

The Washington City Council met in a regular session on Monday, June 11, 2007 at the Municipal Building at 4:30 p.m. Present were: Judy Jennette, Mayor; Ed Gibson, Councilman; Richard Brooks, Councilman; Archie Jennings, Councilman; Mickey Gahagan, Councilman; Darwin Woolard, Mayor Pro tem; James Smith, City Manager; Franz Holscher, City Attorney; and Rita A. Thompson, City Clerk.

Also present were: Carol Williams, Finance Director; Jimmy Davis, Fire Chief; Mitch Reed; Police Chief; Bobby Roberson, Community Development Planning Director; Allen Lewis, Public Works Director; Lynn Lewis, Tourism Director; Philip Mobley, Parks & Recreation Director; Susan Hodges, Human Resources Director; Joe Toler, Interim, DWOW Director; Frieda Hudson of the Pamlico News, and Mike Voss, of the Washington Daily News.

Mayor Jennette called the meeting to order and Councilman Gibson delivered the invocation.

### **APPROVAL/AMENDMENTS TO AGENDA**

Councilman Gibson asked that item 1.D be moved to VI.B.3. and 3.moved to 4. Mayor Jennette added an appearance from the Literacy Volunteers under 11.A. A presentation on zoning overlays was added under VI.B. 2.

On motion of Mayor Pro tem Woolard, seconded by Councilman Gahagan, Council unanimously approved the agenda, as amended.

### **APPROVAL OF MINUTES**

Councilman Gahagan noted that he attended the May 21 meeting and asked the Clerk to note that in the minutes.

On motion of Councilman Gibson, seconded by Councilman Gahagan, Council unanimously approved the minutes of April 16, April 23, April 30, May 3, May 7, May 14, May 21 and May 29, 2007, as amended.

### **CONSENT AGENDA**

On motion of Mayor Pro tem Woolard, seconded by Councilman Gibson, Council unanimously approved the Consent Agenda, as modified:

- A. Accept – Cornerstone of Science Grant **and** Adopt Budget Ordinance Amendment (\$500)

### **AN ORDINANCE TO AMEND THE BUDGET ORDINANCE OF THE CITY OF WASHINGTON, N.C. FOR THE FISCAL YEAR 2006-2007**

**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 \$500 in the account Library Grant-Cornerstones, account number 10-40-3611-3307.

Section 2. The account number 10-40-6110-5600, Materials, Library portion of the General Fund appropriations budget be increased in the amount of \$500 to provide funds for books and audio visual materials.

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 11<sup>th</sup> day of June, 2007.

s/Judy Jennette  
**JUDY JENNETTE**  
**MAYOR**

ATTEST:

s/Rita A. Thompson  
**RITA A. THOMPSON, CMC**  
**CITY CLERK**

- B. Accept – Women’s Club of Cypress Landing Donation and Adopt Budget Ordinance Amendment (\$1,000)

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE  
OF THE CITY OF WASHINGTON, N.C.  
FOR THE FISCAL YEAR 2006-2007**

**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 \$1,000 in the account Contributions-Library, account number 10-40-3611-8402.

Section 2. The account number 10-40-6110-7400, Capital Outlay, Library portion of the General Fund appropriations budget be increased in the amount of \$1,000 to provide funds for microfilm reader/printer.

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 11<sup>th</sup> day of June, 2007.

s/Judy Jennette  
**JUDY JENNETTE**  
**MAYOR**

ATTEST:

s/Rita A. Thompson  
**RITA A. THOMPSON, CMC**  
**CITY CLERK**

- C. Acknowledgement – Reallocation of funds for E-911 Communications to Police Department (\$5,000)
- D. FYI – Contracts for Petroleum Products for FY 2007-2008
- E. Authorize – City Manager to sign Release, Hold harmless and Indemnification Agreement (Re: July 4, Fire Work Show)

**NORTH CAROLINA  
BEAUFORT COUNTY**

**RELEASE, HOLD HARMLESS AND INDEMNIFICATION AGREEMENT**

**WHEREAS**, the City of Washington (“City”) has contracted with Melrose Pyrotechnics, Inc. to provide a fireworks show for the public on July 4, 2007;

**WHEREAS**, the City of Washington has requested Bridge Harbor, LLC to allow its property to be used in conjunction with the above; and

**WHEREAS**, Bridge Harbor, LLC desires to permit its property to be used in conjunction with the above upon the condition that the City furnish it with this Release, Hold Harmless and Indemnification Agreement (“Release”).

