastructure Project.

A. **Extensions of the Build-Out Deadline for the Northgate Subdivision.**

I understand that the original build-out date for the Northgate Infrastructure project was October 20, 2007. I understand that Representative Arthur Williams, Northgate Developer Jason Briley, and his father met with the former Secretary of the N.C. Department of Crime Control and Public Safety, Bryan Beatty, and former NCRC Assistant Director John Groom on March 29, 2006, to request an extension of the build-out date from October 20, 2007 to April 14, 2009. The former Secretary agreed to extend the build-out date to December 31, 2008.

March 8, 2010
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I understand that Representative Arthur Williams and Jason Briley met with the former Secretary on April 9, 2008 to request another extension. In a letter dated April 11, 2008, the former Secretary again extended the deadline to December 31, 2009, stating "The state is willing to grant an extension to the City of Washington not to exceed one year or up to December 31, 2009, if the city is willing to continue to monitor the progress of this project beyond the December 31, 2008 deadline."

I understand that all previous deadlines or extensions granted were to adjust the build-out date, such that the City or its developer was expected to sell 20% to low and moderate income (LMI) persons by the deadline.

In your November 20 and 23, 2009 letters, the City and Jason Briley request another extension of the build-out date to December 31, 2010. In a letter dated October 19, 2009 from the NCRC to John Rodman, NCRC Director Yolanda Abram indicated that the State is willing to grant an extension to December 31, 2010 upon receipt of an acceptable agreement between the City of Washington, Jason Briley/Northgate Development, LLC and Washington Housing, Inc. Director Abram stated that the remaining homes must be sold within the timeframe previously mentioned and that the State will recapture \$10,000 per home for each home the developer fails to sell to LMI.

B. The February 20, 2008 letter from Franz Holscher to NCRC Director Yolanda Abram.

In a letter dated February 20, 2008 from Mr. Holscher to Yolanda Abram, he requested confirmation of the following statement, "if the developer of Northgate Development, LLC sells or otherwise transfers up to 25 lots to Washington Housing, Inc. by December 31, 2008 *with a restrictive covenant that requires the lots to ultimately be purchased by LMI purchasers*, any such transfer to Washington Housing, Inc. would qualify as a transfer to an LMI purchaser under the revised recapture policy and reduce the 32 lot obligation by each lot so transferred to Washington Housing, Inc." It appears that Mr. Holscher asked whether the transfer of a lot to Washington Housing, Inc. (WHI) by December 31, 2008 with a restrictive covenant requiring the lot to be purchased by an LMI purchaser in the future would meet the requirements of the revised recapture policy if a home was not built on the lot and sold to an LMI purchaser by December 31, 2008. The revised recapture policy requires the sale of a lot with a home constructed on it to an LMI person by the build-out deadline. Regarding the LMI requirement, the revised recapture policy includes the following five requirements: 1) There must be a sale; 2) of a lot; 3) with a home constructed on the lot; 4) to an LMI person; 5) by the build-out deadline, which was extended to December 31, 2008. Mr. Holscher asked whether the NCRC was willing to permit the City of Washington/Northgate to either sell or transfer a lot without a home constructed on it to WHI by December 31, 2008 if the lot had a restrictive covenant requiring that the lot must be sold to an LMI purchaser at some point in the future. In a letter dated March 7, 2008, NCRC Agency Legal Specialist Britne Becker Gleason responded "The transfer of the twenty-five (25) lots to Washington Housing, Inc., coupled with a promise or requirement to ultimately sell these twenty-five (25) lots to LMI persons at some point in the future, would not qualify as transfers to LMI purchasers under the revised recapture policy. In order to avoid recapture, the remaining twenty-five (25) lots must actually be sold to LMI persons by December 31, 2008. The remaining lots may be sold to LMI persons by either the current Developer or Washington Housing, Inc., and avoid recapture, as long as they are sold by December 31, 2008."

When the NCRC used the term “lot” in the March 7, 2008 letter, it meant that a home must be built on the lot and sold to an LMI purchaser by December 31, 2008. In the February 20, 2008 letter, the City of Washington/Northgate asked that the NCRC not require them to construct a home on the lot by December 31, 2008. This meant that the home would be constructed on the lot after the build-out deadline. They asked that the NCRC not require them to sell or transfer a lot and home to an LMI purchaser by December 31, 2008 but to sell or transfer only a lot to WHI by December 31, 2008. This meant that the lot and home would be sold to the LMI person after the build-out deadline. The revised recapture policy requires a sale to an LMI person by the build-out deadline. It requires that a home is constructed on the lot by the build-out deadline. It requires the sale of a lot and home and not just a sale or transfer of a lot only. It requires a sale to an LMI person by the build-out deadline and not just a sale or transfer to another entity by the build-out deadline.

C. **The November 20 and 23, 2009 letters from James Nelson and Franz Holscher to NCRC Director Abram.**

In your November 20 and 23, 2009 letters to Ms. Abram, you ask “whether a sale of a lot in Northgate subdivision from Northgate to WHI, followed by a conveyance of a home constructed on that same lot from WHI to a LMI by December 31, 2010 will qualify as one of the homes Northgate is required to sell to LMI under the Grant.” As stated before, the revised recapture policy requires the sale of a lot with a home constructed on it to an LMI purchaser by the build-out deadline. Regarding the LMI requirement, the revised recapture policy includes the following five requirements: 1) There must be a sale; 2) of a lot; 3) with a home constructed on the lot; 4) to an LMI purchaser; 5) by the build-out deadline. You ask that the NCRC not require the City of Washington/Northgate to sell the lot and home to an LMI person but that the NCRC permit them to initially sell only a lot to WHI, permit WHI to build a home on the lot and convey the home and lot to an LMI person by the new build-out deadline of December 31, 2010. The NCRC usually requires the City of Washington/Northgate to sell the lot and home at the same time to an LMI person by the build-out deadline. You ask whether they can first sell the lot to WHI and not sell it initially to an LMI person. Next, you ask the NCRC to permit WHI to build a home on the lot and then have WHI convey the home and lot to an LMI person by the new build-out deadline of December 31, 2010. The letter from Gina Amaxopulos of WHI to Yolanda Abram dated November 17, 2009 states that persons who complete the IDA Program for Homeownership may receive down payment assistance up to \$28,000.00. It also states that the persons in the IDA Program for Homeownership must save \$1,000.00. The November 17, 2009 letter also states that WHI has applied for CDBG Housing Development Program funds for land acquisition and construction of homes for low to moderate income families. The infrastructure for the lot was paid for by the CHAF Infrastructure program. I understand that WHI intends to use CDBG Housing Development Program funds to buy the lot and build a home on the lot. I understand that WHI will also provide the LMI person up to \$28,000.00 in down payment assistance that he/she will use to make a down payment on the home and lot. I understand that the City of Washington/Northgate will sell the lot to WHI, WHI will build a home on the lot and then WHI will sell the home and lot to an LMI person by the new build-out deadline of December 31, 2010. After the home is conveyed to the LMI person, if the LMI person will make mortgage payments toward the balance owed on the home and lot, then it appears that WHI has sold the home and lot to the LMI person. It appears that you ask whether a sale by WHI to an LMI person by the build-out deadline will constitute a “sale” by the City of Washington/Northgate under the

revised recapture policy. I understand that the NCRC will consider a sale by WHI to an LMI person by the build-out deadline under the aforementioned circumstances to be a sale by the City of Washington/Northgate to an LMI person by the build-out deadline under the revised recapture policy.

If the LMI person will not make mortgage payments after the lot and home are conveyed to him/her by the build-out deadline, then it appears that WHI will sell the lot and home to the LMI person for the amount of the down payment assistance. Again, the issue is whether a sale by WHI to an LMI person by the build-out deadline will constitute a "sale" by the City of Washington/Northgate under the revised recapture policy. I understand that the NCRC will consider a sale of the lot from Northgate to WHI, the construction of a home on the lot by WHI, followed by a sale of the lot and home by WHI to an LMI person by December 31, 2010 for the amount of the down payment assistance, to constitute a "sale" under the revised recapture policy. A home must be constructed on the lot and sold to an LMI purchaser by December 31, 2010 in order to meet the requirements of the revised recapture policy. Therefore, a sale of a lot in Northgate subdivision from Northgate to WHI, followed by a sale of a home constructed on that same lot from WHI to an LMI person by December 31, 2010 will qualify as one of the homes the City of Washington/Northgate is required to sell to LMI persons under the Grant. The key point is that these homes must ultimately be sold to LMI persons by the revised build-out date of December 31, 2010 since sales of this kind are only counted towards the 20% LMI requirement upon the sale to an LMI person.

In Mr. Nelson's November 20, 2009 letter, he asked whether the "conveyance of a buildable qualifying lot from Northgate to WHI would be counted as a qualifying conveyance under the terms of the Grant." In Mr. Holscher's November 23, 2009 letter, he asked whether "the conveyance of a lot from Northgate to WHI would be counted as a qualifying conveyance under the Grant." As Ms. Gleason previously indicated, such a conveyance would not qualify as sales to LMI purchasers under the revised recapture policy. In order to avoid recapture, the remaining lots must actually be sold to LMI persons by the revised build-out date. The remaining lots may be sold to LMI persons by either the current Developer or Washington Housing, Inc., and avoid recapture, as long as they are sold by the revised build-out date of December 31, 2010. The conveyance of a lot from Northgate to WHI without a home constructed on it and without a sale to an LMI purchaser by December 31, 2010 will not meet the requirements of the revised recapture policy. The conveyance of only a lot from Northgate to WHI by December 31, 2010 will not meet the requirements of the revised recapture policy. A home must be constructed on the lot and sold to an LMI purchaser by December 31, 2010 to meet the requirements of the revised recapture policy.

- D. **Four additional persons meet the LMI criteria. Fourteen (14) transactions were approved earlier for a total of eighteen (18) of the thirty-two (32) required sales to LMI persons. The City of Washington/Northgate must sell an additional fourteen (14) lots with homes constructed on them to LMI persons by December 31, 2010, to avoid recapture under the revised CHAF Infrastructure Recapture Policy Relief.**

The NCRC has reviewed the documentation provided by Jessica Selby, Administrative Support Specialist with Planning and Development for the City of Washington, and Northgate Developer

Jason Briley, including the tax returns of the four (4) additional buyers, to determine whether the four (4) homes in the Northgate Subdivision were sold to LMI persons. The NCRC has determined the following: a) Two (2) homeowners, Patrese Keyes and Paola Escalona and Miguel Escalona Contreras, meet the LMI criteria in accordance with the Housing and Urban Development (HUD) Fiscal Year 2008 Income Limits chart for the State of North Carolina, Beaufort County; b) One (1) homeowner, Wayne Williams, meets the LMI criteria in accordance with the HUD Fiscal Year 2007 Income Limits chart for the State of North Carolina, Beaufort County; and c) One (1) homeowner, Carl and Faye Blackburn, meets the LMI criteria in accordance with the HUD Fiscal Year 2006 Income Limits chart for the State of North Carolina, Beaufort County. These four (4) transactions coupled with fourteen (14) earlier approved transactions satisfy eighteen (18) of the thirty-two (32) required sales to LMI persons. Therefore, I understand that the City of Washington Northgate Subdivision is required to sell an additional fourteen (14) lots to LMI persons by December 31, 2010, in order to fully avoid recapture under the revised CHAF Infrastructure Recapture Policy Relief. Please remember that each home sold to LMI must be verified in accordance with the HUD Fiscal Year Income Limits chart for the State of North Carolina, Beaufort County, by comparing the adjusted gross income from the homeowner's tax return to the HUD Fiscal Year Income Limits chart for the same fiscal year as the tax return. If the City of Washington Northgate project only sells eighteen (18) total lots to LMI persons by December 31, 2010, then it would be fourteen (14) lots short, which means that the amount of funds recaptured would be \$140,000. The City of Washington would have to recapture \$10,000 for each lot of the remaining fourteen (14) that it cannot confirm was sold to an LMI purchaser. Recaptured funds should be returned to the NCRC by the City of Washington within sixty (60) days following the December 31, 2010 deadline.

E. **Your request to extend the build-out deadline beyond the December 31, 2010 build-out deadline such that the CHAF Infrastructure deadline will be the same as WHI's CDBG Housing Development Program deadline in 2012, 2013 or beyond.**

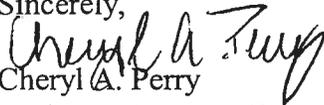
In Mr. Nelson's November 20, 2009 letter, he asks if the conveyance of a lot only from Northgate to WHI with no home constructed on the lot and no sale to an LMI purchaser by December 31, 2010 will not meet the requirements of the revised recapture policy, will the NCRC extend the build-out deadline beyond December 31, 2010 such that the Northgate CHAF Infrastructure build-out deadline will be the same as WHI's IDA Program for Homeownership by LMI deadline. In Mr. Holscher's November 23, 2009 letter, he asks whether the NCRC will "grant a further extension of the Grant deadline to achieve consistency with the timeframe of WHI's IDA Program for Homeownership by LMI." The letter dated November 17, 2009 from Gina Amaxopulos of WHI to NCRC Director Yolanda Abram states "The Housing Development application was submitted to N.C. Department of Commerce October 31, 2009" It states "WHI and the City of Washington are waiting to hear if the grant will be awarded." It also states "WHI will operate within the guidelines of the CDBG Housing Development Grant which allows 3 years to construct homes on lots purchased with the Housing Development Grant funds. All homes must be sold to and remain with low to moderate income residents." If when you refer to "WHI's IDA Program for Homeownership by LMI," you are also referring to the WHI CDBG Housing Development Grant, and the WHI CDBG application was approved in 2009 or 2010 and WHI has three years to construct homes on the lots purchased with the CDBG Housing Development Grant funds, then this means that WHI will have until 2012 or 2013 to construct homes on the lots. Therefore, it appears that you ask if the conveyance of a lot only from

Northgate to WHI with no home constructed on the lot and no sale to an LMI purchaser by December 31, 2010 will not meet the requirements of the revised recapture policy, will the NCRC extend the build-out deadline to 2012, 2013 or beyond. I understand that the NCRC does not agree to extend the build-out deadline to December 31, 2012 or December 31, 2013. In the event that the City of Washington and Northgate Developer Jason Briley are unable to meet the 20% LMI requirement and sell an additional fourteen (14) homes to LMI persons by the revised December 31, 2010 deadline due to any partnership with and reliance upon WHI to sell to the requisite number of LMI persons by December 31, 2010, then the NCRC may consider another request for an extension at that time. The NCRC still expects the City of Washington and Northgate Developer Jason Briley to continue its efforts to sell the remaining homes to LMI persons by the December 31, 2010 deadline, especially given that WHI may only be interested in purchasing twelve (12) lots and not fourteen (14) lots in the Northgate subdivision. Therefore, even if WHI sold all twelve (12) of its lots to verified LMI persons, it appears that Northgate Developer Jason Briley would still need to sell an additional two (2) lots to verified LMI persons by December 31, 2010, in order to avoid recapture. The NCRC recognizes that WHI may be operating under a 3-year timeframe in relation to its CDBG Housing Development Grant. As long as the City of Washington, Jason Briley and WHI continue to make progress and can demonstrate such progress to the NCRC by December 31, 2010, then the NCRC may consider another request for an extension at that time to help achieve consistency with WHI's timeframe. However, the NCRC does not guarantee that it will extend the build-out deadline beyond the current extension to December 31, 2010.

F. **The Letter of Credit.**

Regarding the possible letter of credit, the NCRC supports the City of Washington's efforts to assure the Developer's performance. It appears that a letter of credit in the amount of \$140,000 would cover the current maximum recapture amount. I understand that this is an issue between the City of Washington and its Developer, and trust that it will be resolved in a manner that is amenable to both parties.

I hope that this letter answers your questions. If you have any additional questions or concerns, please contact Britne Gleason at (919) 716-6534. Thank you.

Sincerely,

Cheryl A. Perry
Assistant Attorney General
Crime Control Section

Enclosure: Revised CHAF Infrastructure Recapture Policy Relief dated April 24, 2007 from former Secretary Bryan Beatty

cc: Reuben Young, Secretary, N.C. Department of Crime Control and Public Safety
Yolanda T. Abram, Director, NCRC
Britne Becker Gleason, Agency Legal Specialist, NCRC

Donna Miller, Program Services Director, NCRC
Jim Smith, City Manager, City of Washington
John Rodman, Planning Administrator, City of Washington
Bianca Gentile, Special Projects Coordinator, City of Washington
Gina Amaxopulos, Washington Housing Incorporated
Will Mayo, Attorney
N. Archie Jennings, III, Mayor, City of Washington



North Carolina Department of Crime Control and Public Safety

Michael F. Easley, Governor

Bryan E. Beatty, Secretary

MEMORANDUM

TO: Yolanda Abram
NC Redevelopment Center

FROM: Bryan E. Beatty, Secretary CCPS 

DATE: April 24, 2007

SUBJECT: CHAF Infrastructure Recapture Policy Relief
(Revised as of April 24, 2007)

This memorandum shall reflect changes to the May 3, 2006 Infrastructure Recapture Policy Relief memorandum that I issued to the North Carolina Redevelopment Center on that same date.

As communicated in the May 3, 2006 revision of the Infrastructure Recapture Policy, pursuant to the Hurricane Floyd Recovery Act, the Governor and General Assembly authorized the provision of infrastructure grants to local governments to assist in rebuilding eastern North Carolina. The purpose of the infrastructure grants were to: 1) stimulate residential rebuilding by subsidizing the cost of public infrastructure primarily for new single family housing and, 2) provide new housing opportunities for persons affected by Hurricane Floyd.

The Infrastructure Recapture Policy Relief was issued in response to appeals received from local governments and developers. The policy sought to provide a level of relief to local governments based on the various types of challenges that had been expressed by the developers of infrastructure projects.

The Department of Crime Control and Public Safety (CCPS) and the North Carolina Redevelopment Center have recognized the difficulty inherent in locating households affected by Floyd that have not secured long-term housing solutions almost eight years after the disaster. The State has also recognized the need for developers to release resources encumbered by instruments such as the irrevocable letter of credit. Further, the State has acknowledged that some of the delays experienced by developers were beyond their reasonable control.

MAILING ADDRESS:
4701 Mail Service Center
Raleigh, NC 27699-4701
Telephone: (919) 733-2126



NCCrimeControl.org

OFFICE LOCATION:
512 N. Salisbury Street
Raleigh, NC 27604-1159
Fax: (919) 715-8477

An Equal Opportunity/Affirmative Action Employer

March 8, 2010

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The May 3, 2006 Relief Policy grew out of these concerns. Pursuant to that policy, in exchange for reducing the "households affected by Floyd," the state adjusted and/or increased the 51% low to moderate income requirement incrementally, depending on the percentage of homes that had been sold to household affected by Floyd.

It is imperative for the State to close out the CHAF Hurricane Floyd Infrastructure Grant Program. Therefore, in response to further requests to lower the LMI, CC&PS will offer a final relief option to all local governments and developers who completed and installed all CHAF funded infrastructure. **This Final Option will require developers to sell 15% of the total lots funded by CHAF to "households affected by Floyd," or, alternatively to sell 20% of the total lots funded by CHAF, to LMI purchasers.**

To ensure the timely response of affected local governments to this final policy revision, I am asking that you communicate this new policy to each of the affected local government units. Each local government must notify the NCRC of its decision within 30 working days of receipt of your notice to confirm its intention to accept or decline this final relief offer. If such confirmation is not received, it will be assumed that they intend to comply with the past policy regarding recapture. The developer must also provide the NCRC with the documentation that confirms that homes were sold to either 15% "households affected by Floyd," or 20% to LMI purchasers. The LGU and the Developer must comply within the deadline currently of record; there will be no extensions. If the deadline has expired to compete the project, the local government must recapture the amount that the developer failed to sell to 15% "households affected by Floyd" or to 20% LMI purchasers, and return these funds to the North Carolina Redevelopment Center (NCRC). Recaptured funds should be returned to the NCRC by the local unit of government within sixty working days of the expiration date of the project's five-year build out, or within sixty days of your notice if the build-out period has already expired.

This further change provides needed relief to allow local governments to close their Hurricane Floyd Infrastructure Grant Program, without necessitating too great of a burden as to the recapture of funds. While this measure comports with the requirements of the Hurricane Floyd Act to rebuild the eastern region of the state, it is critical that local governments proceed to close out their program using this reduced formula for recapture of funding.

As you communicate this final revision of the Infrastructure Recapture Policy relief to local governments and developers, please continue to also explain the currently broad definition of "Floyd victim." As with the earlier relief to the recapture policy granted in May of last year, I hope this further and final relief will enable the local units of government to make greater strides to meet one of the greatest needs still lingering eight years after Hurricane Floyd - the creation of housing stock for the residents of eastern North Carolina.

Thank you.

First South Bank

IRREVOCABLE STANDBY LETTER OF CREDIT

DATE: 3/1/2010

NO: 10-7500A

Beneficiary:

City of Washington
P.O. Drawer 1988
Washington, NC 27889

Amount: \$140,000

Expiry Date: 03/01/2011

To Whom It May Concern:

We hereby establish our Irrevocable Standby Letter of Credit No. 10-7500A in favor of the City of Washington at the request of and for Northgate Development, LLC effective March 1, 2010 up to an aggregate amount of US dollars \$140,000 (One Hundred, Forty Thousand and no/ dollars). Funds under this Letter of Credit are available at our office at 1311 Carolina Ave., Washington, NC 27889 against your draft drawn at sight on us accompanied by the following documents:

Your notarized statement as follow: "The undersigned authorized official of the City of Washington hereby certifies that the amount drawn represents amounts due and owing to the City of Washington because Northgate Development, LLC has failed to pay the same to the City of Washington on or before 12/31/2010 as required under the Agreement of Crisis Housing Assistance Infrastructure Funds dated 10/29/02 and the CHAF Infrastructure Recapture Policy Relief (Revised as of April 24, 2007) for the Northgate Subdivision, Project 1-2, Grant #00-D-133 all as extended and revised by the letter from Cheryl A. Perry, Assistant Attorney General, Crime Control Section, Department of Justice, State of North Carolina, to Franz F. Holscher and James A. Nelson, Jr., dated February 9, 2010.