**NOW THEREFORE**, know all persons by these presents, upon execution of this Release and in consideration of the foregoing, which consideration is acknowledged to be sufficient and legally binding, the City does for itself, hereby agree to unconditionally release, hold harmless, and will indemnify, acquit and forever discharge Bridge Harbor, LLC, and their respective agents, representatives, insurers, 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, attorney’s 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 the use of Bridge Harbor, LLC’s property to produce a firework show for the public on July 4, 2007 as more particularly described hereinabove.

**IN WITNESS WHEREOF**, the City has caused this instrument to be executed in its name by its City Manager, attested by its City Clerk, and its corporate seal to be hereunto affixed, all by proper corporate authority duly given.

This the 11<sup>TH</sup> day of June, 2007.

**CITY OF WASHINGTON**

s/James C. Smith  
**JAMES C. SMITH**  
**CITY MANAGER**

ATTEST:

s/Rita A. Thompson  
**RITA A. THOMPSON**  
**CITY CLERK**

- F. Approve – Substance Abuse Policy

**CITY OF WASHINGTON  
ALCOHOL AND DRUG FREE WORKPLACE POLICY**

I. PURPOSE

The primary purposes of this policy are to: 1) ensure a safe and healthy workplace free of drug and alcohol use for employees of the City of Washington; 2) protect the public; and 3) ensure that services are provided to the public in a suitable and responsible manner. This policy shall also ensure that the City complies with Federal Motor Carrier Safety Administration (FMCSA) / Department of Transportation (DOT) requirements concerning testing of commercial motor vehicle drivers for controlled substances and alcohol use. These objectives shall be achieved by establishing guidelines and procedures to detect and prevent substance abuse and use. Finally, as the City has a sincere concern for the health and well being of its employees during and after work hours, this policy provides an employee who has a drug or alcohol problem with the opportunity for rehabilitation through an Employee Assistance Program (EAP) or other substance abuse program.

## II. POLICY STATEMENT

Employee substance abuse and use increases the potential for accidents, absenteeism, substandard performance, and low employee morale. It also undermines public confidence in the City's work force. Such situations run counter to the policy of the City of Washington which is to maintain a safe, healthy, and productive work environment for all employees and to encourage obedience of the law. To implement this policy, the City will act to the fullest extent allowed, consistent with requirements of the law and individual rights, to eliminate and/or prevent employee substance abuse.

In recognition of the serious duty entrusted to City employees and with knowledge that drugs and alcohol hinder a person's ability to perform duties safely and effectively, the City of Washington has adopted this substance abuse policy. All employees have the right to report any violation of this policy without fear of reprisal.

Supervisory employees shall receive periodic training on the administration of this policy, including recognizing performance or behavioral problems related to abuse, testing, rehabilitation and the taking of appropriate disciplinary action when necessary.

An employee who seeks help for substance abuse through the Employee Assistance Program or other substance abuse professional on a voluntary basis shall not be subject to disciplinary action as a result thereof. The City encourages employees to seek help for substance abuse before intervention becomes necessary.