All banking charges are for the account of Northgate Development, LLC.

Our obligation under this Letter of Credit shall not be affected by any circumstance, claim, or defense, real or personal, as to the enforceability of the Agreement referenced herein; it being understood that our obligation shall be that of a primary obligor and not that of a surety guarantor, or accommodation maker.

Draft and the original of the Letter of Credit and documents must be presented on or before March 01, 2011.

Drafts drawn under this credit must be marked on the face "Drawn under First South Bank Irrevocable Standby Letter of Credit No. 10-7500A".

We hereby agree with the drawers of drafts under and in compliance with the terms of the Letter of Credit that such drafts shall be duly honored on presentation and delivery of documents as specified.

This Letter of Credit sets forth in full the terms of our undertaking, and such undertaking shall not in any way be modified, amended or amplified by reference to any document, instrument or agreement referred to herein or in which this Letter of Credit is referred or in any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement.

This credit is issued subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision), ICC Publication No. 500 (UCP). To the extent applicable provisions of the UCP are not in conflict, in which case applicable provisions of the UCP shall prevail, this credit shall be governed by and construed in accordance with the laws of the United States of America and the State of North Carolina including the Uniform Commercial Code as in effect in the State of North Carolina.

First South Bank

By:  SVP

1311 Carolina Avenue • Post Office Box 2047 • Washington, North Carolina 27889 • (252) 946-4178 • Fax (252) 946-3873

March 8 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: March 8, 2010
Subject: Designate the City of Washington and its Extra-territorial Jurisdiction as "Recovery Zone"
Applicant Presentation: N/A
Staff Presentation: Matt Rauschenbach

RECOMMENDATION:

I move that City Council adopt a resolution that designates the City of Washington and its extra-territorial jurisdiction a 'recovery zone'

BACKGROUND AND FINDINGS:

In February, 2009 in an attempt to address the worsening of the national economy, the United States Congress passed the American Recovery and Reinvestment Act of 2009 (ARRA). ARRA created new tax credit bonding vehicles and broadened considerably the types of projects which may be financed by Economic Development Corporations (EDC) bonds both of which are designed to spur economic development throughout a "recovery zone"

One of these new bonds is called the Recovery Zone Economic Development Bond. These bonds are for public project to be built within a 'Recovery Zone', which is defined as an area designated by the local government entity has having significant poverty, unemployment, and general distress. Interest generated by these public bonds is taxable. Any public entity issuing bonds under this program will be given an advanced tax credit equal to 45% of the interest earned on the bonds. This amount is paid annually to the government bond issuer. As a point of comparison, traditional tax-free government bonds typically save government issuer about 35% of the interest costs on the bond.

Government entities who wish to participate in either the Recovery Zone Economic Development Bonds must designate a 'Recovery Zone' for the program. 'Recovery Zones' are defined as areas experiencing high unemployment, high poverty and general community distress. Given the poor economy, the entire geographic area of the City of Washington, including its extra-territorial jurisdiction, is eligible to be designated as a 'Recovery Zone'. Current figures from the U.S. Bureau of Labor indicate that the County's unemployment rate of 11.9% is nearly a whole percent higher than the state average. Moreover, in 2008 the City of Washington's individual poverty rate was 36.8%, while the state average was 39.6% lower or 14.6%.

Agenda Date: March 8, 2010

Approval of the proposed Resolution designating the entire City and its ETJ as a 'Recovery Zone' will permit the bond program to be further explored in the name of increased economic development and public facilities financing in the City of Washington.

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:  Concur _____ Recommend Denial _____ No Recommendation
3/7/10 Date

RESOLUTION TO DESIGNATE THE CITY OF WASHINGTON AS A RECOVERY ZONE

WHEREAS, on February 17, 2009, the President signed into law the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 Stat. 115 (2009 (“ARRA”)); and

WHEREAS, Section 1401 of Title I of Division B of ARRA authorizes state and local governments to issue Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds; and

WHEREAS, Recovery Zone Economic Development Bonds may be used to finance certain “qualified economic development purposes” and Recovery Zone Facility Bonds may be used to finance certain “recovery zone property,” as such terms are defined in ARRA; and

WHEREAS, the term “Recovery Zone” means: 1. any area designated by the issuer as having significant poverty, unemployment, a high rate of home foreclosures or general distress; 2. any area designated by the issuer as economically distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990, and 3. any area for which a designation as an empowerment zone or renewal community is in effect as of the effective date of ARRA, which effective date is February 17, 2009; and

WHEREAS, Recovery Zone Economic Development Bonds are considered “qualified” bonds for purposes of Section 6431 of the Internal Revenue Code of 1986, as amended, and provide for a federal subsidy through a refundable tax credit paid to State or local governmental issuers in an amount equal to 45 percent of the total coupon interest payable to investors in these taxable bonds; and

WHEREAS, the interest on State or local Recovery Zone Facility Bonds is excludable from gross income for Federal income tax purposes; and

WHEREAS, Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds must be issued before January 1, 2011; and

WHEREAS, the State of North Carolina has \$289,934,000 in unallocated bond capacity available and may use funds in any reasonable manner as the City of Washington’s governing body shall determine in good faith at their discretion for use for eligible costs for qualified economic development purposes or recovery zone property; and

WHEREAS the Washington City Council seeks to designate the municipal jurisdiction, including the extra-territorial jurisdiction as a Recovery Zone due to significant levels of increased unemployment (0.4% increase in November of 2010) and the general increase of economic distress throughout the municipality (Child poverty rate of 27.6%, Elderly poverty rate of 19.3%, Poverty rate of 19.6%), see attached map for official “recovery zone” boundaries.

WHEREAS, this matter was discussed at the February 22, 2010 City Council meeting of recommended to the full governing body for approval;

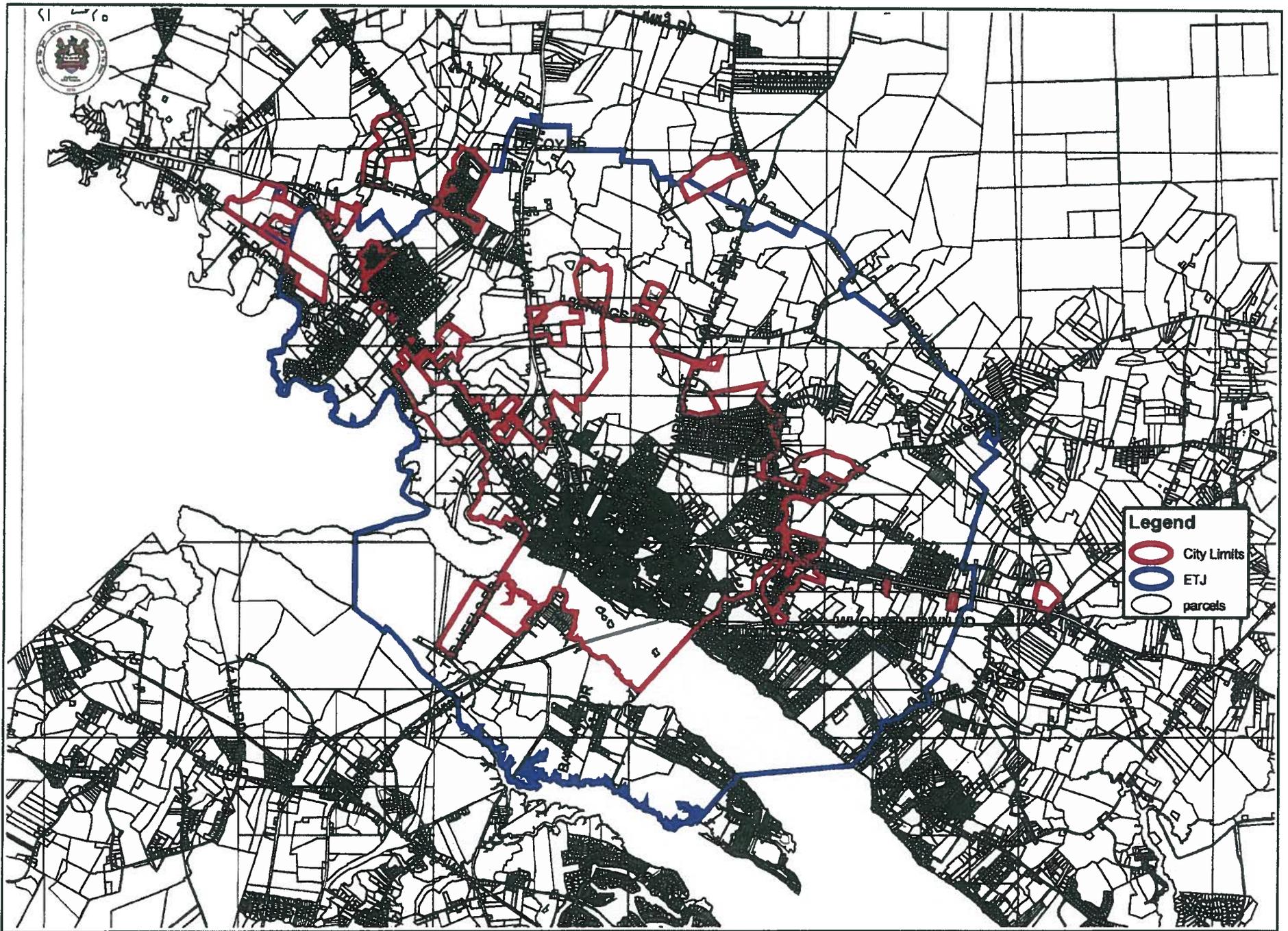
NOW THEREFORE, BE IT RESOLVED that the City of Washington's City Council designates the areas more fully described above/attached as Exhibit A as a Recovery Zone; and

Adopted this the 8th day of March, 2010

Mayor

Attest:

City Clerk



City of Washington

City Limits & ETJ

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1 inch = 6,500 feet

0 750 500 3,000 4,500 6,000 Feet





City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: John Rodman
Date: February 25, 2010
Subject: Resolution fixing date for public hearing on the non-contiguous satellite annexation of LJ's Body Shop Inc.
Applicant Presentation: N/A
Staff Presentation: John Rodman

RECOMMENDATION:

Adopt the resolution fixing the date for a public hearing on the non-contiguous satellite annexation of the LJ's Body Shop property located on US Hwy 264 East and containing 2.96 acres.

BACKGROUND AND FINDINGS:

When an annexation petition is received, the City Council must direct the Clerk to investigate the sufficiency of the petition. Upon making an investigation, the Clerk shall certify the results to the governing body. Upon receipt of the Clerk's certificate, the City Council shall fix a date for a public hearing on the annexation. Notice of the public hearing must be published once in the newspaper at least ten (10) days before the date of the hearing.

PREVIOUS LEGISLATIVE ACTION

February 8, 2010 City Council adopted a resolution directing the Clerk to investigate the petition presented for a non-contiguous satellite annexation.

FISCAL IMPACT

___ Currently Budgeted (Account _____) ___ Requires additional Appropriation ___ No Fiscal Impact

SUPPORTING DOCUMENTS

Attached resolution, map, Certificate of Sufficiency

City Attorney Review:
Finance Dept Review:
City Manager Review:

____ Date By: _____ (if applicable)
 _____ Date By: _____ (if applicable)
 _____ Concur _____ Recommend Denial
 _____ Page 64 of 148
 _____ No Recommendation 3/3/10 Date

**RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION
OF ANNEXATION PURSUANT TO G.S. 160A-58.2**

WHEREAS, a petition requesting annexation of the non-contiguous area described herein has been received; and

WHEREAS, the City Council has by resolution directed the City Clerk to investigate the sufficiency of the petition; and

WHEREAS, certification by the City Clerk as the sufficiency of the petition has been made;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Washington, North Carolina that:

Section 1. A public hearing on the question of annexation of the non-contiguous area described herein will be held at the City Council Chambers on the 2nd floor of the municipal building located at 102 East 2nd Street at 6:00 p.m. on Monday, April 12, 2010.

Section 2. The area proposed for annexation is described as follows:

Lying and being in Long Acre Township, Beaufort County, North Carolina, more particularly described as follows:

BEGINNING at an iron rod in the intersection of the northerly right of way of US Highway 264 and a James Mitchell Cutler lot which is part of the land described in Deed Book 993 at page 817, the said beginning point is North 79 degrees 13 minutes 17 seconds West 352.58 feet with the said northerly right of way line of US Highway 264 from a North Carolina Department of Transportation concrete right of way monument in the intersection of the said Highway 264 with SR 1313 also known as Asbury Church Road: thence from the said beginning iron rod North 79 degrees 13 minutes 17 seconds West 184.81 feet with the said northerly right of way line of US 264 to an iron pipe, a corner to the said James Mitchell Cutler lot; thence with the said Cutler line North 05 degrees 23 minutes 56 seconds East 40.18 feet to an iron pipe and then North 79 degrees 13 minutes 17 seconds West 40.18 feet to an iron pipe, a corner to the said Cutler and the Rufus Boyd lot of record in Deed Book 1509 at page 492, thence North 05 degrees 23 minutes 56 seconds East 550.20 feet to an iron rod in the Ada and George B. Hurley Heirs line of record in Deed Book 522 at page 629: thence with said Hurley line South 75 degrees 44 minutes 14 seconds East 226.71 feet to an iron rod , the first said Cutler line: thence South 05 degrees 23 minutes 56 seconds West 576.54 feet with the said Cutler line to the BEGINNING: being the lot described in Deed Book 1591 at page 144 and shown on the map recorded in Plat Cabinet G at Slide 144 Beaufort County Register of Deeds.

Section 3. Notice of the public hearing shall be published once in the Washington Daily News, a newspaper having general circulation in the City of Washington, at least ten (10) days prior to the date of the public hearing.

March 8, 2010

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N. Archie Jennings III, Mayor

ATTEST:

Cynthia S. Bennett, City Clerk

Annexation #10-A-01
LJ's Body Shop Inc.

March 8, 2010
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CERTIFICATE OF SUFFICIENCY

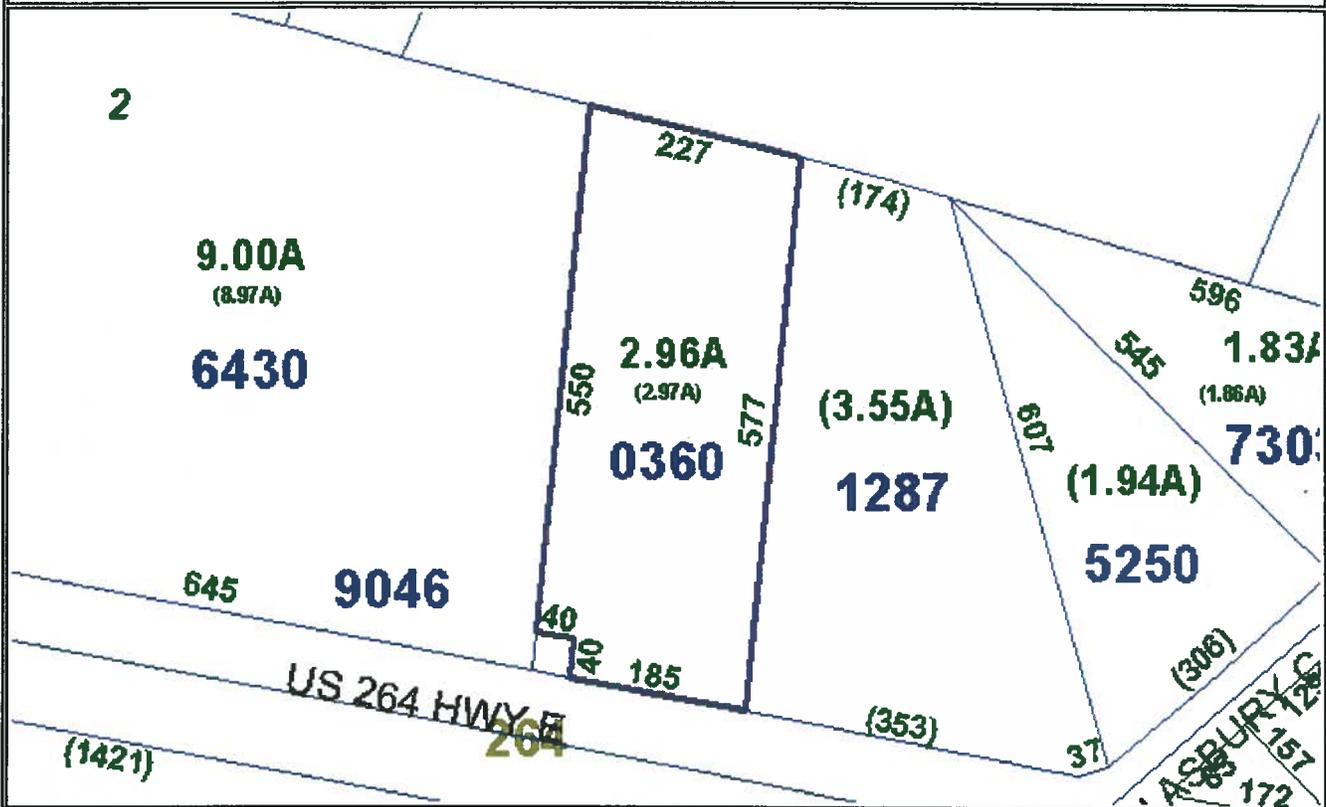
To the City Council of the City of Washington, North Carolina;

I, Cynthia S. Bennett, City Clerk, do hereby certify that I have investigated the petition attached hereto and have found as a fact that said petition is signed by all owners of real property lying in the area described therein, in accordance with G.S. 160A-58.1.

In witness whereof, I hereunto set my hand and affixed the seal of the City of Washington, this _____ day of _____, 2010.

Cynthia S. Bennett, City Clerk

Site: 2.96 AC WILLIAM L JEFFERSON ET AL



Property Details:

PIN	15024461	GPIN	5695-97-0360
GPINLONG	5695-97-0360	NAME1	LJS BODY SHOP INC
NAME2		ADDR1	8838 US 264 EAST
ADDR2		CITY	WASHINGTON
STATE	NC	ZIP	27889
PROP_ROAD	US 264	ACRES	2.96
ACCT_NBR	885858	MAP_SHEET	569500
NBR_BLDG	0	DATE	6/19/2007
DB_PG	1591/0144	LAND_VAL	44400
BLDG_VAL	0	DEFR_VAL	0
TOT_VAL	44400	NBHD_CDE	A
NBHD_DESC	AVERAGE	SUB_CDE	
SUB_DESC		STAMPS	120
SALE_PRICE	60000	ZONE	
LAND_USE		DISTRICT	05
PROP_DESC	2.96 AC WILLIAM L JEFFERSON ET AL	MBL	569500188
EXMPT_PROP		EXMPT_AMT	0
ROAD_TYPE	P		
CENSUS_BLK			
PREVASSESS	0		

DISCLAIMER: These maps and information either in digital or hardcopy format are provided solely as a public service and they do not meet surveying accuracy standards. This map data is prepared from the inventory of real property found within this jurisdiction and is compiled from recorded deeds, plats, and other public records and data. Users of any maps generated on this site are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information contained on any maps. The county of Beaufort assumes no legal responsibility for the information contained on these maps.



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Philip Mobley, Director Parks and Recreation *pm*
Date: March 8, 2010
Subject: Approve and Authorize Director to execute Waterfront Docking Agreement with the Little Washington Sailing Club
Applicant Presentation: None
Staff Presentation: None

RECOMMENDATION:

1. I move City Council Approves and Authorizes the Director of Parks and Recreation or his designee to execute the Waterfront Docking Agreement with the Little Washington Sailing Club.

BACKGROUND AND FINDINGS:

On January 19, 2010, City Council approved the proposal from The Little Washington Sailing Club (LWSC) to use a Free Dock to attach their floating dock for their program for the 2010 Season. However, during the presentation, LWSC failed to mention the desire to also dock (2) chase boats on the outside of the floating dock for their program.

This is the Docking Agreement for the 2010 Season and includes the addition of the (2) chase boats.

The Washington Recreation Advisory Committee has reviewed and approved the changes in the proposal and this proposed Waterfront Docking Agreement for The Little Washington Sailing Club.

PREVIOUS LEGISLATIVE ACTION

January 19, 2010 – Council Approved The Little Washington Sailing Club use of the Free Dock for the 2010 Season.

FISCAL IMPACT

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

SUPPORTING DOCUMENTS

New Docking Agreement for the Little Washington Sailing Club

City Attorney Review: _____ Date By: _____ (if applicable)
 Finance Dept Review: _____ Date By: _____ (if applicable)
 City Manager Review: *[Signature]* Concurred _____ and Denial _____ No Recommendation *3/7/10* Date

**NORTH CAROLINA
BEAUFORT COUNTY**

WATERFRONT DOCK AGREEMENT

THIS AGREEMENT, is made the ____ day of _____, 20____, by and between the City of Washington, North Carolina (hereinafter referred to as "Waterfront Docks") and Downtown Washington on the Waterfront, Inc. d/b/a The Little Washington Sailing Club (hereinafter referred to as "Club"). For and in consideration of \$1.00 and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, and in consideration of the mutual covenants contained herein as well as valuable consideration paid and to be paid, Waterfront Docks and Club agree as follows.

1. **GRANT OF LICENSE.** Waterfront Docks hereby grants to Club and Club hereby accepts from Waterfront Docks a license to use a certain portion of Waterfront Docks' piers known to Waterfront Docks as Dock J (hereinafter referred to as "Fixed Dock") subject to the terms and conditions set forth herein. It is agreed between the parties that this license is personal to Club and shall not inure to the successors or assigns of Club. Club agrees that it does not possess and shall not claim at any time an interest or estate of any kind or extent whatsoever by virtue of this license or Club's exercise or use hereunder of the same and Waterfront Docks conveys no interest in property, including but not limited to Fixed Dock or pier, to Club by this Agreement.

2. **USE OF DOCK.** Notwithstanding anything herein or anything contained in the Rules to the contrary, Waterfront Docks authorizes Club to utilize Fixed Dock in conjunction with its sailing instruction program (hereinafter referred to as "Program"). Club will attach a 20 foot by 40 foot Floating Dock (hereinafter referred to as "Floating Dock") to one-half of Fixed Dock using mooring lines. The Club will attach fixed fenders to the Fixed Dock pilings between said pilings and the Floating Dock to prevent damage to said pilings and Fixed Dock from the Floating Dock. The Club will provide access from Fixed Dock to Floating Dock by installing a ladder (boarding steps) to the Floating Dock that will lead to the Fixed Dock. The Club will utilize said Fixed Dock and Floating Dock for stowage of and access to sailing dinghies (hereinafter referred to as "Vessels") utilized in the Program. Subject to advance permission from and any related requirements of Waterfront Docks, Club may dock two chase boats at the Floating Dock to be used solely in conjunction with said Program. Said chase boats shall be subject to the same relocation and removal terms and conditions as are applicable to the Floating Dock and Vessels. Club shall not be entitled to berth any other boat at the Fixed Dock or Floating Dock or attach other appurtenances to Fixed Dock, other than as identified above, without the express written consent of Waterfront Docks. Club shall not use the Fixed Dock as rental property, a dwelling, or for any purpose other than the purposes stated herein without prior written consent of Waterfront Docks. Club shall have no interest in the Fixed Dock 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. Club shall coordinate all activities with Waterfront Docks. Club shall perform all activities associated with its Program in such a manner that such activities do not interfere with, hinder, or in any way impair the public's use of the waterfront docks or the use of slips by boat owners. Club 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.

3. **TERM.** Club may utilize Fixed Dock for a five (5) month term, beginning the 15th day of April, 2010 and ending on the 15th day of September, 2010. Either party may terminate this Agreement, with or without cause, upon thirty (30) days notice. Upon expiration or termination of this Agreement, Club shall remove said Floating Dock and Vessels from Fixed Dock within ten (10) days. Should Club fail to relocate Floating Dock and Vessels within the time allowed, Waterfront Docks shall have the right to relocate the Floating Dock and Vessels from the Fixed Dock, including but not limited to placing them at anchorage or storing them on land, and receive reimbursement and indemnification from Club for such relocation as more specifically provided for in the attached Rules and Regulations for Washington Waterfront Docking (herein referred to as "Rules").

a. Waterfront Docks waives the two-day maximum stay for use of Dock J in the area known as the free docks by the Club for its Program during the term of this Agreement.

4. **CONDITION OF FIXED DOCK.** Club hereby accepts the condition of the Fixed Dock and common areas of Waterfront Docks "AS IS" and Club acknowledges that Waterfront Docks makes no express or implied warranty as to the condition of the Fixed Dock, the water, the depth of the water, the common areas or any utilities, gangways, fences, doors, locks, or any other aspect of Waterfront Docks. Club covenants to satisfy itself that the Fixed Dock and berthing space is adequate for safe berthing of its Floating Dock and Vessels. Club shall exercise due caution in occupation of the Fixed Dock and shall take good care of the Fixed Dock and, at the expiration or sooner termination of this Agreement, surrender and deliver the Fixed Dock to Washington Docks in as good condition as when received by Club from Washington Docks, reasonable wear and tear excepted. Waterfront Docks may elect to retain or dispose of in any manner Club's personal property not removed from the Fixed Dock or waterfront docks by Club at the expiration or termination of this Agreement. Club waives all claims against Waterfront Docks for any damage to Club resulting from Waterfront Docks' removal of Club's personal property at the expiration or termination of this Agreement. Club shall be liable to Waterfront Docks for Waterfront Docks' costs for storage, removal, or disposal of Club's personal property at prevailing rates.

a. Waterfront Docks, in its discretion, may retain, or require Club to remove, any alteration, addition, or improvement made by the Club to the Fixed Dock or to any common area pursuant to advance written approval of Waterfront Docks. Any such alteration, addition, or improvement retained by Waterfront Dock constitutes further consideration for this Agreement.

b. Club shall keep the waterfront area around the Fixed Dock clean as well as litter free and in a presentable, acceptable and satisfactory condition to the City.

5. **BAILMENT.** It is understood and agreed that this Agreement does not constitute a bailment. Except as otherwise provided herein, Club retains and has exclusive care, custody, control, and access to the Fixed Dock.

6. **GENERAL RESPONSIBILITIES AND OBLIGATIONS.** Waterfront Docks' employees, in their sole discretion, may make reasonable efforts to inform Club of dangerous conditions requiring Club's attention, but Waterfront Docks assumes no responsibility or liability for the same, including but not limited to tending mooring lines, moving the Floating Dock or Vessels, or moving boats from berths to which they are or were assigned. Club further agrees to provide Waterfront Docks a key or combination to locks securing the Vessels, if any. It is expressly agreed that Waterfront Docks shall not be liable to Club if for any reason Waterfront Docks fails to move the Floating Dock or Vessels.

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 Floating Dock or Vessels or take any action to protect the Floating Dock or Vessels, which action is hereby approved and authorized by Club, including but not limited to relocating the Floating Dock or Vessels, installing mooring lines, or pumping the Vessels, or similar services, Club agrees to reimburse and indemnify Waterfront Docks as more specifically provided for in the attached Rules and to hold Waterfront Docks, its representatives, agents, or contractors harmless for any loss or damage as the result of such action undertaken regardless of the action taken or circumstances giving rise to the action.

8. **HAZARDOUS MATERIALS.** Club 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. Club 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 Club's noncompliance with applicable environmental laws and the terms of this paragraph. Club 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 Fixed Dock 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.

9. **NO ASSIGNMENT OR SUBLICENSING.** This Agreement is not transferable or assignable and runs to Club only. Club may not assign this Agreement or sublicense the Fixed Dock. In the event Club suspends its Program, Waterfront Docks shall have the right to cancel this Agreement.

10. **INSURANCE.** Club 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. Commercial General Liability Insurance, including general marine liability, products and completed operations liability, personal and advertising liability, and P&I liability coverage at a minimum of \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate.

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. Club shall deliver to Waterfront Docks certificates of insurance for all insurance policies required hereunder. Club 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 Club to expand the form and/or increase the amounts of all such insurance.

11. **WAIVER OF SUBROGATION.** Club releases and relieves Waterfront Docks and waives Club'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 Club might own, whether loss or damage is due to the negligence of Waterfront Docks or their agents, employees, and/or invitees. Club 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.

12. **UTILITIES.** Water, sewer, and electric utilities are not available at Fixed Dock.

13. **CHANGES TO COMMON AREA/DOCK ASSIGNMENT.** Waterfront Docks reserves the right, without recourse to Club, 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 Club to another dock only upon written request to and written acceptance from Club. In which case, said written request and acceptance shall serve as an amendment hereto, but only as to the dock 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 Club, to temporarily relocate the Club to another location on the Waterfront, including another dock, in Waterfront Docks' sole discretion. Club shall temporarily relocate their Floating Dock and Vessels as and when directed by Waterfront Docks if practical and reasonable. If Club's assistance in such temporary relocation is not practical and reasonable, Waterfront Docks is authorized to perform such temporary relocation of the Floating Dock and Vessels. The term "Fixed Dock" as used herein shall also apply to the location or dock to which the Floating Dock and Vessels are permanently reassigned or temporarily relocated as provided for hereinabove.

14. **SECURING THE FLOATING DOCK, GANGWAY AND VESSELS.** The Floating Dock and gangway shall be secured to the Fixed Dock in a manner acceptable to Waterfront Docks. Club Vessels will be secured when stowed or docked. If Waterfront Docks secures the Floating Dock, gangway or Vessels, Waterfront Docks is entitled to reimbursement and indemnity as more specifically provided for in the attached Rules.

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

16. **RULES AND REGULATIONS.** Club 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 Club are the responsibility of the Club and must comply with the Rules. The current version of said Rules is attached hereto as Exhibit "A" and is incorporated herein by reference. Club 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 Club further agrees to comply with such amended Rules. Any amended Rules shall also automatically be incorporated herein. If Club or those under the responsibility of Club 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 Floating Dock and Vessels, without prejudicing Waterfront Docks' right to damages and any financial obligation of Club to Waterfront Docks.

a. Notwithstanding anything herein or anything contained in the Rules to the contrary, Floating Dock, gangway and Vessels must be removed when the Pamlico area is placed under a NOAA weather warning in accordance with Rule 21 of the Rules.

b. Notwithstanding anything herein or anything contained in the Rules to the contrary, with the exception of Club Vessels, there shall be no storage of any items of any kind upon the Fixed Dock or Floating Dock without advance permission from Waterfront Docks.

17. **DEFAULT.** Club shall be in default under this Agreement if any of the following occur.

a. Club becomes insolvent, voluntarily or involuntarily bankrupt, or if a receiver, assignee, or other liquidating officer is appointed for Club or the business of Club. In no event shall this Agreement or any rights or privileges hereunder be an asset of Club under any bankruptcy, insolvency, or reorganization proceedings.

b. Club violates any rule or regulation of Waterfront Docks.

c. Club violates, breaches, or fails to keep or perform any covenant, term or condition of this Agreement.

18. **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.

19. **REMEDIES.** SHOULD CLUB 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 CLUB 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.

20. **INDEMNIFICATION.** Club does for itself, its agents, successors, assigns, customers, 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 Club's operation of the Program, Club's sailing instruction operation and/or Club's use of the Fixed Dock 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 Club's participants, customers, invitees, guests, and/or boarders of the Vessels caused by, related to, or arising from Club's use of the Fixed Dock, Club's Program or the contemplated sailing instruction operations or this Agreement.

21. **ADHERENCE TO REGULATIONS.** Club 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 Fixed Dock, the waterfront docks, public waters, the Club, any improvements made by Club pursuant to advance written consent of Waterfront Docks, and Club's operation of the Program, including but not limited to the sailing instruction operations contemplated hereby and the related enterprise. Club shall indemnify and hold Waterfront Docks harmless for any and all damage of any kind arising from Club's failure to comply with the aforementioned rules and regulations, including attorney's fees.

22. **REPORTING REQUIREMENTS.** Club shall keep or cause to be kept complete records of the business it conducts or transacts 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.

23. **RELATIONSHIP OF PARTIES.** In carrying out the terms and conditions of this Agreement, Club 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 Club.

24. **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 executed this Agreement this the day and year first above written.

DOWNTOWN WASHINGTON ON THE WATERFRONT, INC.
d/b/a THE LITTLE WASHINGTON SAILING CLUB

CITY OF WASHINGTON

By: _____ (SEAL)

By: _____ (SEAL)

Title: _____

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 these 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



City of Washington

REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Philip Mobley, Director Parks and Recreation
Date: March 8, 2010
Subject: Approve and Authorize Director to execute Waterfront Docking Agreement with Pamlico Marine Services, LLC - SeaTow
Applicant Presentation: None
Staff Presentation:

RECOMMENDATION:

I move City Council approve and authorize the Director of Parks and Recreation or his designee to execute the Waterfront Docking Agreement with Pamlico Marine Services, LLC and further authorize the Director of Parks and Recreation or his designee to negotiate, enter and execute future Waterfront Docking Agreements with Pamlico Marine Services, LLC so long as such future Agreements are substantially similar to the Agreement approved hereby and Council receives an annual report concerning the relationship with Pamlico Marine Services, LLC, including a notice regarding the intention to enter and term for such future Agreements.

BACKGROUND AND FINDINGS:

Staff and the City Attorney have been working with Pamlico Marine Services LLC to update the Waterfront Docking Agreement for Pamlico Marine Services LLC. The Washington Recreation Advisory Committee has reviewed and approved this proposed updated Waterfront Docking Agreement for Pamlico Marine Services LLC.

PREVIOUS LEGISLATIVE ACTION

March 9, 2009 - City Council approved and authorized the Director of Parks and Recreation or his designee to execute the Waterfront Docking Agreement for Pamlico Marine Services, LLC for a period of one year with one boat.

FISCAL IMPACT

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

SUPPORTING DOCUMENTS

Proposed Waterfront Docking Agreement for Pamlico Marine Services, LLC.
Letter of desire to continue docking arrangement with the City of Washington

City Attorney Review: Date By: (if applicable)
Finance Dept Review: Date By: (if applicable)
City Manager Review: Concur Recommend Denial No Recommendation Date
March 8, 2010

**NORTH CAROLINA
BEAUFORT COUNTY**

WATERFRONT DOCKING AGREEMENT

THIS AGREEMENT, is made the 1st day of April, 2010, by and between the City of Washington, North Carolina (hereinafter referred to as "Waterfront Docks") and Pamlico Marine Services, LLC (hereinafter referred to as "Boat Owner"). For and in consideration of \$1.00 and other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, and in consideration of the mutual covenants contained herein as well as valuable consideration paid and to be paid, Waterfront Docks and Boat Owner agree as follows.

1. **GRANT OF LICENSE.** Waterfront Docks hereby grants to Boat Owner and Boat Owner hereby accepts from Waterfront Docks a license to use a certain portion of Waterfront Docks' piers known to Waterfront Docks as Dock B and Slip No. 2 (hereinafter referred to as "Slip") subject to the terms and conditions set forth herein. It is agreed between the parties that this license is personal to Boat Owner and shall not inure to the successors or assigns of Boat Owner. Boat Owner agrees that it does not possess and shall not claim at any time an interest or estate of any kind or extent whatsoever by virtue of this license or Boat Owner's exercise or use hereunder of the same and Waterfront Docks conveys no interest in property, including but not limited to Slip, dock, or pier, to Boat Owner by this Agreement.

2. **BOAT AND OWNER IDENTIFICATION.** The boat (hereinafter referred to as "Boat") to be berthed in the Slip is described as follows.

Name of Boat: Sea Tow Pamlico Make: Triumph Model: Chaos
Year: 2006 Registration/Documentation #NC 6084DF Length: 21.5" Beam: 8" Draft: 12"
Owner's Address: 210 Pinetree Path, Bath, NC 27808 Social Security No.: xxx-xx-2783
Work Phone: 252-964-3171 Home Phone: 252-940-9965 Emergency Phone: 252-940-9965
Insurer: Cooper Insurance Co. Policy #: HGL 00164201 Insurer's Phone: 252-794-4036

The information provided above is true and accurate. Boat Owner agrees that, if any of the above information subsequently changes, Boat Owner will provide updated information to Waterfront Docks within fourteen (14) days of such change.

3. **RENTAL/TERMINATION/LATE CHARGES.** Boat Owner shall provide Waterfront Docks the services listed in paragraph 3b hereof in lieu of paying Waterfront Docks for the use of the Slip, as provided herein, \$260 per month, payable in advance, beginning the 1st day of April, 2010 and ending on the 31st day of March, 2011. This Agreement may be terminated by Waterfront Docks, with or without cause, upon thirty (30) days notice to Boat Owner. This Agreement may be terminated by Boat Owner, with or without cause, as long as: a) Boat Owner has complied with and is current on all obligations required of Boat Owner in this Agreement and b) Boat Owner provides thirty (30) days written notice to Waterfront Docks. Payments made by Boat Owner must be received by Waterfront Docks as stated herein at the following address: P.O. Box 1988, Washington, N.C. 27889 or such other place as Waterfront Docks may designate. Should Boat Owner leave or abandon the Slip during the term of this Agreement, Boat Owner shall forfeit any monies paid and not be entitled to any refund from Waterfront Docks. If any rent is not paid by the 15th day of the first month of each period due, Waterfront Docks shall a) be entitled to assess a late fee of 1.5% of the amount then due and, in addition to the late fee, the amount then due shall bear interest at the rate of 18% per annum or the maximum legal rate, whichever is less, from the date due until the same shall be paid and/or b) have the right to relocate the Boat from the Slip, including but not limited to placing it at anchorage, and receive reimbursement and indemnification from Boat Owner for such relocation as more specifically provided for in the attached Rules and Regulations for Washington Waterfront Docking (hereinafter referred to as "Rules").

a. **EXTENSION.** Should Boat Owner desire to extend this Agreement beyond the initial one (1) year period; then, in that event, Boat Owner shall notify Waterfront Docks ninety (90) days prior to the end of the initial period. The parties hereby agree that, upon such notice, the parties will enter into good faith negotiations to extend this Agreement. However, Waterfront Docks is under no obligation whatsoever to extend this Agreement beyond the initial one (1) year period.

b. Boat Owner shall properly remove debris from the Harbor within a reasonable period of time after receiving such a request from Waterfront Docks or after Boat Owner becomes aware of the necessity for such removal. Upon the request of Waterfront Docks, Boat Owner may, in Boat Owner's discretion, provide reasonable assistance to Waterfront Docks concerning boats with which Waterfront Docks has an existing Waterfront Docking Agreement.

4. **CONDITION OF SLIP.** Boat Owner hereby accepts the condition of the Slip and common areas of Waterfront Docks "AS IS" and Boat Owner acknowledges that Waterfront Docks makes no express or implied warranty as to the condition of the Slip, the water, the depth of the water, the common areas or any utilities, gangways, fences, doors, locks, or any other aspect of Waterfront Docks. Boat Owner covenants to satisfy himself that the Slip and berthing space is adequate for safe berthing of his Boat. Boat Owner shall exercise due caution in occupation of the Slip and shall take good care of the Slip and, at the expiration or earlier termination of this Agreement, surrender and deliver the Slip to Washington Docks in as good condition as when received by Boat Owner from Washington Docks, reasonable wear and tear excepted. Waterfront Docks may elect to retain or dispose of in any manner Boat Owner's personal property not removed from the Slip or Waterfront Docks by Boat Owner at the expiration or termination of this Agreement. Boat Owner waives all claims against Waterfront Docks for any damage to Boat Owner resulting from Waterfront Docks' removal of Boat Owner's personal property at the expiration or termination of this Agreement. Boat Owner shall be liable to Waterfront Docks for Waterfront Docks' costs for storage, removal, or disposal of Boat Owner's personal property at prevailing rates.

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- a. Waterfront Docks, in its discretion, may retain, or require Boat Owner to remove, any alteration, addition, or improvement made by Boat Owner to the Slip or to any common area pursuant to advance written approval of Waterfront Docks. Any such alteration, addition, or improvement retained by Waterfront Docks constitutes further consideration for this Agreement.
 - b. Boat Owner shall keep the waterfront area around the Slip clean as well as litter free and in a presentable, acceptable and satisfactory condition to the City.
5. **BAILMENT.** It is understood and agreed that this Agreement does not constitute a bailment. Except as otherwise provided herein, Boat Owner retains and has exclusive care, custody, control, and access to the Boat and its contents at all times.
6. **GENERAL RESPONSIBILITIES AND OBLIGATIONS.** Waterfront Docks' employees, in their sole discretion, may make 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 attached 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 the foregoing or anything contained in the attached Rules to the contrary, Waterfront Docks hereby authorizes Boat Owner to utilize said Slip to berth and operate one SEATOW boat and provide SEATOW's customary marine services to the public. Boat Owner shall perform all activities associated with its services in such a manner that such 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 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. Collision and tower's liability insurance in a coverage amount of not less than \$1 million.
- e. Pollution insurance in a coverage amount of not less than \$1 million.
- f. 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 cancelation 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.** Waterfront Docks shall furnish electric power and freshwater to certain piers but shall not be under any obligation to furnish the same to the Boat. Waterfront Docks reserves the right to individually meter electricity consumed by Boat Owner and to charge Boat Owner for such metered electricity. All amounts due for electricity, whether metered or not, shall be deemed additional rent due under this Agreement.

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 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.

a. Notwithstanding anything herein to the contrary, if the Boat is permanently reassigned or temporarily relocated such reassignment or relocation must be adjacent to a gangwalk similar to the one adjacent to the Slip or the practical equivalent.

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 agents, successors, assigns, customers, 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 services 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, 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 services 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 services contemplated hereby and the related enterprise and business. 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 the business it conducts or transacts 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 executed this Agreement this the day and year first above written.

BOAT OWNER

CITY OF WASHINGTON

By: _____ (SEAL) By: _____ (SEAL)

Larry Williams, Member/Manager
Pamlico Marine Services, LLC

Title: _____

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 these 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".

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 of Washington

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

MEMORANDUM

DATE: 3, March 2010

TO: Mayor and City Council

FROM: Matt Rauschenbach, Chief Financial Officer *MR*

SUBJ: Sewer Assessment Review Committee Recommendations

The Sewer Assessment Review Committee recommends the City write-off assessments that are outstanding for more than ten years and assessments for property that was sold without a lien perfected.

Please find attached recap and detail of Runyon Hills, Macswood, and Slatestone Hills assessments.

In summary:

\$ 5,702 Current and making payments
38,955 Write off
3,630 Delinquent, foreclose < 10 years
48,287 Total

I have highlighted two situations in yellow in the comments section of the detail section to bring to your attention:

1. Property owner (1) had two properties held in abeyance that were sold and Committee is recommending writing off. Property owner also had two properties that assessments were paid in March of 1999.
2. Property owner (2) had an assessment held in abeyance and is not making payments. A lien is attached. Owner also has a property that was not held in abeyance, lien attached, with the full balance due and Committee is recommending writing off.

Franz sent you a sewer assessment collection opinion earlier this week. My response to the last paragraph concerning recourse on former Tax Collector's bond is:

March 8, 2010

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The City has no recourse under our fidelity bond insurance for the former City tax collector. The insurance does not cover errors and omissions and there is no covered cause of loss (fraudulent activity, theft, etc.). Failure to follow sound business practices in performing a job is not an insurable event.

There is no immediate financial statement impact of writing off \$38,955 that the Committee is recommending because receivables are 100% reserved until payments are made and revenue is recognized at that time. However, there is a lost opportunity for future revenue to offset the capital expenditure of this project that the Sewer fund has already paid for.