## III. DEFINITIONS

- A. ALCOHOL TEST – A test for the presence of alcohol in the body as determined through the use of a breath alcohol test, evidential breathalyzer test, or blood screening.
- B. APPLICANT - A person who applies for employment with the City of Washington; this category includes public safety volunteers.
- C. CDL – Commercial Driver's License
- D. CITY – City of Washington, NC
- E. DER – Designated employer representative
- F. DOT – Department of Transportation
- G. DRUG – A controlled substance as listed in Schedules I through V of Section 202 of the Controlled Substances Act (21 USC 812) or defined in Chapter 90, Section 87 (5) of the North Carolina General Statutes or a metabolite thereof.
- H. DRUG TEST – A test, including providing the necessary sample of body fluid by the employee to be tested, for the presence of any of

the following drugs or drug metabolites in the urine, saliva, or blood of an employee or applicant:

- Amphetamines
  - Cannabinoids
  - Cocaine
  - Opiates
  - Phencyclidine
  - Other drugs that may be determined to reduce work efficiency or as required by federal government
- I. FMCSA – Federal Motor Carrier Safety Administration
- J. MEDICAL REVIEW OFFICER (MRO) – A licensed physician responsible for reviewing all laboratory results and determining alternate medical explanations for positive drug test results.
- K. NEGATIVE ALCOHOL TEST – An alcohol test that indicates a blood alcohol level of less than .02 for employees subject to FMSCA/DOT regulations and less than .04 for all other employees.
- L. NEGATIVE DRUG TEST - A chemical drug test performed by a designated laboratory that confirms there is no presence of drugs.
- M. POSITIVE ALCOHOL TEST - An alcohol test that indicates a blood alcohol level of .02 or higher for employees subject to FMSCA/DOT regulations and .04 or higher for all other employees.
- N. POSITIVE DRUG TEST – A chemical drug test performed by a designated laboratory that confirms the presence of drugs. To ensure maximum validity, a test shall be declared positive only after the second of two tests confirms the presence of drugs in the urine or other authorized sample.
- O. QUALIFIED NEGATIVE – With respect to the results of a drug test, a test in which the lab result is consistent with legal drug use.
- P. RANDOM TESTING – Testing conducted on an employee chosen by a method that provides an equal probability that any employee from a group of employees will be selected; or testing one employee at random intervals following a positive alcohol or drug test.
- Q. REASONABLE SUSPICION – An expressible belief that an employee used or is using illegal drugs or has misused alcohol drawn from specific, objective and clearly stated facts and reasonable inferences from those facts.
- R. PERFORMING A SAFETY SENSITIVE FUNCTION – A driver is considered to be performing a safety-sensitive function during any period in which he/she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.
- S. SAFETY SENSITIVE POSITION – A position for which the City has a compelling need, on the basis of safety concerns, to ascertain on-the-job impairment on the part of the employees who hold the position. Such a compelling need may arise where the duties of a position create, or are accompanied by, such a great risk of injury to other persons or to property of such magnitude that even a momentary lapse of attention, judgment, or dexterity could have disastrous consequences. Appendix A of this policy contains the positions or activities classified as safety-sensitive by the City. This list also contains those activities defined as safety-sensitive by the FMCSA/DOT guidelines.
- T. SUBSTANCE ABUSE PROFESSIONAL (SAP) – A licensed physician (Medical Doctor or Doctor of Osteopathy), or licensed or certified psychologist, social worker, employee assistance

professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances and related disorders.