Recap	Count	Invoiced	Paid	Adj.	Penalty	Balance	Current	Writeoff	Foreclose	Total
						Due				
Total Abeyance- Sold (no lien)	10	14,684.90	-	-	-	14,684.90		14,684.90		14,684.90
Total Abeyance- No Payments (lien)	3	3,630.00	-	-	-	3,630.00			3,630.00	3,630.00
Total Abeyance- Paid or Began Paying Installments (lien)	24	46,559.70	26,974.92	(17,620.98)	-	1,963.80	1,963.80			1,963.80
Total Prepaid	7	10,720.20	10,720.20	-	-	-				-
Total Sold (no lien)	6	8,980.00	4,221.02	-	1,893.97	6,652.95		6,652.95		6,652.95
Total > 10 Years- Not Making Payments (lien)	10	11,978.00	539.92	-	6,179.56	17,617.64		17,617.64		17,617.64
Total > 10 Years- Making Payments (lien)	22	30,633.70	27,017.92	-	122.16	3,737.94	3,737.94			3,737.94
Total Not in Abeyance- Paid	<u>193</u>	<u>261,449.70</u>	<u>260,230.06</u>	<u>(1,235.03)</u>	<u>15.39</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Grand Total	275	388,636.20	329,704.04	(18,856.01)	8,211.08	48,287.23	5,701.74	38,955.49	3,630.00	48,287.23

Macswood,Runyon Hills/ Slatestone Hills Sewer Assessment

DATE 02/19/2010

Abeyance/ Prepaid	Sold	INVOICE	CODE	Invoiced	PAYMENTS	Adj.	PENALTY	BALANCE	Action
Abeyance	Sold	8614	2	950.00	-	-	-	950.00	(1)Property owner paid invoices 8611 & 8612 in 1999
Abeyance	Sold	8613	2	1,004.00	-	-	-	1,004.00	(1)Property owner paid invoices 8611 & 8612 in 1999
Abeyance	Sold	8840	2	1,200.00	-	-	-	1,200.00	
Abeyance	Sold	8843	2	2,750.00	-	-	-	2,750.00	
Abeyance	Sold	8844	2	1,000.00	-	-	-	1,000.00	
Abeyance	Sold	8845	2	2,020.00	-	-	-	2,020.00	
Abeyance	Sold	8846	2	720.00	-	-	-	720.00	
Abeyance	Sold	8854	2	520.00	-	-	-	520.00	
Abeyance	Sold	8835	2	1,770.90	-	-	-	1,770.90	
Abeyance	Sold	8836	2	2,750.00	-	-	-	2,750.00	
Total Abeyance- Sold (no lien)				10	14,684.90	-	-	14,684.90	
Abeyance		8629	2	1,380.00	-	-	-	1,380.00	(2)Property owner did not pay invoice 8628 > 10 years
Abeyance		8696	2	1,250.00	-	-	-	1,250.00	
Abeyance		8695	2	1,000.00	-	-	-	1,000.00	
Total Abeyance- No Payments (l				3	3,630.00	-	-	3,630.00	
Abeyance		8598	2	1,090.00	1,090.00	-	-	-	
Abeyance		8601	2	1,000.00	1,000.00	-	-	-	
Abeyance		8674	2	1,660.00	1,660.00	-	-	-	
Abeyance		8675	2	1,500.00	1,500.00	-	-	-	
Abeyance		8736	2	1,500.00	-	(1,500.00)	-	-	Could not tap on
Abeyance		8737	2	1,080.00	1,080.00	-	-	-	
Abeyance		8738	2	1,100.00	1,100.00	-	-	-	
Abeyance		8755	2	1,500.00	1,500.00	-	-	-	
Abeyance		8756	2	1,350.00	1,350.00	-	-	-	
Abeyance		8839	2	1,200.00	1,200.00	-	-	-	
Abeyance		8841	2	10,850.00	2,750.00	(8,100.00)	-	-	Max assessment was 2,750
Abeyance		8842	2	4,270.00	470.00	(3,800.00)	-	-	Undevelopable - Pond
Abeyance		8847	2	1,600.00	1,600.00	-	-	-	
Abeyance		8848	2	1,950.00	1,950.00	-	-	-	
Abeyance		8849	2	1,850.00	1,850.00	-	-	-	
Abeyance		8850	2	1,100.00	1,100.00	-	-	-	
Abeyance		8851	2	2,160.00	2,160.00	-	-	-	
Abeyance		8853	2	790.00	816.72	26.72	-	-	
Abeyance		8778	2	2,182.00	218.20	-	-	1,963.80	Started making payments May 09
Abeyance		8783	2	2,750.00	-	(2,750.00)	-	-	Not in City Limits
Abeyance		8784	2	900.00	-	(900.00)	-	-	Undevelopable
Abeyance		8785	2	597.70	-	(597.70)	-	-	Undevelopable
Abeyance		8786	2	1,000.00	1,000.00	-	-	-	

Macswood,Runyon Hills/ Slatestone Hills Sewer Assessment

DATE 02/19/2010

Abeyance/ Prepaid	Sold	INVOICE CODE	Invoiced	PAYMENTS	Adj.	PENALTY	BALANCE	Action
Abeyance		8805	<u>2</u>	<u>1,580.00</u>	<u>1,580.00</u>	-	-	-
Total Abeyance- Paid or Began F			24	46,559.70	26,974.92	(17,620.98)	-	1,963.80
Prepaid		8621	2	1,300.00	1,300.00	-	-	-
Prepaid		8625	2	2,350.00	2,350.00	-	-	-
Prepaid		8670	2	1,549.90	1,549.90	-	-	-
Prepaid		8687	2	1,580.00	1,580.00	-	-	-
Prepaid		8757	2	1,250.00	1,250.00	-	-	-
Prepaid		8797	2	1,010.30	1,010.30	-	-	-
Prepaid		8838	<u>2</u>	<u>1,680.00</u>	<u>1,680.00</u>	-	-	-
Total Prepaid			7	10,720.20	10,720.20	-	-	-
Sold		8594	2	1,500.00	900.00	-	160.02	760.02 Sold
Sold		8596	2	1,000.00	-	-	549.90	1,549.90 Sold
Sold		8610	2	1,600.00	-	-	880.10	2,480.10 Sold
Sold		8617	2	1,120.00	444.68	-	65.78	741.10 Sold
Sold		8618	2	1,010.00	404.00	-	228.73	834.73 Sold
Sold		8832	<u>2</u>	<u>2,750.00</u>	<u>2,472.34</u>	-	<u>9.44</u>	<u>287.10</u> Sold
Total Sold (no lien)			6	8,980.00	4,221.02	-	1,893.97	6,652.95
		8816	2	1,530.00	-	-	842.40	2,372.40
		8748	2	1,445.00	-	-	795.60	2,240.60
		8628	2	1,410.00	-	-	776.10	2,186.10
		8642	2	1,246.00	-	-	685.10	1,931.10
		8649	2	1,570.00	314.00	-	601.16	1,857.16
		8818	2	1,327.00	225.92	-	582.50	1,683.58
		8586	2	1,000.00	-	-	549.90	1,549.90
		8754	2	1,000.00	-	-	549.90	1,549.90
		8819	2	1,000.00	-	-	549.90	1,549.90
		8817	<u>2</u>	<u>450.00</u>	-	-	<u>247.00</u>	<u>697.00</u>
Total > 10 Years- Not Making Pa			10	11,978.00	539.92	-	6,179.56	17,617.64
		8643	2	1,000.00	589.56	-	10.44	420.88 Has made recent payments
		8715	2	2,750.00	2,475.00	-	10.44	285.44 Owes 1 more payment, due 05/10
		8641	2	1,000.00	763.17	-	7.00	243.83 Owes 2 more payments, due 05/10
		8810	2	2,310.00	2,077.04	-	7.92	240.88 Owes 1 more payment, due 05/10
		8803	2	2,208.00	1,987.20	-	8.37	229.17 Owes 1 more payment, due 05/10
		8702	2	2,010.00	1,807.30	-	6.88	209.58 Owes 1 more payment, due 05/10
		8684	2	1,750.00	1,575.00	-	6.66	181.66 Owes 1 more payment, due 05/10
		8826	2	1,720.00	1,546.54	-	5.84	179.30 Owes 1 more payment, due 05/10

(2)Property owner is not paying abeyance property (lien)

Macswood,Runyon Hills/ Slatestone Hills Sewer Assessment

DATE 02/19/2010

Abeyance/ Prepaid	Sold	INVOICE	CODE	Invoiced	PAYMENTS	Adj.	PENALTY	BALANCE	Action
		8799	2	1,700.00	1,528.56	-	5.84	177.28	Owes 1 more payment, due 05/10
		8703	2	1,696.00	1,524.96	-	5.76	176.80	Owes 1 more payment, due 05/10
		8624	2	1,690.00	1,521.00	-	6.48	175.48	Owes 1 more payment, due 05/10
		8700	2	1,410.00	1,267.81	-	4.80	146.99	Owes 1 more payment, due 05/10
		8719	2	500.00	357.62	-	3.60	145.98	Making payments of \$50 every couple of months
		8581	2	1,350.00	1,215.00	-	5.13	140.13	Owes 1 more payment, due 05/10
		8689	2	1,341.80	1,207.62	-	5.13	139.31	Owes 1 more payment, due 05/10
		8760	2	1,200.00	1,078.98	-	4.08	125.10	Owes 1 more payment, due 05/10
		8701	2	1,020.00	917.14	-	3.52	106.38	Owes 1 more payment, due 05/10
		8775	2	1,000.00	899.15	-	3.44	104.29	Owes 1 more payment, due 05/10
		8633	2	1,000.00	900.00	-	3.78	103.78	Owes 1 more payment, due 05/10
		8654	2	977.90	880.11	-	3.69	101.48	Owes 1 more payment, due 05/10
		8825	2	500.00	449.58	-	1.68	52.10	Owes 1 more payment, due 05/10
		8827	2	500.00	449.58	-	1.68	52.10	Owes 1 more payment, due 05/10
Total > 10 Years- Making Payme	22			30,633.70	27,017.92	-	122.16	3,737.94	
		8580	2	1,000.00	1,008.76	8.76	-	-	
		8582	2	1,000.00	1,000.00	-	-	-	
		8583	2	1,500.00	1,500.00	-	-	-	
		8584	2	1,000.00	1,000.00	-	-	-	
		8585	2	1,840.00	1,840.00	-	-	-	
		8587	2	2,180.00	2,180.00	-	-	-	
		8588	2	1,520.00	1,520.00	-	-	-	
		8589	2	1,370.00	1,370.00	-	-	-	
		8590	2	2,000.00	2,000.00	-	-	-	
		8591	2	1,000.00	1,000.00	-	-	-	
		8592	2	1,000.00	1,003.81	3.81	-	-	
		8593	2	1,000.00	1,000.00	-	-	-	
		8595	2	1,450.00	1,450.00	-	-	-	
		8597	2	1,830.00	1,830.00	-	-	-	
		8599	2	2,010.00	2,010.00	-	-	-	
		8600	2	900.00	900.00	-	-	-	
		8602	2	1,600.00	1,600.00	-	-	-	
		8604	2	1,000.00	1,005.70	5.70	-	-	
		8603	2	1,177.60	1,182.88	5.28	-	-	
		8605	2	640.00	650.84	10.84	-	-	
		8800	2	1,000.00	1,000.00	-	-	-	
		8606	2	1,000.00	1,000.00	-	-	-	
		8607	2	2,750.00	2,750.00	-	-	-	
		8608	2	1,080.00	1,080.00	-	-	-	

Macswood,Runyon Hills/ Slatestone Hills Sewer Assessment

DATE 02/19/2010

Abeyance/ Prepaid	Sold	INVOICE	CODE	Invoiced	PAYMENTS	Adj.	PENALTY	BALANCE	Action
		8609	2	1,250.00	1,250.00	-	-	-	
		8611	2	1,000.00	1,000.00	-	-	-	(1)Paid 3/4/99, had two abeyance properties, sold
		8612	2	1,000.00	1,000.00	-	-	-	(1)Paid 3/4/99, had two abeyance properties, sold
		8615	2	500.00	503.78	3.78	-	-	
		8616	2	1,000.00	1,005.08	5.08	-	-	
		8619	2	700.00	700.00	-	-	-	
		8620	2	1,650.00	1,650.00	-	-	-	
		8622	2	1,000.00	1,020.40	20.40	-	-	
		8623	2	1,000.00	1,000.00	-	-	-	
		8626	2	1,620.00	1,620.00	-	-	-	
		8627	2	500.00	500.00	-	-	-	
		8630	2	1,000.00	1,000.00	-	-	-	
		8631	2	2,750.00	2,750.00	-	-	-	
		8632	2	2,460.00	2,460.00	-	-	-	
		8634	2	1,000.00	1,000.00	-	-	-	
		8635	2	2,750.00	2,750.00	-	-	-	
		8636	2	1,252.00	1,252.00	-	-	-	
		8637	2	1,000.00	1,000.00	-	-	-	
		8638	2	1,000.00	999.15	(0.85)	-	-	
		8639	2	2,106.00	2,106.00	-	-	-	
		8640	2	2,420.00	2,445.44	25.44	-	-	
		8644	2	1,620.00	1,620.00	-	-	-	
		8645	2	780.00	780.00	-	-	-	
		8646	2	850.00	850.00	-	-	-	
		8647	2	1,830.00	1,835.42	5.42	-	-	
		8648	2	600.00	601.78	1.78	-	-	
		8650	2	1,000.00	1,001.84	1.84	-	-	
		8652	2	1,050.00	1,050.00	-	-	-	
		8653	2	1,557.00	1,557.00	-	-	-	
		8655	2	2,370.40	2,377.35	6.95	-	-	
		8656	2	1,000.00	1,000.00	-	-	-	
		8672	2	450.00	450.00	-	-	-	
		8671	2	1,610.00	1,612.04	2.04	-	-	
		8657	2	1,000.00	1,000.00	-	-	-	
		8658	2	1,000.00	1,000.00	-	-	-	
		8659	2	900.00	896.57	(3.53)	0.10	-	
		8660	2	1,310.00	1,305.01	(5.19)	0.20	-	
		8662	2	747.60	747.60	-	-	-	
		8663	2	850.00	850.00	-	-	-	
		8661	2	865.80	865.80	-	-	-	
		8664	2	1,450.00	1,464.72	14.72	-	-	

Macswood,Runyon Hills/ Slatestone Hills Sewer Assessment

DATE 02/19/2010

Abeyance/ Prepaid	Sold	INVOICE	CODE	Invoiced	PAYMENTS	Adj.	PENALTY	BALANCE	Action
		8665	2	1,021.00	1,021.00	-	-	-	
		8666	2	1,290.00	1,290.00	-	-	-	
		8667	2	2,080.00	2,085.28	5.28	-	-	
		8668	2	2,700.00	2,700.00	-	-	-	
		8669	2	1,000.00	1,000.00	-	-	-	
		8673	2	1,190.00	1,190.00	-	-	-	
		8676	2	1,150.00	1,150.00	-	-	-	
		8680	2	900.00	900.00	-	-	-	
		8677	2	1,050.00	1,050.00	-	-	-	
		8678	2	780.00	780.00	-	-	-	
		8679	2	2,750.00	2,716.70	(33.30)	-	-	
		8681	2	2,660.00	2,660.00	-	-	-	
		8682	2	1,953.80	1,953.80	-	-	-	
		8683	2	1,525.40	1,525.40	-	-	-	
		8685	2	1,900.00	1,900.00	-	-	-	
		8686	2	1,020.00	1,020.00	-	-	-	
		8688	2	2,294.70	2,211.76	(83.29)	0.35	-	
		8690	2	860.00	860.00	-	-	-	
		8691	2	1,000.00	1,000.00	-	-	-	
		8692	2	1,020.00	1,030.35	10.35	-	-	
		8693	2	2,580.00	2,580.00	-	-	-	
		8694	2	2,043.00	2,043.00	-	-	-	
		8697	2	1,000.00	1,000.00	-	-	-	
		8698	2	1,760.00	1,760.00	-	-	-	
		8699	2	900.00	911.40	11.40	-	-	
		8704	2	1,000.00	1,002.14	2.14	-	-	
		8705	2	1,200.00	1,200.00	-	-	-	
		8706	2	1,760.00	1,760.00	-	-	-	
		8707	2	1,150.00	1,150.00	-	-	-	
		8651	2	500.00	490.97	(10.71)	1.68	-	
		8708	2	1,020.00	1,001.34	(22.10)	3.44	-	
		8709	2	1,470.00	1,470.00	-	-	-	
		8710	2	1,250.00	1,250.00	-	-	-	
		8711	2	850.00	850.00	-	-	-	
		8712	2	990.00	990.00	-	-	-	
		8713	2	1,000.00	1,000.00	-	-	-	
		8714	2	750.00	750.00	-	-	-	
		8716	2	950.00	950.00	-	-	-	
		8717	2	1,700.00	1,700.00	-	-	-	
		8718	2	1,830.00	1,830.00	-	-	-	
		8720	2	2,100.00	2,116.00	16.00	-	-	

Macswood,Runyon Hills/ Slatestone Hills Sewer Assessment

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Abeyance/ Prepaid	Sold	INVOICE	CODE	Invoiced	PAYMENTS	Adj.	PENALTY	BALANCE	Action
		8721	2	1,610.00	1,610.00	-	-	-	
		8722	2	2,720.00	2,720.00	-	-	-	
		8723	2	896.00	896.00	-	-	-	
		8724	2	880.00	880.00	-	-	-	
		8725	2	1,558.50	1,558.50	-	-	-	
		8726	2	1,150.00	1,150.00	-	-	-	
		8727	2	1,150.00	1,150.00	-	-	-	
		8728	2	1,280.00	1,280.00	-	-	-	
		8729	2	1,000.00	1,000.00	-	-	-	
		8730	2	1,990.00	1,990.00	-	-	-	
		8731	2	1,264.40	1,264.40	-	-	-	
		8733	2	450.00	450.00	-	-	-	
		8732	2	1,120.00	1,120.00	-	-	-	
		8734	2	400.00	400.00	-	-	-	
		8735	2	1,400.00	1,400.00	-	-	-	
		8739	2	1,650.00	1,675.16	25.16	-	-	
		8740	2	1,000.00	1,000.00	-	-	-	
		8741	2	1,610.00	1,610.00	-	-	-	
		8742	2	1,600.00	1,600.00	-	-	-	
		8743	2	1,250.00	1,250.00	-	-	-	
		8744	2	1,350.00	1,350.00	-	-	-	
		8745	2	1,100.00	1,100.00	-	-	-	
		8746	2	400.00	400.00	-	-	-	
		8747	2	1,020.00	1,020.00	-	-	-	
		8749	2	2,750.00	2,750.00	-	-	-	
		8750	2	1,000.00	1,000.00	-	-	-	
		8751	2	1,000.00	1,000.00	-	-	-	
		8752	2	1,000.00	1,000.00	-	-	-	
		8753	2	1,418.00	1,388.00	(39.62)	9.62	-	
		8758	2	1,000.00	1,000.00	-	-	-	
		8759	2	1,000.00	1,000.00	-	-	-	
		8761	2	2,670.00	2,670.00	-	-	-	
		8762	2	1,000.00	1,000.00	-	-	-	
		8763	2	1,090.00	1,090.00	-	-	-	
		8764	2	2,750.00	2,750.00	-	-	-	
		8765	2	2,750.00	2,750.00	-	-	-	
		8852	2	1,620.00	1,620.00	-	-	-	
		8766	2	1,225.20	1,225.20	-	-	-	
		8767	2	2,240.00	2,248.53	8.53	-	-	
		8768	2	1,640.00	1,640.00	-	-	-	
		8769	2	1,150.00	1,153.90	3.90	-	-	

Macswood,Runyon Hills/ Slatestone Hills Sewer Assessment

DATE 02/19/2010

Abeyance/ Prepaid	Sold	INVOICE	CODE	Invoiced	PAYMENTS	Adj.	PENALTY	BALANCE	Action
		8770	2	1,100.10	1,100.10	-	-	-	
		8771	2	1,000.00	1,000.00	-	-	-	
		8772	2	1,050.00	1,050.00	-	-	-	
		8773	2	1,000.00	1,000.00	-	-	-	
		8774	2	1,030.00	1,030.00	-	-	-	
		8776	2	1,170.00	1,170.00	-	-	-	
		8777	2	1,000.00	1,002.54	2.54	-	-	
		8779	2	1,350.00	1,350.00	-	-	-	
		8780	2	1,100.00	1,101.86	1.86	-	-	
		8791	2	2,750.00	2,750.00	-	-	-	
		8781	2	660.00	660.00	-	-	-	
		8782	2	1,270.00	1,270.00	-	-	-	
		8787	2	2,260.00	2,260.00	-	-	-	
		8788	2	1,739.40	1,739.40	-	-	-	
		8789	2	1,210.00	1,256.08	46.08	-	-	
		8790	2	200.00	207.65	7.65	-	-	
		8792	2	1,750.00	1,754.44	4.44	-	-	
		8793	2	1,651.10	1,651.10	-	-	-	
		8794	2	1,520.00	1,520.00	-	-	-	
		8795	2	1,101.00	1,101.00	-	-	-	
		8796	2	2,750.00	2,750.00	-	-	-	
		8798	2	1,650.00	1,650.00	-	-	-	
		8801	2	1,200.00	1,203.04	3.04	-	-	
		8802	2	500.00	501.26	1.26	-	-	
		8804	2	1,560.00	1,560.00	-	-	-	
		8806	2	1,350.00	1,350.00	-	-	-	
		8807	2	660.00	660.00	-	-	-	
		8808	2	2,360.00	2,360.00	-	-	-	
		8809	2	1,550.00	1,550.00	-	-	-	
		8811	2	1,000.00	1,000.00	-	-	-	
		8812	2	1,480.00	1,479.00	(1.00)	-	-	
		8813	2	1,000.00	1,000.00	-	-	-	
		8814	2	1,320.00	-	(1,320.00)	-	-	Easement for sewer outfall line in 1970's
		8815	2	1,250.00	1,258.46	8.46	-	-	
		8820	2	1,000.00	1,004.23	4.23	-	-	
		8821	2	490.00	490.40	0.40	-	-	
		8822	2	1,510.00	1,510.00	-	-	-	
		8823	2	440.00	440.00	-	-	-	
		8824	2	2,020.00	2,020.00	-	-	-	
		8828	2	1,092.00	1,092.00	-	-	-	
		8829	2	900.00	900.00	-	-	-	

Macswood,Runyon Hills/ Slatestone Hills Sewer Assessment

DATE 02/19/2010

Abeyance/ Prepaid	Sold	INVOICE	CODE	Invoiced	PAYMENTS	Adj.	PENALTY	BALANCE	Action
		8830	2	1,460.00	1,460.00	-	-	-	
		8831	2	1,300.00	1,300.00	-	-	-	
		8833	2	1,699.70	1,699.70	-	-	-	
		8834	2	2,750.00	2,750.00	-	-	-	
		8837	2	1,500.00	1,500.00	-	-	-	
Total Not in Abeyance- Paid		193		261,449.70	260,230.06	(1,235.03)	15.39	-	
Grand Total			275	388,636.20	329,704.04	(18,856.01)	8,211.08	48,287.23	



CITY OF WASHINGTON

MEMORANDUM

DATE: 26, February 2010

TO: Mayor Jennings and Honorable City Council Members

FROM: Bianca Gentile, Special Projects

SUBJ: Site Selection Committee Recommendation

Respectfully submitted is a report detailing the citizen-led site selection committee's recommendation per the new police facility.