**IV. RULES / PROHIBITED ACTIVITY**

- A. The manufacture, distribution, dispensation, possession, storage, purchase, or use of alcohol by employees while at the workplace or in a City vehicle is prohibited and constitutes grounds for immediate termination. In addition, with the exception of authorized social functions, consumption of alcohol on City property while on or off the job will result in disciplinary action.
- B. The unlawful manufacture, distribution, dispensation, possession, purchase, or use of drugs by employees, on or off the job, is prohibited and constitutes grounds for immediate termination.
- C. Prior to beginning work or while on duty, an employee shall inform his or her supervisor if he or she has used or intends to use any prescription drug, over-the-counter drugs, or other substance that might impair his or her ability to satisfactorily perform their duties. Employees are responsible for having a thorough understanding of the effects and potential side effects of the medications or other chemical substances taken by them. Supervisors shall document this information through the use of internal memorandum which shall be maintained in a secured medical file separate from the employee's personnel file. The employee may be reassigned temporarily to other duties where appropriate.
- D. No employee shall ingest any prescribed or over-the-counter medication in amounts beyond the recommended dosage.
- E. No employee shall report for duty or remain on duty while having an alcohol concentration of 0.02 or greater. In addition to the foregoing, no driver of a commercial motor vehicle shall perform safety sensitive functions within four hours after using alcohol.
- F. Any employee arrested for a drug or alcohol related offense must notify his/her supervisor by the next regular scheduled work day of the arrest and may be placed on an unpaid suspension for a period of time to determine appropriate action in accordance with existing procedures and policies. Failure to inform the employee's supervisor of such arrest will be cause for dismissal.
- G. Any employee convicted of an illegal drug-related offense while on or off the job may be subject to immediate dismissal.
- H. Employees in jobs that require a special license(s) or certification(s) who lose certification or licenses as a result of a conviction for drug or alcohol abuse will likely be terminated as a City employee or demoted to a position with less responsibility.
- I. Any employee who intentionally ingests or is made to ingest a controlled substance shall immediately report the incident to his or her supervisor so that appropriate medical steps may be taken to ensure the employee's health and safety.
- J. Any employee who has a reasonable basis to believe that another employee is illegally using or selling drugs or narcotics or violating any section of this policy shall immediately report the facts and circumstances to his/her supervisor or the Human Resources Director. Confidentiality will be guaranteed within the limits of the law.
- N. **POSITIVE DRUG TEST** – A chemical drug test performed by a designated laboratory that confirms the presence of drugs. To

ensure maximum validity, a test shall be declared positive only after the second of two tests confirms the presence of drugs in the urine or other authorized sample.

- O. QUALIFIED NEGATIVE – With respect to the results of a drug test, a test in which the lab result is consistent with legal drug use.
- P. RANDOM TESTING – Testing conducted on an employee chosen by a method that provides an equal probability that any employee from a group of employees will be selected; or testing one employee at random intervals following a positive alcohol or drug test.
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- S. SAFETY SENSITIVE POSITION – A position for which the City has a compelling need, on the basis of safety concerns, to ascertain on-the-job impairment on the part of the employees who hold the position. Such a compelling need may arise where the duties of a position create, or are accompanied by, such a great risk of injury to other persons or to property of such magnitude that even a momentary lapse of attention, judgment, or dexterity could have disastrous consequences. Appendix A of this policy contains the positions or activities classified as safety-sensitive by the City. This list also contains those activities defined as safety-sensitive by the FMCSA/DOT guidelines.
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- C. Prior to beginning work or while on duty, an employee shall inform his or her supervisor if he or she has used or intends to use any prescription drug, over-the-counter drugs, or other substance that might impair his or her ability to satisfactorily perform their duties. Employees are responsible for having a thorough understanding of the effects and potential side effects of the medications or other chemical substances taken by them. Supervisors shall document this information through the use of internal memorandum which shall be maintained in a secured medical file separate from the

employee's personnel file. The employee may be reassigned temporarily to other duties where appropriate.

- D. No employee shall ingest any prescribed or over-the-counter medication in amounts beyond the recommended dosage.
- E. No employee shall report for duty or remain on duty while having an alcohol concentration of 0.02 or greater. In addition to the foregoing, no driver of a commercial motor vehicle shall perform safety sensitive functions within four hours after using alcohol.
- F. Any employee arrested for a drug or alcohol related offense must notify his/her supervisor by the next regular scheduled work day of the arrest and may be placed on an unpaid suspension for a period of time to determine appropriate action in accordance with existing procedures and policies. Failure to inform the employee's supervisor of such arrest will be cause for dismissal.
- G. Any employee convicted of an illegal drug-related offense while on or off the job may be subject to immediate dismissal.
- H. Employees in jobs that require a special license(s) or certification(s) who lose certification or licenses as a result of a conviction for drug or alcohol abuse will likely be terminated as a City employee or demoted to a position with less responsibility.
- I. Any employee who intentionally ingests or is made to ingest a controlled substance shall immediately report the incident to his or her supervisor so that appropriate medical steps may be taken to ensure the employee's health and safety.
- J. Any employee who has a reasonable basis to believe that another employee is illegally using or selling drugs or narcotics or violating any section of this policy shall immediately report the facts and circumstances to his/her supervisor or the Human Resources Director. Confidentiality will be guaranteed within the limits of the law.
- K. All property belonging to the City shall be subject to inspection at any time in furtherance of this policy. There shall be no expectation of privacy concerning any property belonging to the City. Property belonging to the City which is subject to inspection includes, but is not limited to, offices, vehicles, desks, files, containers, lockers, and sleeping areas.
- L. Employees required to submit to any tests under this policy shall be accompanied by their supervisor or other authorized personnel and proceed immediately to the test site.

## V. TYPES OF ALCOHOL & DRUG TESTING

### A. PRE-EMPLOYMENT DRUG TESTING

#### 1. New Hire

Applicants recommended for employment with the City shall be required to take a drug test as a pre-condition of employment. This drug test must be administered within forty eight (48) hours of the conditional offer of employment.

Applicants shall be disqualified from further consideration for employment under the following circumstances:

- a. Refusal to submit to a required drug test within the specified time frame; or
- b. A confirmed positive drug test indicating drug use prohibited by this policy.

An applicant who does not pass the drug test as required will not be considered for employment for a two-year period following the date of the test and then will be considered only when:

- a. Such applicant provides documentary proof that he or she has successfully completed a substance abuse or rehabilitation program; and
- b. Such applicant passes a pre-employment drug test.

In no case shall an employee perform a safety-sensitive function for the City of Washington before he/she produces a negative result for a drug test. In addition, whenever a new employee is hired into a position that is subject to DOT/FMCSA regulations, the City shall obtain a completed Previous Employment Verification & Controlled Substance Test Inquiry as required by the Federal Motor Carrier Safety Regulations.

B. POST-EMPLOYMENT TESTING

1. Promotional Drug Testing

Employees will be required to submit to a drug test as a condition of promotion to a higher position within the City's organizational structure. This drug test must be administered within forty eight (48) hours of the conditional offer of promotional recommendation.

Employees shall be disqualified from promotional consideration under the following circumstances:

- a. Refusal to submit to a required drug test within the specified time frame; or
- b. A confirmed positive drug test indicating drug use prohibited by this policy.

Promotional employees who test positive for illegal drugs shall be dealt with in accordance with Section VII D of this policy.

2. Transfer to Safety Sensitive or CDL Position Drug Testing

Any current employee transferring (includes promotion, lateral transfer, and demotion) to a position which is covered by the FMCSA/DOT guidelines or classified as safety sensitive shall undergo a pre-placement drug test. The same provisions listed above for promotional drug testing shall apply.

3. Reasonable Suspicion Drug and/or Alcohol Testing

When management has reasonable suspicion to believe an employee is using or is under the influence of alcohol or a controlled substance in violation of this policy, the employee may be required to submit to a drug and/or alcohol test.

Reasonable suspicion testing shall be based on a belief that an employee is using or has used alcohol or drugs in violation of this policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based on, but not limited to, one of the following:

- a. Direct observation of abnormal conduct or erratic behavior by the employee which may render the

- employee unable to perform his/her duties or which may pose a threat to safety or health.
- b. A report of observed alcohol or drug use provided by a reliable and credible source or that can be independently corroborated.
  - c. An on-the-job accident or occurrence including unsafe working practice, where there is evidence to indicate the accident or occurrence, in whole or in part, may have been the result of the employee's use of a controlled substance or alcohol.
  - d. Evidence that an employee is involved in the use, possession, sale, solicitation, or transfer of drugs or alcohol while working or while on the employer's premises or operating the employer's vehicle, machinery, or equipment.
  - e. Newly discovered evidence that an employee has tampered with a previous drug test.
  - f. Physical symptom(s) of being under the influence of alcohol or drugs, such as impairment of motor functions or speech or a detectable odor of alcohol or drugs on an employee's breath or person.
  - g. Arrest or conviction of a drug or alcohol related offense or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking.