CITIZEN-DRIVEN SITE SELECTION PROCESS COUNCIL RECOMMENDATION

The Washington Police Department, in partnership with the City's Planning and Community Development department, walked through a facilitated, citizen-driven site selection review process per the location of the new police facility. The original Citizen-led Site Selection Committee's recommendation was included in the December, 2009 council packet for review. No action was taken on those recommendations, as 2 out of 3 sites were located within the 100 year flood zone, a deal breaker for the USDA loan. At the January "Committee of the Whole" meeting council requested that the Committee re-examine the site review process. Additionally, the site list was expanded to include council's recommendations.

On February 23, 2010 a group of citizens met at City Hall. The site selection committee was presented with a list of 23 potential locations. Controlling for minimum lot size (2.5 acres) and presence in the 100 year flood zone, the list was reduced to 7 sites. Staff represented "flip chart flash cards" of each site highlighting the following site objective elements:

- Location
- Size
- Owner
- Tax Value
- Flood Zone

In order to ensure qualitative data was discussed for each site, committee members walked through a facilitated *pro et contra*, or ‘pros and cons’ discussion of each of the 7 sites. Ultimately, the sites were separated into 3 categories: Preferred, possible, and declined sites.

The preferred sites include:

Site recommendations		
Preferred	Potential	Declined
Existing ball fields	Former Nursing home	Current police facility
BCDC		Former Pecheles Toyota Site
Herbert S. Perry		
Warren Airfield		

Preferred Sites Vitals and Pros/Cons		
Site name	Pros	Cons
Site 2: Existing Ball Fields Location: West 3 rd Street Owner: City Flood Zone: 500 yr Size: 4.34 acres	No buildings on site, close proximity to Central Business District (CBD), City owned, savings potential for fiber outlay	Takes away recreational space, site is currently used as a sewer reclamation area, no buildings, close to sewer treatment plan
Site 9: Herbert Perry Senior Location: John Small/Hodges Owner: Herbert Perry Sr. Size: 4.10 acres Tax Value: \$50,000 Flood Zone: No	Not in flood zone, located in a visible area	Traffic is heavy, state road (city has no control over speed) single ingress/egress, close to school
Site 18: BCDC Location 1534 West 5 th Street Owner: BCDC, Inc Size: 3.84 acres Tax Value: \$868,611 Flood zone: 500 year	Potential for building reuse, high visibility, close to CBD, accessible, serves community	Hwy 17 by-pass may cause congestion problems, traffic, price
Site 21: Warren Airfield Location: N. Market/Airport Owner: City Size: 5.00 acres Flood zone: no	Access is good, located in future growth area, city owns it, potential for expansion	Away from CBD, 15 th and Market is a busy intersection

Below is a list of all the sites that were considered for review by the Site Selection Committee.

All Sites Considered for Review		
Site name	Matrix score	Flood zone
Site 1: Dr Pepper	54	Yes (100 year)
Site 2: Existing Ball Fields	57	500 year
Site 3: Faith and Truth Ministries	55	Yes
Site 4: Old Water Treatment Plant	55	No
Site 5: Dixie Bearing	42	500 year
Site 6: Moore's Honda	51	No
Site 7: Little Washington Park	51	Yes
Site 8: Sam Mann Heirs	53	Yes
Site 9: Herbert Perry Property	53	No
Site 10: Former John Small School	55	Yes
Site 11: 7 th Street Recreational Center	51	Yes
Site 12: Shirt Factory	48	Yes
Site 13: WB Gerard	50	500 year
Site 14: Moore's Ford	51	Yes
Site 15: Washington High School	50	Yes
Site 16:	62	500 year
Site 17: McClellan Building	44	Yes
Site 18: BCDC	51	No
Site 19: Current police facility	48	Yes
Site 20: Current downtown family dollar	44	Yes
Site: 21: Warren Airfield Property	59	No
Site 22: Former County Nursing Home	45	No
Site 23: Former Pecheles Toyota Site	49	500 year

The Ad Hoc Committee members present this information to the honorable members of the Washington City Council to make a citizen driven recommendation per the location of the new police facility.

City owned properties:

Site name	Matrix score	Flood zone	Lot Size
Site 2: Existing Ball Fields	57	500 year	4.34 acres
Site 4: Old Water Treatment Plant	55	No	2.30 acres
Site 11: 7th Street Recreational Center	51	Yes	2.20 acres
Site 19: Current police facility	48	Yes	0.62 acres
Site: 21: Warren Airfield Property	59	No	5.00 acres
Site: 24: City Warehouse			
Site 25: Other to be included			



City of Washington REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: James C. Smith, City Manager
Date: February 26, 2010
Subject: Joint Use Agreement for Kugler Field
Applicant Presentation: N/A
Staff Presentation: James C. Smith, City Manager

RECOMMENDATION:

I move that Council authorize the Mayor to enter into the proposed agreement with Beaufort County Board of Education for the joint use of Kugler Field.

BACKGROUND AND FINDINGS:

Many years ago, the Kugler family donated a large parcel of land located in the City's east end to the Washington School district for use by the community for athletic events. The donation transferred to the Beaufort County Board of Education when the County and City districts merged. The City of Washington operated Kugler Field for the benefit of the community for many years, facilitating its use by several entities including the Board of Education baseball, soccer, football and various athletic leagues. In recent years, school athletic programs have moved to Washington High School and other school campuses rather than utilizing Kugler Field. Two years ago, the school superintendent entered into an agreement with the Washington Youth Football League authorizing their exclusive use of Kugler Field during the league's football season. The City continued to operate and maintain Kugler during the balance of the year, primarily for the use of the church softball leagues as well as some youth baseball practice. The City has offered to assume ownership and operation responsibilities for Kugler Field. However, the Board of Education has indicated it wishes to retain ownership. The proposed agreement lays out the terms of the City's use of Kugler Field between April 1st and August 9th annually and recognizes the Board of Education's intent to authorize third parties to utilize Kugler Field at other times. It also contains miscellaneous provision with regard to maintenance and liability.

PREVIOUS LEGISLATIVE ACTION

None

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

Joint Use Agreement.

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review:  Concur _____ March 8, 2010 _____ No Recommendation 3/3/10 Date

Kimberly T. Edwards

Attorney at Law
P.O. Box 2368
Washington, NC 27889
Telephone (252) 623-8174

February 25, 2010

Franz Holscher
Rodman, Holscher, Francisco & Peck
320 North Market Street
Washington, NC 27889

Re: Kugler Field

Dear Franz:

On February 22, 2010, the Beaufort County Board of Education formally approved the enclosed Joint Use Agreement for Kugler Field. The only addition made to the agreement previously approved by the City is subsection (d) under Housekeeping, Routine/Preventative Maintenance. This provision requires the City to winterize the fixtures at the end of the lease each year.

The City can pick up keys to the facility from Phillip Boyd at the beginning of the lease. The City will be given keys to the fence and the structures on the baseball side of the property only. The bathroom, press box, concession stand, etc. on the football side of the property will remain locked at all times and the City will not have keys to those structures. During the WYFL's lease, the structures on the baseball side of the property will remain locked and the WYFL will not keys to those structures. The Board hopes that this procedure will minimize conflicts and questions as to damages that may arise by two entities leasing the same property.

The baseball scoreboard is on the WYFL's electricity. If the City wants to use the baseball scoreboard, it will need to be transferred to the City's electricity.

The City currently uses the storage building on the property year round. The Board does not object to the City storing items in this building year round, but if the City needs to access the storage building during the WYFL's lease, they will need to contact the WYFL for access to the property instead of contacting Phillip Boyd. The City should also be aware that the WYFL will have a key and access to this building during the term of their lease.

It is my understanding that the City does not intend to use the WHS tennis courts or JCT field at this time. Should their plans change in the future, a joint use agreement will be required for use of these facilities as well.

The City deleted the portion of the agreement pertaining to the Board's use of the Aquatic Center. While it is probably cleaner to have the joint use agreement deal solely with Kugler Field, the Board requests the City prepare a joint use agreement defining its use and responsibilities for the Aquatic Center.

I know I've included a lot of "housekeeping" topics in this letter. Please let me know if you have any questions. I'm sure other issues will arise between the parties that will need to be addressed and we will handle them as they arise.

Thanks for your professionalism in negotiating this agreement. I enjoyed working with you and think we have an agreement that is beneficial to both of our clients. I hope having issues clearly defined will help improve the working relationship between our clients.

Please forward the City's executed agreement to my attention. I will have the Board execute same and send you copies for your records.

Sincerely,

Kimberly Edwards
Board Attorney

Cc: Dr. Don Phipps
Board of Education

STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT

**JOINT USE AGREEMENT
FOR KUGLER FIELD**

This Agreement for the joint use of Kugler Field (hereinafter referred to as "Agreement") is made and entered into as of the ___ day of _____ 2010, by and between the CITY OF WASHINGTON, a municipal corporation of the State of North Carolina (hereinafter referred to as "City"), and the BEAUFORT COUNTY BOARD OF EDUCATION (hereinafter referred to as "Board") and collectively referred to as the "Parties".

WITNESSETH

THAT WHEREAS, the Parties recognize that joint cooperation and action between the Board and the City shall ensure that the best facilities and services are provided to the citizens of Beaufort County with the least expenditure of public funds; and

WHEREAS, the Parties are mutually interested in quality education and recreation programs for Beaufort County students and citizens; and

WHEREAS, the Parties are authorized to enter into agreements with each other to do any and all things necessary or convenient to aid and cooperate in the cultivation of citizenship by providing quality programs and facilities; and

WHEREAS, the Board owns certain real property at 901 East Fifth Street, Washington, North Carolina which is known as Kugler Field; and

WHEREAS, the Parties desire to enter into an agreement for the joint use of Kugler Field for the benefit of the school and the community; and

WHEREAS, the Board desires to permit the City to use Kugler Field when said property is not being used by the Board; and

WHEREAS, the City desires to assist the Board with maintenance of Kugler Field; and

WHEREAS, community use of school property and facilities is encouraged by the Community Schools Act, North Carolina General Statute (N.C.G.S.) 115C-203 et seq.; and

WHEREAS, the Parties are authorized to enter into this Agreement pursuant to the provisions of N.C.G.S. 115C, Article 13; N.C.G.S. 115C-518; N.C.G.S. 115C-524(b); and N.C.G.S. 160A-274.

NOW, THEREFORE, pursuant to N.C.G.S. 115C, Article 13, N.C.G.S. 115C-524(b), and N.C.G.S. 160A-274 and in consideration of the above-stated desires of the Parties and such other mutual promises and covenants as are hereinafter set forth, the receipt and legal sufficiency of which consideration are hereby acknowledged, the Board and the City do hereby agree as follows.

1. **Property Description.**
Kugler Field is located at 901 East Fifth Street, Washington, North Carolina and shown on Attachment "A".
2. **Term.**
The Agreement term shall run from the date entered hereinabove through and including August 9, 2018.
3. **Enhancements, Modifications, Renovations, or New Construction at Kugler Field.**
The Board may make any enhancements, modifications, renovations, or new construction on Kugler Field necessary for educational programming needs. The Board may make such enhancements, modifications, renovations, or new construction in its sole discretion and without approval from the City; however, the Board shall notify the City that it is making such improvements. The City shall be responsible for any enhancements, modifications, renovations, or new construction for City needs; however, no such improvements may be made by the City without the Board or Board designee's prior written approval. After the Board approves the plans and schedule for such improvements proposed by the City, the City shall proceed with such improvements at its expense.
4. **Ownership.**
All future improvements made to or upon Kugler Field shall be the property of the Board, unless the Parties agree otherwise in writing.
5. **Appropriate Use.**
Use of Kugler Field shall be consistent with the proper care and preservation of public school property as required by N.C.G.S. 115C-524.
6. **Joint Use and Scheduling of Kugler Field.**
The Parties agree that the use of Kugler Field shall be in accordance with the following conditions and provisions.
 - A. **Administrative Control.**
The Superintendent of the Beaufort County Schools or designee shall have administrative control over Kugler Field at all times.
 - B. **Use and Scheduling.**
Use of Kugler Field shall be in accordance with the following conditions and provisions.
 - (1) The Board shall have first priority of use at all times of Kugler Field for school system activities.
 - (2) Between April 1st and August 9th of each year, the City may use Kugler Field during those times that Kugler Field is not needed for school system activities.
 - (3) For the purposes of this Agreement, City use shall be defined as those non-profit programs, activities, leagues, and events that the City initiates, perpetuates, or assists.
 - (4) For the purposes of this Agreement, third party use is defined as non-Board and non-City use.

- (5) The Parties agree to meet each year on or before the first week of March and on or before the first week of August to inspect Kugler Field and coordinate their respective usage and maintenance schedules. The City shall have the option, in its sole discretion and without recourse by the Board, to terminate this Agreement without prior notice if, as a result of said inspection, the City finds the condition of Kugler Field to be unacceptable for its purposes and the Board refuses to remedy, or cause to be remedied, Kugler Field to a condition acceptable to the City for its purposes.
- (6) The Parties shall maintain on-going, open, reciprocal communication while acting in good faith to build a positive reciprocal relationship.
- (7) Each party hereto shall designate one person as the point-of-contact for communication with the other party. The respective points-of-contact and/or other responsible members shall:
 - (a) Communicate as needed to confirm or update usage or maintenance schedules;
 - (b) Be responsible for making participants aware of any cancellations or rescheduling of municipal activities; and
 - (c) Be aware of special circumstances such as emergency weather conditions.
 - (d) Winterize all fixtures, including p-traps, cut water supply, and open all faucets at the end of lease each year.

C. **Inclement Weather.**

The Board may make decisions on when to close Kugler Field due to inclement weather. The City shall comply with the Board's inclement weather determinations and will not access Kugler Field when the same is closed due to inclement weather.

D. **Supervision and Security of Kugler Field.**

- (1) The City shall provide for appropriate supervision and adhere to all applicable Board rules and policies while using Kugler Field.
- (2) The City shall be responsible for providing sufficient and appropriate security for its programs, activities, and events.
- (3) In the event of damage attributed to the City's use or maintenance of Kugler Field, the City shall restore such damage at least to its condition immediately before such damage.

E. **Fees/Charges.**

Except as expressly stated in this Agreement, there shall be no additional fees and/or charges associated with each party's use of Kugler Field unless mutually agreed upon.

F. **Income from City Programs.**

The Parties agree that the income and revenues generated from City use that are subject to this Agreement shall be retained by the City.

G. Income from School Programs.

The Parties agree that the income and revenues generated from Board use that are subject to this Agreement shall be retained by the Board.

H. Concession Operations.

- (1) The Board or its operating agent has the right to operate concessions on Kugler Field when the same is being used for Board purposes and the proceeds shall be retained by the Board.
- (2) The City or its operating agent has the right to operate concessions on Kugler Field when the same is being used for City purposes and the proceeds shall be retained by the City or its operating agent.
- (3) Proceeds from concessions shall be shared by the Board and City based upon mutually agreed upon percentages when operated jointly or when Board and City events are scheduled simultaneously.

7. Housekeeping, Routine/Preventive Maintenance and Major Repair or Life Cycle Maintenance.

A. General Guidelines.

- (1) The City shall be responsible for general cleanup of Kugler Field after City use to maintain acceptable appearance and required safety levels.
- (2) The City shall be responsible for maintaining Kugler Field from April 1st to August 9th throughout the term of this Agreement. Said maintenance shall be limited to the following:
 - (a) Routine lawn maintenance, including mowing and trimming from April 1st to August 9th each year;
 - (b) Adding dirt and/or soil to areas that are washed out between April 1st and August 9th each year as needed; and
 - (c) Maintaining bathrooms on the northwest side of Kugler Field and the field house on the north side of Kugler Field in good working order and appearance from April 1st to August 9th each year.
- (3) Nothing herein shall be construed to require the City to remedy any condition of Kugler Field that is not attributable to the City's use or maintenance of Kugler Field.

8. Utilities.

The City shall be responsible for providing all utilities (i.e., electricity, water, sewer, etc.) for City use of Kugler Field from April 1st until August 9th throughout the term of this Agreement.

9. Insurance.

The Parties shall maintain at all times during the term of this Agreement and during any and every extension thereof public liability insurance in the amount of \$1,000,000 / \$2,000,000, or the minimum required by North Carolina State Law, covering personal injury for each accident or occurrence growing out of their respective use or maintenance of Kugler Field pursuant to this Agreement and at least \$1,000,000 or the minimum required by North Carolina State Law to cover property damage growing out of each such accident or occurrence. Participation by the City in the North Carolina League of Municipalities IRFFNC or its equivalent and participation by the Board in the North

March 8, 2010

Carolina School Boards' Trust or its equivalent will satisfy the Parties' respective requirement of liability insurance. Board and City are each responsible for insuring the replacement value of their respective fixtures and personal property.

10. **Open to Beaufort County Residents.**

The City agrees to provide its program services within the space available to all residents of Beaufort County.

11. **Nondiscrimination.**

The City shall not discriminate against any employee or applicant for employment because of race, color, creed, sex, age, religion, or national origin. Neither the City nor its employees shall discriminate against any person or organization on the basis of race, color, creed, sex, age, religion, or national origin by refusing to furnish such person or organization services for privileges offered to or enjoyed by residents of Beaufort County, nor shall the City or their employees publicize the facilities provided hereunder in any manner that would directly or inferentially reflect negatively on any person because of race, color, creed, age, sex, religion, or national origin. Nothing contained herein shall be construed to prohibit the City from adopting a disparate fee schedule based upon residency.

12. **Default/Termination.**

- A. In the event either party should fail to keep, perform or abide by the terms, conditions or covenants of this Agreement for a period of thirty days after written notice of such failure by the non-breaching party, then the non-breaching party may elect to terminate this Agreement upon an additional thirty days written notice.
- B. Either party may terminate this Agreement at any time upon one hundred twenty days prior written notice.

13. **Notices.**

All notices, requests, approvals, or consents required to be given hereunder shall be in writing and hand delivered or sent by certified mail, return receipt requested, postage prepaid, and addressed as follows:

Board: The Board of Education
 Beaufort County Public School System
 321 Smaw Road
 Washington, NC 27889

City: Director of Parks and Recreation
 City of Washington
 310 W. Main St.
 Washington, North Carolina 27889

or to such other address as either party may specify in the manner hereinabove prescribed.

14. **Severability.**
In the event any term or provision of this Agreement shall be adjudged to be partially or completely invalid or unenforceable, then such term or provision shall be severed from this Agreement, and the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
15. **Non-Assignment.**
The Parties may not assign this Agreement. The Parties may use Kugler Field only as provided in this Agreement and shall not allow any other person, organization, or corporation to use Kugler Field without the express written permission of the other party.
16. **Entire Agreement.**
The Parties agree that this document and its Attachment listed below constitute the entire agreement between the Parties and may only be modified by a written mutual agreement signed by the Parties. To the extent that there is any conflict between the terms of this Agreement and any prior understanding or agreement between the Parties, the terms of this Agreement shall control.
- Attachment A – Kugler Field
17. **Agreement in Counterparts.**
This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Beaufort County Board of Education has caused this Agreement to be signed by its Chair, attested by its Superintendent/Secretary, and sealed with its corporate seal, and the City has caused this Agreement to be signed by its Mayor attested to by its Clerk, and sealed with its seal, by order of the respective governing board duly given as of the day and year first written above.

PRE-AUDIT CERTIFICATE

This Agreement has been pre-audited pursuant to N.C.G.S. § 159-28 in the manner required by the Local Government Budget and Fiscal Control Act.

Matt Rauschenbach, Chief Finance Officer
City of Washington

PRE-AUDIT CERTIFICATE

This Agreement has been pre-audited in the manner required by the School Budget and Fiscal Control Act.

Laurie Modlin, School Finance Officer
Beaufort County Board of Education

BEAUFORT COUNTY BOARD OF EDUCATION

By: _____ (SEAL)
Robert Belcher, Chair

ATTEST

By: _____ (SEAL) (Affix Corporate Seal)
Don Phipps, Superintendent/Secretary

CITY OF WASHINGTON

By: _____ (SEAL)
N. Archie Jennings, III, Mayor

ATTEST

By: _____ (SEAL) (Affix Corporate Seal)
Cynthia Bennett, City Clerk

**NORTH CAROLINA
BEAUFORT COUNTY**

The undersigned, a Notary Public of the County and State aforesaid, hereby certified that Don Phipps appeared before me this day, and being duly sworn by me, acknowledged that he is Superintendent/Secretary of the Beaufort County Board of Education, and that by authority duly given and as the act of the Board the forgoing instrument was signed by its Chair, sealed with its corporate seal and attested by him as its Superintendent/Secretary.

Witness my hand and notary seal this _____ day of _____ 2010.

My Commission expires: _____

Notary Public

**NORTH CAROLINA
BEAUFORT COUNTY**

The undersigned, a Notary Public of the County and State aforesaid hereby certified that Cynthia Bennett personally appeared before me this day, and being duly sworn by me acknowledged that she is Clerk of the City of Washington, and that by authority duly given and as the act of the City, the forgoing instrument was signed by its Mayor, sealed with its corporate seal and attested by her as its Clerk.

Witness my hand and notary seal this _____ day of _____ 2010.

My Commission expires: _____

Notary Public

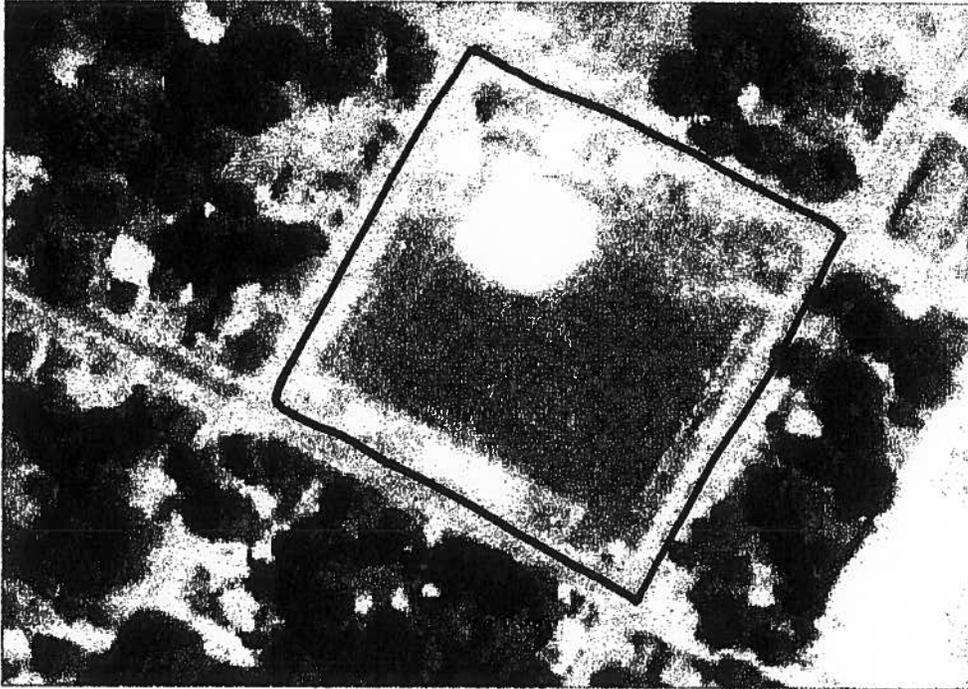
Attachment A

Google Maps

Page 1 of 1

Kugler Field

Google
Maps



<http://maps.google.com/maps?hl=en&tab=wl>

11/18/2008



City of Washington
REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: James C. Smith, City Manager
Date: March 3, 2010
Subject: Joint Use Agreement for John Cotten Tayloe Softball Fields
Applicant Presentation: N/A
Staff Presentation: James C. Smith, City Manager

RECOMMENDATION:

I move that Council authorize the Mayor to enter into the proposed agreement with Beaufort County Board of Education for the joint use of John Cotton Tayloe Softball Fields.

BACKGROUND AND FINDINGS:

The City relocated the Junior Babe Ruth League field from West 2nd Street to John Cotten Tayloe School about 25 years ago, because the Electric Department needed that area for a sub-station. The City, then, developed another (softball) field with assistance from the girls softball league. In 2000, when the Sports Complex was built, all youth baseball and softball programs moved to the Complex, but the "old" fields, including the John Cotten Tayloe fields, remained practice fields for youth sports including softball, football, and soccer. The John Cotten Tayloe fields also remain the home of the adult women's softball league.

City Staff supports the Joint Use Agreement with Beaufort County Schools for John Cotten Tayloe softball fields because of the need for practice fields for youth sports and playing fields for adult women's softball.

PREVIOUS LEGISLATIVE ACTION

None

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

Joint Use Agreement.

City Attorney Review: _____ Date By: _____ (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: *JCS/MS* Concur Recommend Denial No Recommendation _____ Date

STATE OF NORTH CAROLINA

JOINT USE AGREEMENT

COUNTY OF BEAUFORT

This Agreement for the joint use of John Cotten Tayloe softball fields (hereinafter referred to as "Agreement") is made and entered into as of the 1st day of March 2010, by and between the CITY OF WASHINGTON, a municipal corporation of the State of North Carolina (hereinafter referred to as "City"), and the BEAUFORT COUNTY BOARD OF EDUCATION (hereinafter referred to as "Board") and collectively referred to as the "Parties".

WITNESSETH

THAT WHEREAS, the Parties recognize that joint cooperation and action between the Board and the City shall ensure that the best facilities and services are provided to the citizens of Beaufort County with the least expenditure of public funds; and

WHEREAS, the Parties are mutually interested in quality education and recreation programs for Beaufort County students and citizens; and

WHEREAS, the Parties are authorized to enter into agreements with each other to do any and all things necessary or convenient to aid and cooperate in the cultivation of citizenship by providing quality programs and facilities; and

WHEREAS, the Board owns certain real property at 910 Tarboro Street, Washington, North Carolina which is known as the campus of John Cotten Tayloe; and

WHEREAS, the Parties desire to enter into an agreement for the joint use of John Cotten Tayloe softball fields for the benefit of the school and the community; and

WHEREAS, the Board desires to permit the City to use John Cotten Tayloe softball fields when they are not being used by the Board; and

WHEREAS, the City desires to assist the Board with maintenance of John Cotten Tayloe softball fields; and

WHEREAS, community use of school property and facilities is encouraged by the Community Schools Act, North Carolina General Statute (N.C.G.S.) 115C-203 et seq.; and

WHEREAS, the Parties are authorized to enter into this Agreement pursuant to the provisions of N.C.G.S. 115C, Article 13; N.C.G.S. 115C-518; N.C.G.S. 115C-524(b); and N.C.G.S. 160A-274.

NOW, THEREFORE, pursuant to N.C.G.S. 115C, Article 13, N.C.G.S. 115C-524(b), and N.C.G.S. 160A-274 and in consideration of the above-stated desires of the Parties and such other mutual promises and covenants as are hereinafter set forth, the receipt and legal sufficiency of which consideration are hereby acknowledged, the Board and the City do hereby agree as follows.

March 8, 2010

1. **Property Description.**

John Cotten Tayloe campus is located at 910 Tarboro Street, Washington, North Carolina.

2. **Term.**

The Agreement term shall run from March 1, 2010 thru February 28, 2011. Subject to the right to terminate as provided for herein, this Agreement shall automatically renew from year to year without further notice.

3. **Enhancements, Modifications, Renovations, or New Construction**

The Board may make any enhancements, modifications, renovations, or new construction on John Cotten Tayloe campus necessary for educational programming needs. The Board may make such enhancements, modifications, renovations, or new construction in its sole discretion and without approval from the City; however, the Board shall notify the City that it is making such improvements. The City shall be responsible for any enhancements, modifications, renovations, or new construction for City needs; however, no such improvements may be made by the City without the Board or Board designee's prior written approval. After the Board approves the plans and schedule for such improvements proposed by the City, the City shall proceed with such improvements at its expense.

4. **Ownership.**

All future improvements made to or upon John Cotten Tayloe softball fields shall be the property of the Board, unless the Parties agree otherwise in writing.

5. **Appropriate Use.**

Use of John Cotten Tayloe softball fields shall be consistent with the proper care and preservation of public school property as required by N.C.G.S. 115C-524.

6. **Joint Use and Scheduling**

The Parties agree that the use of John Cotten Tayloe softball fields shall be in accordance with the following conditions and provisions.

A. **Administrative Control.**

The Superintendent of the Beaufort County Schools or designee shall have administrative control over John Cotten Tayloe softball fields at all times.

B. **Use and Scheduling.**

Use of John Cotten Tayloe softball fields shall be in accordance with the following conditions and provisions.

- (1) The Board shall have first priority of use at all times of John Cotten Tayloe softball fields for school system activities.
- (2) The City may use John Cotten Tayloe softball fields during non-school hours.
- (3) For the purposes of this Agreement, City use shall be defined as those non-profit programs, activities, leagues, and events that the City initiates, perpetuates, or assists.
- (4) For the purposes of this Agreement, third party use is defined as non-Board and non-City use.

March 8, 2010

- (5) The Parties shall maintain on-going, open, reciprocal communication while acting in good faith to build a positive reciprocal relationship.
- (6) Each party hereto shall designate one person as the point-of-contact for communication with the other party. The respective points-of-contact and/or other responsible members shall:
 - (a) Communicate as needed to confirm or update usage or maintenance schedules;
 - (b) Be responsible for making participants aware of any cancellations or rescheduling of municipal activities; and
 - (c) Be aware of special circumstances such as emergency weather conditions.

C. **Inclement Weather.**

The Board may make decisions on when to close John Cotten Tayloe softball fields due to inclement weather. The City shall comply with the Board's inclement weather determinations and will not access John Cotten Tayloe campus when the same is closed due to inclement weather.

D. **Supervision and Security.**

- (1) The City shall provide for appropriate supervision and adhere to all applicable Board rules and policies while using John Cotten Tayloe softball fields.
- (2) The City shall be responsible for providing sufficient and appropriate security for its programs, activities, and events.
- (3) In the event of damage attributed to City use or maintenance of John Cotten Tayloe softball fields, the City shall restore such damage at least to its condition immediately before such damage.

E. **Fees/Charges.**

Except as expressly stated in this Agreement, there shall be no additional fees and/or charges associated with City's use of John Cotten Tayloe softball fields unless mutually agreed upon.

F. **Income from City Programs.**

The Parties agree that the income and revenues generated from City use that are subject to this Agreement shall be retained by the City.

G. **Income from School Programs.**

The Parties agree that the income and revenues generated from Board use that are subject to this Agreement shall be retained by the Board.

H. **Concession Operations.**

- (1) The Board or its operating agent has the right to operate concessions on John Cotten Tayloe softball fields when the same is being used for Board purposes and the proceeds shall be retained by the Board.
- (2) The City or its operating agent has the right to operate concessions on John Cotten Tayloe softball fields when the same is being used for City

March 8, 2010

purposes and the proceeds shall be retained by the City or its operating agent.

- (3) Proceeds from concessions shall be shared by the Board and City based upon mutually agreed upon percentages when operated jointly or when Board and City events are scheduled simultaneously.

7. **Housekeeping, Routine/Preventive Maintenance and Major Repair or Life Cycle Maintenance.**

A. **General Guidelines.**

- (1) The City shall be responsible for general cleanup of John Cotten Tayloe softball fields after City use to maintain acceptable appearance and required safety levels.
- (2) The City shall be responsible for maintaining John Cotten Tayloe softball fields (inside the fence perimeter) from March 1st thru February 28th. Said maintenance shall be limited to the following:
 - (a) Routine lawn maintenance, including mowing and trimming.
 - (b) Adding dirt and/or soil to areas that are washed out as needed.
- (3) Nothing herein shall be construed to require the City to remedy any condition of John Cotten Tayloe softball fields that is not attributable to the City's use.

8. **Insurance.**

The Parties shall maintain at all times during the term of this Agreement and during any and every extension thereof public liability insurance in the amount of \$1,000,000 / \$2,000,000, or the minimum required by North Carolina State Law, covering personal injury for each accident or occurrence growing out of their respective use or maintenance of John Cotten Tayloe softball fields pursuant to this Agreement and at least \$1,000,000 or the minimum required by North Carolina State Law to cover property damage growing out of each such accident or occurrence. Participation by the City in the North Carolina League of Municipalities IRFFNC or its equivalent and participation by the Board in the North Carolina School Boards' Trust or its equivalent will satisfy the Parties' respective requirement of liability insurance. Board and City are each responsible for insuring the replacement value of their respective fixtures and personal property.

9. **Open to Beaufort County Residents.**

The City agrees to provide its program services within the space available to all residents of Beaufort County.

10. **Nondiscrimination.**

The City shall not discriminate against any employee or applicant for employment because of race, color, creed, sex, age, religion, or national origin. Neither the City nor its employees shall discriminate against any person or organization on the basis of race, color, creed, sex, age, religion, or national origin by refusing to furnish such person or organization services for privileges offered to or enjoyed by residents of Beaufort County, nor shall the City or their employees publicize the facilities provided hereunder in any manner that would directly or inferentially reflect negatively on any person because of race, color, creed, age, sex, religion, or national origin. Nothing contained

March 8, 2010

herein shall be construed to prohibit the City from adopting a disparate fee schedule based upon residency.

11. **Termination.**

Either party may terminate this Agreement at any time upon thirty (30) days prior written notice.

12. **Notices.**

All notices, requests, approvals, or consents required to be given hereunder shall be in writing and hand delivered or sent by certified mail, return receipt requested, postage prepaid, and addressed as follows:

Board: The Board of Education
Beaufort County Public School System
321 Smaw Road
Washington, North Carolina 27889

City: Director of Parks and Recreation
City of Washington
310 W. Main St.
Washington, North Carolina 27889

or to such other address as either party may specify in the manner hereinabove prescribed.

13. **Severability.**

In the event any term or provision of this Agreement shall be adjudged to be partially or completely invalid or unenforceable, then such term or provision shall be severed from this Agreement, and the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14. **Non-Assignment.**

The City may not assign this Agreement. The City may use John Cotten Tayloe softball fields only as provided in this Agreement and shall not allow any other person, organization, or corporation to use John Cotton Tayloe softball fields without the express written permission of the Board.

15. **Entire Agreement.**

The Parties agree that this document constitutes the entire agreement between the Parties and may only be modified by a written mutual agreement signed by the Parties. To the extent that there is any conflict between the terms of this Agreement and any prior understanding or agreement between the Parties, the terms of this Agreement shall control.

16. **Agreement in Counterparts.**

This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.

March 8, 2010

IN WITNESS WHEREOF, the Beaufort County Board of Education has caused this Agreement to be signed by its Chair, attested by its Superintendent/Secretary, and sealed with its corporate seal, and the City has caused this Agreement to be signed by its Mayor attested to by its Clerk, and sealed with its seal, by order of the respective governing board duly given as of the day and year first written above.

PRE-AUDIT CERTIFICATE

This Agreement has been pre-audited pursuant to N.C.G.S. § 159-28 in the manner required by the Local Government Budget and Fiscal Control Act.

Matt Rauschenbach, Chief Finance Officer
City of Washington

PRE-AUDIT CERTIFICATE

This Agreement has been pre-audited in the manner required by the School Budget and Fiscal Control Act.

Laurie Modlin, School Finance Officer
Beaufort County Board of Education

BEAUFORT COUNTY BOARD OF EDUCATION

By: _____ (SEAL)
Robert Belcher, Chair

ATTEST

By: _____ (SEAL) (Affix Corporate Seal)
Don Phipps, Superintendent/Secretary

CITY OF WASHINGTON

By: _____ (SEAL)
N. Archie Jennings, III, Mayor

ATTEST

By: _____ (SEAL) (Affix Corporate Seal)
Cynthia Bennett, City Clerk

March 8, 2010

**NORTH CAROLINA
BEAUFORT COUNTY**

The undersigned, a Notary Public of the County and State aforesaid, hereby certified that Don Phipps appeared before me this day, and being duly sworn by me, acknowledged that he is Superintendent/Secretary of the Beaufort County Board of Education, and that by authority duly given and as the act of the Board the forgoing instrument was signed by its Chair, sealed with its corporate seal and attested by him as its Superintendent/Secretary.

Witness my hand and notary seal this _____ day of _____ 2010.

My Commission expires: _____

Notary Public

**NORTH CAROLINA
BEAUFORT COUNTY**

The undersigned, a Notary Public of the County and State aforesaid hereby certified that Cynthia Bennett personally appeared before me this day, and being duly sworn by me acknowledged that she is Clerk of the City of Washington, and that by authority duly given and as the act of the City, the forgoing instrument was signed by its Mayor, sealed with its corporate seal and attested by her as its Clerk.

Witness my hand and notary seal this _____ day of _____ 2010.

My Commission expires: _____

Notary Public

March 8, 2010



City of Washington
REQUEST FOR CITY COUNCIL ACTION

To: Mayor Jennings & Members of the City Council
From: Keith Hardt, P.E., Electric Director *KH*
Date: 25 February 2010
Subject: Authorize City Manager to Execute Agreement with SEPA
Applicant Presentation: None
Staff Presentation: Keith Hardt, P.E., Electric Director

RECOMMENDATION:

I recommend that the City of Washington authorize the City Manager to execute the Southeastern Power Administration Funding Agreement.

BACKGROUND AND FINDINGS:

The City of Washington is one of 76 participating customers in the Kerr-Philpott hydro generation project (located on the North Carolina-Virginia border) owned and operated by the Southeastern Power Administration (SEPA). As a participating customer the City of Washington is allocated a portion of the project output. Less than 1% of Washington's total wholesale purchases are from SEPA and this project.

From time to time SEPA reviews capital needs at the project. When capital needs are identified and approved by the SEPA Project Review Committee the participants in the project are requested to voluntarily agree to the funding allocation of the project. This project agreement will in no way affect the cost of power purchased by the City of Washington from SEPA for any current purchases or any future purchases. This agreement allows SEPA to allocate a portion of the current net revenues generated from the City of Washington electricity purchases to the specific approved project(s). These agreements are required to be place by SEPA so that federal projects spanning more than one federal fiscal year budget can be funded in their entirety from multiple years revenue.

The approval or disapproval by City Council will not affect the City of Washington's cost of power from SEPA or delay SEPA's completion of the project; only that SEPA's net revenue allocation will be distributed based on the allocation of those participating customers that approved the project.

City Attorney Review: _____ Date By: March 8, 2010 (if applicable)
Finance Dept Review: _____ Date By: _____ (if applicable)
City Manager Review: *JH* Concur Page 119 of 148 Recommend Denial _____ No Recommendation *3/2/10* Date

PREVIOUS LEGISLATIVE ACTION

None.

FISCAL IMPACT

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

SUPPORTING DOCUMENTS

Attached.



Department of Energy
Southeastern Power Administration
Elberton, Georgia 30635-6711

RECEIVED

FEB 19 2010

**WASHINGTON
ELECTRIC UTILITIES**

February 11, 2010

Dear Non-Participating Customer of the Funding Agreement:

Enclosed is a copy of the Funding Agreement among the participating customers in the Kerr-Philpott System, Southeastern Power LLC (a limited liability corporation formed by the Southeastern Federal Power Customers, Inc.), and Southeastern Power Administration (Southeastern).

This Funding Agreement will allow participating customers to fund specific work items at Corps of Engineers' (Corps) projects in the Kerr-Philpott System, as approved by the Project Review Committee (PRC). The PRC consists of three representatives from the participating customers, three representatives from Southeastern, and three representatives from the Corps of Engineers. Currently 51 of 76 Kerr-Philpott preference customers have agreed to participate.

The Kerr-Philpott PRC met on January 14, 2010. Work Item No. 2, which consists of three items, was proposed for customer funding: (1) Philpott 13.8 kV breaker relocation; (2) Philpott exciter automatic voltage regulator replacement; and (3) Philpott digital governor replacement. All these items were approved by the PRC. The funding requirement for these items totaled \$3,535,000.

Participating in the Customer Funding will in no way affect your power bill from Southeastern. A portion of Southeastern's revenues from your power bill will be transferred to the Corps for funding of the approved work item.

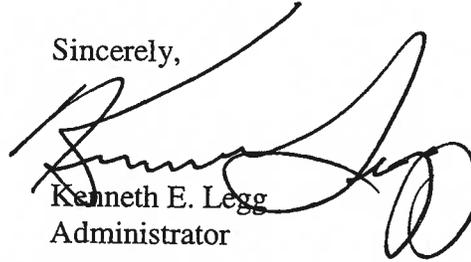
Participation is voluntary. By signing this agreement, your organization will be included in the funding for Work Item No. 2. We anticipate the Work Item No. 2 sub-agreement will be executed in the near future.

If you choose to participate, we ask that you prepare and sign the customer signature page included in the enclosed Funding Agreement and mail back to:

Southeastern Power Administration
1166 Athens Tech Rd.
Elberton, GA 30635
ATTN: Kim Ledbetter

If you have any questions, please call Kim Ledbetter at (706) 213-3837 or Leon Jourolmon at (706) 213-3835.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth E. Legg". The signature is fluid and cursive, with a large loop at the end.

Kenneth E. Legg
Administrator

Enclosure

cc via e-mail:

Kevin Josupait: NCEMPA
Doug Wine: ODEC
Mike York: VMEA
Duane Dahlquist: Blue Ridge

FUNDING AGREEMENT

AMONG

**UNITED STATES
DEPARTMENT OF ENERGY
SOUTHEASTERN POWER ADMINISTRATION,**

SOUTHEASTERN POWER LLC

AND

**PARTICIPATING CUSTOMERS
(KERR-PHILPOTT SYSTEM)**

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EXHIBITS:

Exhibit A: Repayment Schedule and Participating Customer Percentages

Exhibit B: Selection of Participating Customer Representatives for the
Project Review Committee

Exhibit C: List of Participating Customers

Funding Agreement

1. Preamble:

This Funding Agreement ("Agreement") is made as of this 1st day of October, 2007, pursuant to the War Department Civil Appropriations Act of 1936, The Flood Control Act of 1944, The Intergovernmental Cooperation Act of 1968, The Department of Energy Organization Act of 1977 and The Water Resource Development Acts of 1996 and 2000, as well as relevant agency regulations and orders issued thereunder and among the UNITED STATES OF AMERICA, Department of Energy, acting by and through the Administrator, Southeastern Power Administration, ("SEPA"), Southeastern Power LLC (the "Designated Agent"), and those Preference Customers (hereinafter defined) in the Kerr-Philpott System who are signatories to this Agreement (the "Participating Customers").

2. Recitals

2.1. SEPA is responsible for marketing all Federal power generated by the U.S. Army Corps of Engineers in eleven southeastern states within four separate power systems, including the Kerr-Philpott System.

2.2. The U.S. Army Corps of Engineers (the "Corps") is responsible for planning, designing, constructing, operating, and maintaining the Federal hydroelectric facilities in the Kerr-Philpott System ("Facilities").

2.3. The Corps, SEPA and the Designated Agent, on behalf of the Participating Customers, have entered into a Memorandum of Agreement ("MOA") for the purpose of establishing a framework regarding the funding of renewals and replacements at the Facilities. The Corps, SEPA and the Designated Agent will enter into Sub-agreements providing for the renewal and replacement of hydroelectric projects approved by the Project Review Committee.

2.4. The MOA provides that the Corps, SEPA and the Participating Customers will establish a Project Review Committee. The Participating Customers will elect representatives to the Project Review Committee as provided herein who shall perform the responsibilities set forth in this Agreement and the MOA.

2.5. SEPA will calculate the amount of the RRR Allowance (as hereinafter defined) and shall inform the Project Review Committee of such amount.

2.6. SEPA, in consultation with the Project Review Committee, will calculate the Section 212 Allowance (as hereinafter defined) based upon the combined Funding Requirements (as hereinafter defined).

2.7. SEPA will bill the Participating Customers for power pursuant to the Power Sales Contracts (as hereinafter defined), and shall identify on the bill the amount that constitutes the Section 212 Allowance and the Remaining Amount (as hereinafter defined).

2.8. The Participating Customers will remit payments to SEPA in accordance with the Power Sales Contracts for amounts billed by SEPA, including the Section 212 Allowance.

2.9. SEPA, through arrangements with the U.S. Department of Treasury (Treasury) will receive amounts remitted by the Participating Customers, and the Section 212 Allowance will be made available to the Corps for purposes consistent with the Agreement and the MOA in order that the Corps will be permitted to make withdrawals for Funding Requirements in accordance with the terms of properly executed Sub-Agreements.

2.10. The Designated Agent is a special purpose limited liability corporation organized and existing under the laws of the State of Georgia for the purpose of acting on behalf of the Participating Customers in accordance with the MOA and this Agreement, and who shall administer voting by the Participating Customers in accordance with this Agreement.

3. **Definition of Terms:**

3.1. Unless otherwise defined in this Agreement or the text otherwise requires, the terms defined in this Section shall have the meanings defined herein. Terms defined in the MOA and not defined in this Agreement shall have the meaning given such terms in the MOA.

“Administrator” means the administrator of SEPA.

“Agreement” means this Funding Agreement among SEPA, the Designated Agent and the Participating Customers, as amended from time to time.

“Contractor Claims” means costs resulting from administrative proceedings or litigation and any settlements or judgments incurred by the Corps under the MOA and relevant Sub-agreements except for damages occasioned by work performed under the MOA and due to the negligence and/or misconduct of the United States or its contractors.

“Customer Representatives” shall have the meaning set forth in Section 9.1.

“Delays” shall have the meaning set forth in Section 9.5.

“Designated Agent” means Southeastern Power LLC, which is a special purpose limited liability corporation organized and existing under the laws of the State of Georgia for the purpose of acting on behalf of the Participating Customers in accordance with the MOA and this Agreement, and who shall administer voting by the Participating Customers in accordance with this Agreement.

“Due Date” means the date on which payment of SEPA bills is required to be made pursuant to the Power Sales Contracts.

“Fiscal Year” means the annual accounting period of the United States government which currently ends on September 30th of each year.

“Funding Requirement” means the amount specified in a Sub-agreement to be funded by the Participating Customers together with the amount of any Increases, Termination Costs or

Contractor Claims related to such Sub-agreement. The actual Work Item costs may be more than this amount if some portion is to be funded from Federal appropriations.

“Increases” shall have the meaning set forth in Section 9.2.

“Judgment Fund” means that fund established pursuant to 31 U.S.C. §1304.

“Participating Customers Account” (PCA) means an account approved and established by the Treasury to receive funds payable to SEPA and a portion of which is to be provided to the Corps as the Section 212 Allowance.

“Participating Customers Account Trustee” (PCA Trustee) means SEPA for purposes of this Agreement.

“Participating Customers” means those Preference Customers who are signatories to this Agreement, as listed in Exhibit C.

“Parties” means collectively SEPA, the Designated Agent, and each of the Participating Customers.

“Power Sales Contracts” means those contracts for the sale of power between SEPA and any of the Participating Customers, currently in effect or as they may enter from time to time.

“Preference Customer” means a utility power system as determined by SEPA to whom SEPA markets capacity and energy in accordance with the Flood Control Act of 1944, 16 U.S.C. § 825s.

“Project Review Committee” means a committee established pursuant to the MOA, consisting of three (3) members each from the Corps, SEPA and the Participating Customers, to identify and prioritize those Work Items for renewal and replacement work.

“Remaining Amount” means the amount billed by SEPA to the Participating Customers for capacity, energy, and other services provided under the Power Sales Contract less the Section 212 Allowance.

“RRR Allowance” means the total amount of funds included in the SEPA Rates and determined by the Administrator to be available for funding of renewals, rehabilitations and replacements of the Facilities for each Fiscal Year.

“Section 212 Allowance” means that portion of the RRR Allowance designated as necessary for Funding Requirements by the Project Review Committee and provided by the Participating Customers to the Corps pursuant to the Water Resources Development Acts of 1996 and 2000. The Section 212 Allowance shall not exceed the RRR Allowance in any Fiscal Year.

“SEPA Rates” mean the rates in effect from time to time for SEPA customers, as developed by SEPA pursuant to the Flood Control Act of 1944 and Department of Energy orders and regulations.

“Sub-agreements” means those certain agreements between the Corps, SEPA and the Designated Agent with respect to Work Items approved by the Project Review Committee related to the renewal and replacement of the Facilities.

“Termination Costs” means the reasonable cost of terminating a Work Item, as described in Article VIII, Section C of the MOA.

“Treasury Account” means an account maintained by the Corps with the United States Treasury, as referred to in Sections 8 and 9 hereof.

“Value” means the number representing a Weighted Vote.

“Weighted Vote” means, with respect to a Participating Customer, one times the percentage allocation for such Participating Customer set forth on Exhibit A hereof.

“Work Item” means engineering, design and/or construction of major maintenance or rehabilitation work at the Facilities, as defined in a Sub-agreement. Such work will be performed by the Corps and funded from cash contributions in the amount of the Section 212 Allowance provided by the Participating Customers.

3.2. Words of the masculine and feminine genders shall be deemed and construed to include the neuter gender. Unless the context otherwise indicates, the singular number shall include the plural number and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons. The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this Agreement, refer to this Agreement.

4. Agreement:

The Parties agree to the terms and conditions set forth herein.

5. Term of Agreement:

5.1. The terms and conditions of this Agreement shall become effective as of the date and year first written above and shall remain in effect until the termination of the last Power Sales Contract (the “Term”); provided, that this Agreement may be earlier terminated if the MOA is terminated pursuant to Section G of Article XI thereof and the Participating Customers’ payment obligations provided for therein have been satisfied.

5.2. A Preference Customer may become a Participating Customer at any time during the Term by executing this Agreement, whereupon such customer’s name shall be added to Exhibit A and the percentage allocations recalculated by the Designated Agent. A Participating Customer can withdraw from this Agreement by giving written notice at least twelve (12) months prior to the first day of any Fiscal Year, with such withdrawal to become effective on the first day of such Fiscal Year; provided, that such Participating Customer shall remain liable for its share of all Funding Requirements for Work Items selected by the Project Review Committee prior to the effective date of its withdrawal. In the event a Participating Customer withdraws from the Agreement, for subsequent funding obligations the Designated Agent shall recalculate

the percentage responsibility as shown in Exhibit A of the remaining Participating Customers pro rata based on their respective allocation of SEPA capacity and Exhibit A shall be so amended.

6. Responsibilities of the Parties

6.1. SEPA shall participate in the Project Review Committee; identify the RRR Allowance for the Project Review Committee; and enter into Sub-agreements for Work Items approved by the Project Review Committee and amendments to Sub-agreements as approved by the Project Review Committee. SEPA shall issue bills to the Participating Customers that identify the amount of the Section 212 Allowance and the Remaining Amount as determined by the Project Review Committee, and that instruct the Participating Customers to remit the entire amount to the PCA Trustee. In coordination with the United States Treasury, SEPA shall make the Section 212 Allowance available to the Corps for use consistent with the MOA and this Agreement.

6.2. The Participating Customers shall elect representatives to the Project Review Committee in accordance with Exhibit B hereto; participate in the Project Review Committee through such representatives; vote on Increases and Delays; and remit the amount of the Section 212 Allowance and the Remaining Amount in accordance with SEPA's instructions and in accordance with this Agreement.

6.3. The Designated Agent shall execute the MOA on behalf of the Participating Customers; enter into Sub-agreements on behalf of the Participating Customers; conduct any voting by Participating Customers contemplated by this Agreement; and inform the Project Review Committee of the outcome of any such vote.

7. Designated Agent:

7.1. The Participating Customers hereby specifically authorize the Designated Agent to execute the MOA on their behalf, and to act on their behalf in complying with the MOA.

7.2. The Designated Agent shall engage in any and all activities that are necessary to carry out its obligations under this Agreement or as the Designated Agent under the MOA.

7.3. The Designated Agent shall administer the voting process for the Participating Customers; provide notice to the customer representatives and others on the Project Review Committee of the result of votes; and conduct audits as permitted by this Agreement.

8. Funding Process

8.1. SEPA shall establish SEPA Rates for the Kerr-Philpott System in accordance with orders and regulations of the Department of Energy. SEPA shall not, pursuant to this Agreement or MOA, charge a Participating Customer a different rate than the rate in effect for all Preference Customers served by the Kerr-Philpott System.

8.2. SEPA shall identify the RRR Allowance to the Project Review Committee.

8.3. For each Work Item approved by the Project Review Committee, SEPA shall complete a copy of the form attached hereto as Exhibit A and allocate to each Participating Customer a share of the Funding Requirement based on the ratio of such Participating Customer's SEPA capacity allocation to the combined capacity allocations of all Participating Customers.

8.4. The Project Review Committee will determine the amount of the RRR Allowance that shall be allocated to the Section 212 Allowance as follows: the Section 212 Allowance shall consist of the sum of all Funding Requirements for Work Item(s) approved by the Project Review Committee and for which Sub-agreement(s) have been duly executed. The Section 212 Allowance may be increased in accordance with sections 9.5, 9.6, and 9.7, but shall not exceed the RRR Allowance for the Fiscal Year. The Project Review Committee will establish the timing of the collection of the Section 212 Allowance from the Participating Customers based upon the timing of funding required for Funding Requirements.

8.5. SEPA shall issue bills to the Participating Customers pursuant to the Power Sales Contracts which separately identify:

8.5.1. the Section 212 Allowance; and

8.5.2. the Remaining Amount.

8.6. SEPA, as the PCA Trustee, shall cause the allocation from the deposits to the PCA of the portion of such deposits allocable to the Section 212 Allowance, and the transfer thereof to the Treasury Account established by the Corps. The Remaining Amount will be deposited into the appropriate Treasury account for SEPA.

9. Project Review Committee and Work Item Approval Process:

9.1. The selection of the Participating Customers' representatives on the Project Review Committee ("Customer Representatives") and their terms of office shall be as outlined in Exhibit B hereto.

9.2. The Project Review Committee shall identify, evaluate, and prioritize all potential Work Items to be considered for funding by the Participating Customers. Customer Representatives will agree to the Project Review Committee selecting a Work Item only to the extent that the cost of the respective Work Item, when added to the total amount of other selected Work Items, Contractor Claims, increases in Funding Requirements ("Increases"), and Termination Costs, does not exceed the RRR Allowance for each Fiscal Year during the Term of this Agreement.

9.3. Once the Project Review Committee has unanimously approved a Work Item, including the Funding Requirement, the Designated Agent and SEPA shall jointly execute a Sub-agreement with the Corps.

9.4. Once a Sub-agreement has been fully executed, and the funds required for a Work Item have been accumulated in the Treasury Account, it is the intent of the Parties that the Corps

will be permitted to withdraw funds from the Treasury Account for the Funding Requirement in the amount and for the purpose authorized for that respective Sub-Agreement.

9.5. The MOA requires that if the Corps determines that the cost of a Work Item will exceed the Funding Requirement set forth in a Sub-agreement, the Corps shall inform the Project Review Committee of the need to increase the Funding Requirement. If the Corps so informs the Project Review Committee, the Customer Representatives shall have the option to: (1) approve an Increase, (2) delay the completion of the Work Item ("Delay"), or (3) terminate the Work Item. Any Increase in the Funding Requirement, when added to other Funding Requirements, shall not be permitted to exceed the RRR Allowance for a Fiscal Year. Upon execution of an amendment to a Sub-agreement underlying such an Increase, SEPA shall modify the Section 212 Allowance to collect funds for such Increase.

9.6. In the absence of a vote by the Project Review Committee in favor of the Increase or Delay with respect to a Work Item, the Work Item will be terminated. When the funds required for such Termination Costs are accumulated in the Treasury Account, the Corps will be permitted to withdraw such funds.

9.7. The Participating Customers are responsible for all Contractor Claims. When and to the extent that Contractor Claims must be repaid to the Judgment Fund, the Corps will be authorized to withdraw funds from the Treasury Account that have been paid into the account by Participating Customers for such repayment.

9.8. Upon notice of a requirement for payment of any Contractor Claims, Termination Costs, or other costs due as a result of the Corps' final accounting pursuant to Article VIII.E. of the MOA the Customer Representatives shall request a meeting of the Project Review Committee to determine whether previously approved Work Items must be delayed; whether sufficient funds will be accumulated in the Treasury Account to pay for such Work Items, or any other matter within the authority of the Project Review Committee. If the Project Review Committee determines that insufficient funds shall be available, or that funding priorities must be modified, the Customer Representatives may vote on (1) a Delay of Work Items, (2) an increase of the Section 212 Allowance provided that such increase, when added to the already approved Section 212 Allowance, does not exceed the RRR Allowance, or (3) any other changes consistent with this Agreement.

9.9. The Customer Representatives shall call a meeting of the Project Review Committee whenever reasonably necessary to address modifications to funding priorities, in light of Contractor Claims, emergencies or other conditions.

10. Section 212 Allowance:

10.1. Each Participating Customer agrees to remit funds for the Section 212 Allowance to the PCA Trustee on the Due Date.

10.2. Failure to pay the Section 212 Allowance shall constitute a failure to pay amounts due under the Power Sales Contract, and shall be subject to all remedies under such agreement.

11. Audit and Oversight Rights

11.1. SEPA shall cause an annual independent audit to be conducted of its books and accounts relative to the carrying out of its obligations under this Agreement and an audit of the Corps' books and accounts as provided in the MOA. SEPA shall provide a copy of such audit to the Designated Agent, and the Designated Agent shall provide a copy of the independent audit to each Participating Customer.

11.2. The Designated Agent may cause an annual independent audit to be conducted of SEPA's books and accounts relative to the carrying out of its obligations under this Agreement and an audit of the Corps' books and accounts as provided in the MOA. Such audit may examine records which relate to work associated with this Agreement including, but not limited to, the financial and contract records of the Corps and SEPA. Thirty (30) days prior to commencing such an audit, the Designated Agent shall provide notice to the Participating Customers that the Designated Agent intends to conduct such an audit, the reason(s) for such audit, and the estimated costs. Upon expiration of the thirty (30) day notice period, the Designated Agent may commence the audit unless Participating Customers paying more than fifty percent (50%) of the costs under any Sub-agreement(s) that are the subject of the audit object to such audit. The costs of any such audit shall be paid by the Participating Customers in accordance with their percentage allocations set forth in the form of Exhibit A attached to any Sub-agreements that are the subject of such audit.

12. Successors and Assigns:

This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns. No Party shall assign its interest in this Agreement, in whole or in part, without the prior written consent of the other Parties. In no event shall any Party assign this Agreement to any Party that is not financially responsible or which cannot perform its obligations pursuant to this Agreement, nor shall any Party assign this Agreement on any terms at variance from those set forth in this Agreement. No permitted assignment or transfer shall change the duties of the Parties, or impair the chances of obtaining performance under this Agreement except to the extent set forth in such permitted assignment and approved in writing by the Parties.

13. Enforceability:

It is not the intent of the Parties that this Agreement convey any rights to third parties to enforce the provisions of the Agreement. This Agreement can only be enforced by the Parties or their successors.

14. Default:

The failure of any Party to perform any of its material obligations under this Agreement shall constitute a default under this Agreement unless such default is cured within ten (10) calendar days of written notice of the default from any other Party. Upon the occurrence of a

default the other Parties shall be entitled to exercise any remedies available to them at law or in equity.

15. Severability:

If any clause, sentence, paragraph, or part of this Agreement should for any reason be finally adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Agreement but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which the judgment is rendered. If such judgment modifies or holds invalid any material terms or conditions of this Agreement in such a manner that any Party is required to incur new or different obligations not expressly provided herein or forego benefits which it was otherwise entitled to, the Parties shall in good faith renegotiate the terms and conditions affected by the judgment so as to restore the original balance of benefits and burdens contemplated by the Parties as of the effective date of this Agreement. Such renegotiated terms and conditions shall be in the form of an amendment to this Agreement which shall be effective upon execution by the Parties. The original Agreement shall remain in full force and effect, as modified by said judgment, until the negotiation process for the amendment is complete.

16. Exhibits Made Part of Agreement:

Inasmuch as the Exhibits A and C under this Agreement may change during the Term hereof, they will initially be as set forth in the attached Exhibits A and C. Exhibit B shall be modified only by mutual agreement of the Parties. Each of said Exhibits shall become a part of this Agreement during the term fixed by its provisions. Each Exhibit shall be in force and effect in accordance with its terms until such has been superseded by a subsequent exhibit.

17. Relationship of Parties:

The covenants, obligations, and liabilities of the Parties are intended to be several and not joint or collective, and nothing herein contained shall ever be construed to create an association, joint venture, trust or partnership, or to impose a trust or partnership covenant, obligations and liabilities under this Agreement. No Party shall be under the control of or shall be deemed to control any other Party. No Party shall be the agent of or have a right or power to bind any other Party without its express written consent, except as expressly provided in this Agreement.

18. Ownership Rights:

The ownership of, the title to, and the operation and maintenance responsibility for any equipment furnished with funds advanced by the Participating Customers under the terms of this Agreement shall be in the name of the Corps.

19. Designated Agent/Participating Customer Liability:

Except as set forth in the MOA, this Agreement does not confer any liability upon the Designated Agent or the Participating Customers for any claim, action or judgment by the Corps arising out of or in connection with the work generally described in Section 9.

20. Responsibility for Loss, Damage or Injury:

20.1. **Indemnification:** The Participating Customers shall indemnify in accordance with the percentages set forth on Exhibit A, as modified from time to time, save harmless and defend the Designated Agent hereto, and its respective officers, directors, agents and employees, from and against all claims, demands, costs and expenses (including reasonable attorneys' fees) in any manner, directly or indirectly, connected with or arising from any costs, losses, damage or injury (including death) to any person(s), or property occurring as a result of any transaction hereunder, except where such claims, demands, costs and expenses are caused by the gross negligence or strict liability in tort of the Designated Agent, or the Designated Agent's officers, directors, agents and employees, to the extent permitted by law.

20.2. **Limitation of Liability:** The Designated Agent shall not be liable to the Participating Customers, whether in contract, in tort (including negligence and strict liability), under any warranty or otherwise, for any special, indirect, incidental or consequential loss or damage, or loss of use of equipment or power system, costs of capital, loss of profits or revenues or loss of use thereof, or similar claims of Participating Customers arising out of or related to this Agreement.

21. Notices:

Any notice to be provided under this Agreement shall be in writing and shall be made to the following addresses or to such other address as a Party shall designate in writing to the other Parties:

TO: SOUTHEASTERN POWER ADMINISTRATION
Kenneth E. Legg
1166 Athens Tech Road
Elberton, GA 30635-6711

To: SOUTHEASTERN POWER LLC
George B. Taylor, Jr.
2100 East Exchange Place
Tucker, GA 30084-5336

Notices to Participating Customers shall be delivered to the addresses listed on Exhibit C. A notice sent by facsimile transmission shall be deemed received at the time the sending Party receives confirmation of successful transmission and notice by overnight mail or courier shall be deemed to have been received on the second day after such notice has been sent. Notices sent by mail shall be sent by registered mail, postage prepaid, return receipt requested and shall be deemed received upon receipt.

22. **Further Assurances:**

From time to time after the execution of this Agreement, Participating Customers, SEPA and the Designated Agent will execute and deliver such documents, upon request, as may be necessary or appropriate to carry out the intent of this Agreement.

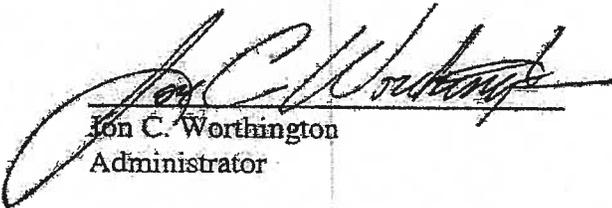
23. **Execution in Counterpart:**

This Agreement may be executed in a number of counterparts and shall constitute a single document with the same force and effect as if each Party had signed all other counterparts.

IN WITNESS HEREOF, the Parties have caused this Agreement to be executed as of the day and year first above written. The signatories hereto represent that they have been appropriately authorized to enter into this Agreement on behalf of the Party for whom they sign.

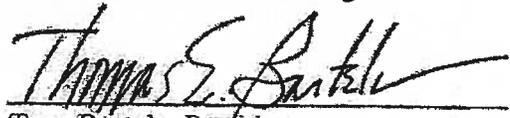
Signatories:

SOUTHEASTERN POWER
ADMINISTRATION


Jon C. Worthington
Administrator

SOUTHEASTERN POWER LLC

SOUTHEASTERN FEDERAL POWER
CUSTOMERS, INC., Its Manager

By: 
Tom Bartels, President

CITY OF WASHINGTON, NORTH CAROLINA

_____ [Signature]
[Name]
[Title]
[Address]

(Seal)

Attest:

_____ [Signature]
[Name]
[Title]
[Address]

The following resolutions of the _____ of _____ were adopted on _____, 20__:

RESOLVED, The Funding Agreement (the "Funding Agreement") among the Southeastern Power Administration, Southeastern Power LLC and Participating Customers is hereby ratified, affirmed, and approved.

RESOLVED, _____ is authorized on behalf of _____ to execute the Funding Agreement.

**CITY OF WASHINGTON
NORTH CAROLINA**

By: _____
Name: _____
Title: _____

Date

Payment Schedule and Participating Customer Percentages

Re: Work Item No. #

1. The total cost of the Work Item is \$ -

2. The following table shows each Participating Customer's percentage to be used as the basis for calculating amounts to be advanced by each Participating Customer and the credits to be made on each Participating Customer's SEPA power bills.

Participating Customer		Capacity	Percentage Allocation	Calculated Dollar Amount
Albemarle EMC	NC	2,593	1.3196%	\$ -
Brunswick EMC	NC	3,515	1.7888%	\$ -
Carteret-Craven EMC	NC	2,679	1.3634%	\$ -
Central EMC	NC	1,239	0.6305%	\$ -
Edgecombe-Martin County EMC	NC	4,155	2.1145%	\$ -
Four County EMC	NC	4,198	2.1364%	\$ -
Halifax EMC	NC	2,606	1.3262%	\$ -
Harkers Island EMC	NC	56	0.0285%	\$ -
Jones-Onslow EMC	NC	5,184	2.6382%	\$ -
Lumbee River EMC	NC	3,729	1.8977%	\$ -
Pee Dee EMC	NC	2,968	1.5104%	\$ -
Piedmont EMC	NC	1,086	0.5527%	\$ -
Pitt & Greene EMC	NC	1,580	0.8041%	\$ -
Randolph EMC	NC	3,608	1.8361%	\$ -
Roanoke EMC	NC	5,528	2.8132%	\$ -
South River EMC	NC	6,119	3.1140%	\$ -
Tideland EMC	NC	3,098	1.5766%	\$ -
Tri-County EMC	NC	3,096	1.5756%	\$ -
Wake EMC	NC	2,164	1.1013%	\$ -
City of Elizabeth City	NC	2,073	1.0550%	\$ -
City of Kinston	NC	1,466	0.7461%	\$ -
City of Laurinburg	NC	415	0.2112%	\$ -
City of Lumberton	NC	895	0.4555%	\$ -
City of New Bern	NC	1,204	0.6127%	\$ -
City of Rocky Mount	NC	2,538	1.2916%	\$ -
City of Washington	NC	2,703	1.3756%	\$ -
City of Wilson	NC	2,950	1.5013%	\$ -
Fayetteville Public Works Com	NC	5,431	2.7639%	\$ -
Greenville Utilities Commission	NC	7,534	3.8341%	\$ -
Town of Apex	NC	145	0.0738%	\$ -
Town of Ayden	NC	208	0.1059%	\$ -
Town of Belhaven	NC	182	0.0926%	\$ -
Town of Benson	NC	120	0.0611%	\$ -

Participating Customer		Capacity	Percentage Allocation	Calculated Dollar Amount
Town of Clayton	NC	161	0.0819%	\$ -
Town of Edenton	NC	775	0.3944%	\$ -
Town of Enfield	NC	259	0.1318%	\$ -
Town of Farmville	NC	237	0.1206%	\$ -
Town of Fremont	NC	60	0.0305%	\$ -
Town of Hamilton	NC	40	0.0204%	\$ -
Town of Hertford	NC	203	0.1033%	\$ -
Town of Hobgood	NC	46	0.0234%	\$ -
Town of Hookerton	NC	30	0.0153%	\$ -
Town of La Grange	NC	93	0.0473%	\$ -
Town of Louisburg	NC	857	0.4361%	\$ -
Town of Pikeville	NC	40	0.0204%	\$ -
Town of Red Springs	NC	117	0.0595%	\$ -
Town of Robersonville	NC	232	0.1181%	\$ -
Town of Scotland Neck	NC	304	0.1547%	\$ -
Town of Selma	NC	183	0.0931%	\$ -
Town of Smithfield	NC	378	0.1924%	\$ -
Town of Tarboro	NC	2,145	1.0916%	\$ -
Town of Wake Forest	NC	149	0.0758%	\$ -
Town of Windsor	NC	331	0.1684%	\$ -
B-A-R-C EC	VA	3,740	1.9033%	\$ -
Central Virginia EC	VA	7,956	4.0489%	\$ -
Community EC	VA	4,230	2.1527%	\$ -
Craig-Botetourt EC	VA	1,692	0.8611%	\$ -
Mecklenburg EMC	VA	11,344	5.7730%	\$ -
Northern Neck EC	VA	3,944	2.0071%	\$ -
Northern Virginia EC	VA	3,268	1.6631%	\$ -
Prince George EC	VA	2,530	1.2875%	\$ -
Rappahannock EC	VA	22,427	11.4132%	\$ -
Shenandoah Valley EMC	VA	9,938	5.0575%	\$ -
Southside EC	VA	14,575	7.4173%	\$ -
City of Bedford	VA	1,200	0.6107%	\$ -
City of Danville	VA	5,600	2.8499%	\$ -
City of Franklin	VA	1,003	0.5104%	\$ -
City of Martinsville	VA	1,600	0.8142%	\$ -
City of Radford	VA	1,300	0.6616%	\$ -
City of Salem	VA	2,200	1.1196%	\$ -
Harrisonburg Electric Com	VA	2,691	1.3695%	\$ -
Town of Blackstone	VA	389	0.1980%	\$ -
Town of Culpepper	VA	391	0.1990%	\$ -
Town of Elkton	VA	171	0.0870%	\$ -
Town of Richlands	VA	500	0.2545%	\$ -
Town of Wakefield	VA	106	0.0539%	\$ -
TOTAL		196,500	100.0000%	\$ -

EXHIBIT B
Selection of Participating Customer Representatives
for the Project Review Committee

Nomination and Voting:

The selection of the three (3) Participating Customer Representatives to the Project Review Committee ("PRC") shall be as follows:

1. On or before October 1, 2007, and each year thereafter, each of those Participating Customers in the Kerr-Philpott System shall be entitled, but not obligated, to nominate one person to serve on the Project Review Committee. To qualify, a nominee must be an employee of a Participating Customer or an employee of a non-profit bulk wholesale electric organization, including but not limited to a generation and transmission cooperative, joint action agency or electric authority, which represents Participating Customers on SEPA matters, and must agree to carry out his/her responsibilities in accordance with the terms of this Agreement. All such nominations shall be conveyed or delivered to the Designated Agent by the date specified above. Within thirty (30) days thereafter the Designated Agent shall compile and provide the Participating Customers with a list of such nominees.

2. Each Participating Customer shall be entitled to cast three Weighted Votes to elect the initial Participating Customer Representatives to the Project Review Committee. Each of the three votes cast by a Participating Customer shall be for a different nominee.

Election and Term:

1. The Participating Customer Representatives to the Project Review Committee shall consist of the three nominees receiving the greatest Value of the votes cast.

2. The representatives selected as described above shall serve terms as listed below: (i) The representative receiving the greatest Value of votes of the three representatives elected shall serve a term of three years and; (ii) the representative receiving the second greatest Value of votes shall serve a term of two years and; (iii) the remaining representative shall serve a term of one year.

3. Each year thereafter one Participating Customer Representative shall be elected to replace the representative whose term is expiring.

4. Upon the successive expiration of the terms of the initial Participating Customer Representatives to the PRC, representatives shall be elected for three (3) year terms.

5. In successive elections to replace a representative whose term has expired, all Participating Customers shall be entitled to cast a Weighted Vote for a successor representative. The nominee receiving the greatest Value of the votes cast shall be the successor representative.

6. The terms of the initial Participating Customer Representatives shall begin upon election. The first term of the Participating Customer Representatives shall expire on December 31, 2008, December 31, 2009 and December 31, 2010. Terms of successive representatives shall begin on January 1 of the following year, respectively, and shall expire on December 31 three years hence.

7. At any time during the term of this Agreement, upon notice by Participating Customers the Value of whose combined Weighted Votes represents more than fifty (50) percent of the total, the Designated Agent shall permit the Participating Customers to vote to recall a Participating Customer Representative. A Participating Customer Representative shall be recalled if the Value of the sum of the Weighted Votes cast in favor of such recall by Participating Customers exceed sixty-six and two-thirds ($66 \frac{2}{3}$) percent of the sum of all Weighted Votes.

8. In the event a Participating Customer Representative resigns, becomes disqualified, or is removed, the Designated Agent shall solicit nominations and conduct an election to replace that representative in a timely manner. The remaining Participating Customer Representative(s) shall be authorized to cast the vote of the vacant position(s) until filled.

EXHIBIT C
As of April 2009
List of Participating Customers

BRUNSWICK EMC P O BOX 826 SHALLOTTE NC 28459-0826 ATTN: ROBERT W LEAVITT	CARTERET-CRAVEN EMC P O BOX 1499 MOREHEAD CITY NC 28557-1499 ATTN: CRAIG A CONRAD
CENTRAL EMC P O BOX 1107 SANFORD NC 27330-1107 ATTN: REBECCA COGAN	FOUR CO EMC P O BOX 667 BURGAW NC 28425-0667 ATTN: MITCHELL KEEL
HALIFAX EMC P O BOX 667 ENFIELD NC 27823-0667 ATTN: CHARLES H. GUERRY	JONES-ONslow EMC 259 WESTERN BLVD JACKSONVILLE NC 28546-5797 ATTN: J RONALD MCELHENNEY
LUMBEE RIVER EMC P O BOX 830 RED SPRINGS NC 28377-0830 ATTN: RONNIE E HUNT	PIEDMONT EMC P O DRAWER 1179 HILLSBOROUGH NC 27278-1179 ATTN: RANDOLPH G BRECHEISEN
PEE DEE EMC P O BOX 859 WADESBORO NC 28170-0859 ATTN: DONNIE SPIVEY	PITT & GREENE EMC P O BOX 249 FARMVILLE NC 27828-0249 ATTN: MARK A SUGGS
RANDOLPH EMC P O BOX 40 ASHEBORO NC 27204-0040 ATTN: DALE LAMBERT	TIDELAND EMC P O BOX 159 PANTEGO NC 27860 ATTN: CECIL O. SMITH, JR.
TRI-COUNTY EMC P O BOX 130 DUDLEY NC 28333-0130 ATTN: J MICHAEL DAVIS	TOWN OF BENSON P O BOX 69 BENSON NC 27504 ATTN: KEITH LANGDON
HARKERS ISLAND EMC P O BOX 190 HARKERS ISLAND NC 28531-0190 ATTN: E TRAVIS DAVIS	CITY OF ELIZABETH CITY P O BOX 347 ELIZABETH CITY NC 27909 ATTN: RICH OLSON
TOWN OF CLAYTON P O BOX 879 CLAYTON NC 27520 ATTN: STEVE BIGGS	TOWN OF HERTFORD P O BOX 32 HERTFORD NC 2794 ATTN: JOHN CHRISTENSEN
TOWN OF PIKEVILLE P O BOX 9 PIKEVILLE NC 27863 ATTN: ROBERT BUCHANAN	TOWN OF ROBERSONVILLE P O BOX 487 ROBERSONVILLE NC 27871 ATTN: JOHN PRITCHARD, JR.
TOWN OF SMITHFIELD P O BOX 761 SMITHFIELD NC 27577 ATTN: PETE CONNET	TOWN OF TARBORO P O BOX 220 TARBORO NC 27886 ATTN: SAMUEL W NOBLE JR

TOWN OF SCOTLAND NECK P O BOX 537 SCOTLAND NECK NC 27874 ATTN: NANCY JACKSON	EDGECOMBE-MARTIN CO EMC P O DRAWER 188 TARBORO NC 27886-0188 ATTN: BOB MCDUFFIE
ALBEMARLE EMC P O BOX 69 HERTFORD NC 27944-0069 ATTN: BRAD FURR	TOWN OF ENFIELD P O BOX 699 ENFIELD NC 27823 ATTN: BOBBY E DAVIS
ROANOKE ELEC COOP P O BOX 440 RICH SQUARE NC 27869-0440 ATTN: CURTIS WYNN	B-A-R-C ELECTRIC COOP P O BOX 264 MILLBORO VA 24460-0264 ATTN: BRUCE KING
TOWN OF WINDSOR P O BOX 508 WINDSOR NC 27983 ATTN: ALLEN CASTELLOE	COMMUNITY ELECTRIC COOP P O BOX 267 WINDSOR VA 23487 ATTN: JAMES M REYNOLDS
CRAIG-BOTETOURT ELECTRIC COOP P O BOX 265 NEW CASTLE VA 24127 ATTN: SHAWN HILDEBRAND	MECKLENBURG ELECTRIC COOP P O BOX 2451 CHASE CITY VA 23924-2451 ATTN: M JOHN BOWMAN
NORTHERN NECK ELECTRIC COOP P O BOX 288 WARSAW VA 22572 ATTN: GREG WHITE	RAPPAHANNOCK ELECTRIC COOP P O BOX 7388 FREDERICKSBURG VA 22404-7388 ATTN: KENT D FARMER
SHENANDOAH VALLEY ELECTRIC COOP P O BOX 236 ROUTE 257 MT CRAWFORD VA 22841-0236 ATTN: MYRON D RUMMEL	SOUTHSIDE ELECTRIC COOP P O BOX 7 CREWE VA 23930-0007 ATTN: JEFF EDWARDS
TOWN OF BLACKSTONE 100 W ELM ST BLACKSTONE VA 23824 ATTN: J LARRY PALMORE	TOWN OF CULPEPER 400 MAIN ST CULPEPER VA 22701 ATTN: JEFFREY MUZZY
HARRISONBURG ELECTRIC COMM 89 W BRUCE ST HARRISONBURG VA 22801-3699 ATTN: MICHAEL J YORK	CITY OF FRANKLIN P O BOX 179 FRANKLIN VA 23851 ATTN: ROWLAND TAYLOR
CITY OF MARTINSVILLE BOX 1112 MARTINSVILLE VA 24112 ATTN: DENNIS BOWLES	WAKE EMC P O BOX 1229 WAKE FOREST NC 27588 ATTN: ROY JONES, JR
SOUTH RIVER EMC P O BOX 931 DUNN NC 28335 ATTN: BUDDY CREED	CITY OF WILSON P O BOX 10 WILSON, NC 27893 ATTN: GRANT GOINGS
TOWN OF WAKEFIELD P O BOX 550 WAKEFIELD, VA 23888 ATTN: C. WINSTON BRITT	CITY OF SALEM BOX 869 SALEM, VA 24153-0869 ATTN: A.K. BRIELE
TOWN OF RICHLANDS 217 RAILROAD AVE RICHLANDS, VA 24641 ATTN: TIM TAYLOR	CITY OF DANVILLE 1040 MONUMENT ST DANVILLE, VA 24541 ATTN: RICK WEAVER

FAYETTEVILLE PUBLIC WORKS COMM P O DRAWER 1089 FAYETTEVILLE NC 28302-1089 ATTN: STEVEN K BLANCHARD	TOWN OF AYDEN P O BOX 219 AYDEN NC 28513 ATTN: ADAM G MITCHELL
CENTRAL VIRGINIA ELECTRIC COOP P O BOX 247 LOVINGSTON VA 22949 ATTN: GARY WOOD	



City of Washington M E M O R A N D U M

DATE: March 8, 2010
TO: Mayor and City Council
FROM: Matt Rauschenbach
SUBJECT: Outsourcing EMS Billing and Collection

The EMS division of the Wahington Fire and EMS Department will outsource billing and collections effective April 1, 2010 which coincides with the expiration of the maintenance agreement for the run software, billing, and collection system currently used. EMS Management & Consultants of Lewisville, NC was chosen from among three candidates. They were highly recommended by John Whitehurst of the NC Association of County Commissioners. John is the liason between government EMS units and the State's medicaid department. EMS Management & Consultants provide services to fifty NC counties and clients within counties and are able to interface with TekCollect, our collection agent, on delinquent accounts. Their references were excellent. EMS transport run software , *ems Charts* , is provided at no cost. Several of our firefighters are experienced in this software. This run software will reduce our current daily administration of run information by three hours. Key information for the annual State medicaid reimbursement report (\$50,000 expected for this year) is provided as well as for our debt setoff program with the State. Deposits are made daily into our bank account and management reports are excellent. We are responsible for the collection on services provided prior to April 1. Our collection results on this runout should be improved due to increased focus resulting from the billing portion of this function being eliminated.

A 24% improvement in collections is projected based on EMS Management & Consultants collection history by payor type. The annual maintenance of the run software and billing system currently used will be eliminated. Postage savings and administrative improvements are planned and will be budgeted. The collection fee is 8%. The net projected annual improvement is \$130,000.



G. Mitchell Reed
Chief of Police

Washington City Police

201 W. 3rd Street, Washington, NC 27889
Telephone: (252) 946-1444 Fax: (252) 948-9448
www.washingtonnc.gov



Sandy Blizzard
Deputy Chief of Police

TO: Jim Smith, City Manager
FROM: G.M. Reed, Chief of Police
RE: Animal Control

As requested by Council, I wish to update you regarding the contract for services involving Beaufort County Animal Control and Washington Police Department.

During the monitoring period, we believe the overall level of service with Beaufort County Animal control is quite good. Animal Control Officers respond in a timely manner and handled the situation with experience and superior cooperation. They have taken the lead in areas of concern, notably the cat issue in the downtown area. They have dealt with everything from simple lost dog to vicious animals. Their response times are well within acceptable ranges and they provide appropriate information related to their work when requested.

As noted before, I believe the only negative issue regarding this contracted process is the dual use of manpower involving our officers. However, considering the level of services provided by Beaufort County Animal Control, I am of the opinion that the current process should not be changed at this time. I am available to answer any questions you may have.

G. Mitchell Reed
Chief of Police

RECEIVED FEB 23 2010

MEMO

OLD BEAUFORT COUNTY HEALTH DEPARTMENT 403 HARVEY STREET

DATE: FEBRUARY 22, 2010

To: JIM SMITH

FROM: Zina Burbage & Franz Holscher

The Beaufort County Tax Collector's office mailed a letter addressed to you, dated May 15, 2008, and received by your office on October 14, 2009 that stated back taxes for the years 2000 and 2001 were due from the City for parcel #15-000085 (the above property) AND account #107000, which account number was listed to Omar Parker, predecessor in title to Christian Fellowship (from whom the City acquired the subject property.) The original of said letter is enclosed. You had Reatha deliver said letter to our office and you requested that we look into this matter. Our report follows.

In anticipation of the City purchasing the above property, our office prepared a preliminary opinion on title dated August 19, 2009 based upon a limited title search using an existing title policy #34 107 NB06-0042375 dated October 5, 2006 from Chicago Title Insurance Company. The 2006 policy we based our title search on showed only 2007 and future taxes due. The customary practice when updating a title using an existing policy is to begin the title search on the date of the existing policy and search forward, which is what we did.

As part of our title search, we checked the ad valorem taxes on the tax office record keeping system using the parcel #15-000085, which check revealed only 2008 and 2009 taxes being then due. We contacted the tax office by phone on September 2nd and requested an updated tax payoff amount for this parcel so we could include the

amount on the HUD Settlement Statement and satisfy the taxes at closing. Any and all taxes due for this parcel should have been revealed by the search we performed.

During the closing on September 2nd, the aforementioned taxes were paid in full and a receipt was obtained showing a zero balance for this parcel.

After receiving the above referenced letter from the tax office addressed to you, Fred met with Bobby Parker and Billy Mayo to discuss the problem with the tax office record keeping system revealed by this situation and was told that it was THEIR mistake, but they could not just make it go away. Fred informed Mr. Parker that he expected him to discuss this issue with the County Manager or the County Commissioners because it was the County's error and we (The City) should not be expected to pay for their mistake.

In a separate conversation, Zina was told by Mr. Parker that the reason the taxes were not discovered during our title search was that they were mistakenly listed as personal property of Omar Parker.

Zina subsequently talked with Mr. Parker and he reiterated that he would discuss the matter with the Commissioners and "see what he could do" but again stated that the taxes were due and he could not just make them go away. He apologized for the problem again and expressed that he did not want Fred to be upset with him. We have not heard back from Mr. Parker.

Zina subsequently talked with Mr. Mayo in the Register of Deeds vault and he told Zina to just ignore the issue and said letter because the taxes would roll off after 2011 and Mark Bardill would never get around to foreclosing on them.

Please note that, if any grant requires an updated title opinion, these taxes would have to be disclosed. Please feel free to contact us if you have any questions or if we can be of further assistance in this regard. If we do not hear from you, we will assume that the City plans to follow Mr. Mayo's recommendation.

Bobby Parker
Tax Collector

COUNTY OF **B**EAUFORT
OFFICE OF THE TAX COLLECTOR
220 North Market Street
PO Box 633
Washington, NC 27889
(252) 946-2922

David Harris
Deputy Tax Collector

RECEIVED OCT 14 2009

May 15, 2008

Mr. James Smith, City Manager
City of Washington
102 E. Second Street
Washington, NC 27889

Dear Mr. Smith:

Taxes levied upon property owned by you, for the year(s) and in the amount listed below, are past due and unpaid. The amount shown includes interest to date.

Year (s) 2000 & 2001 Amount Due \$2076.18

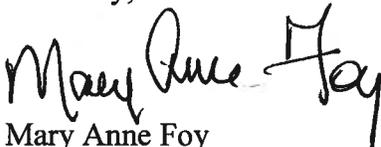
Account Number (s) 107000

Parcel Number (s) 15-000085 (Old health department)

The Beaufort County Board of Commissioners has directed the Tax Collector to collect all unpaid taxes by using any means of collections available within the bounds of the General Statutes of North Carolina. This includes levy of property, foreclosure, and garnishment of wages, bank accounts, etc. To avoid any additional cost being added, your account must be paid in full within the next 15 days.

It is requested that you immediately contact the Beaufort County Tax Office, at the address above, or by telephone, (252) 946-2922, in reference to this letter.

Sincerely,



Mary Anne Foy
Deputy Tax Collector

Enclosures