Any supervisor who feels an individualized reasonable suspicion may exist should confer with the department head and provide all relevant information available to support the suspicion. Information shall be appropriately documented and signed by the supervisor who made the observations or received such information. This documentation shall be made within twenty four (24) hours of the observed behavior or receipt of such information, or before the results of the drug or alcohol test are released, whichever is earlier. A documentation form is attached to this policy. The Department Head shall consult the Human Resources Director to review the evidence from a legal standpoint and, if warranted, schedule the drug and/or alcohol test. The Human Resources Director may consult with the City Attorney if further legal support or assistance is needed.

Drug Test - A test for controlled substances shall be administered as soon as possible following the formation of reasonable suspicion, and in no case more than 32 hours. If the test is not administered within this time period, the City shall cease attempts to administer the test and shall prepare and maintain on file a report that states the reasons the test was not promptly administered.

Alcohol Test - An alcohol test shall be administered within two (2) hours following formation of reasonable suspicion. If the test is not administered within this time period, the City shall prepare and maintain on file a report that states the reasons the test was not promptly administered. If the test is not administered within eight (8) hours following the determination of reasonable suspicion, the City shall cease attempts to administer the alcohol test and shall prepare and maintain on file the same report.

***Special Provisions for employees occupying positions identified as safety sensitive or requiring a CDL:***

In the event that an alcohol test is not conducted within the proper time frame, then the following shall occur for employees occupying a position identified as safety sensitive or that requires a CDL:

- a. No employee shall continue to perform safety-sensitive functions until an alcohol test is administered with a result of less than a 0.02; or
- b. The employee shall not perform a safety-sensitive function or activity until twenty-four (24) hours have elapsed since the determination was made that reasonable suspicion existed.

4. Random Testing For CDL Drivers and Other Employees Subject To FMCSA/DOT Guidelines

The City shall conduct random testing for alcohol and drugs for all CDL drivers and employees who occupy positions covered by the FMCSA/DOT guidelines. Employees affected by this policy shall be subject to testing for alcohol and drugs on an unannounced basis throughout the year. A minimum of 10 percent of the average number of employees in positions subject to FMCSA/DOT guidelines shall be tested for alcohol and 50 percent of the average number for drugs. These percentages are subject to change based on changes in the rule as reported in the Federal Register. Any driver or subject employee who is notified of selection for random alcohol and drug substances testing will be required to proceed immediately to the test site. However, if the driver or subject employee is performing a safety-sensitive function at the time of notification, the City is responsible for seeing that the employee ceases to perform this function and proceeds to the testing site as soon as possible. A driver or subject employee can only be tested for alcohol while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.

5. Random Testing For Employees in Positions Classified By the City as Safety Sensitive

The City shall conduct random testing for alcohol and drugs for employees who occupy positions defined by City policy as Safety Sensitive (see Appendix A). Employees who fall into this category will be placed in a screening pool that is separate from those involved in the above prescribed CDL testing with the percentage of employees tested not to exceed the percentages prescribed by FMSCA/DOT guidelines.

6. Post Accident Testing

As soon as possible after an accident involving a city employee driver during the course of performing City work, whether in a City or personal vehicle, the City of Washington shall test each surviving (city employee) driver for alcohol and drugs based on the following table\*.

<u>Accident Involves Test</u>	<u>Citation issued to driver</u>
Human fatality.....	Yes
Yes	
	No
Yes	
<hr/>	
Bodily injury with	Yes
Yes	
immediate medical	No
treatment away from	
No	
the scene.....	
<hr/>	
Disabling damage to any	Yes
Yes	
motor vehicle requiring tow	No
away.....	
No	

A drug test shall be administered within thirty-two (32) hours of the accident. If the test is not administered within this time period, the City shall cease attempts to administer the test and shall prepare and maintain on file a report that states the reasons the test was not promptly administered.

An alcohol test shall be administered within two (2) hours following the accident. If the test is not administered within this time period, then the City shall prepare and maintain on a file a report that states the reasons the test was not promptly administered. If the test is not administered eight (8) hours following the accident, the City shall cease attempts to administer the alcohol test and shall prepare and maintain on file the same report.

\*Table extracted from Section 382.303 (a) and (b) of the Federal Motor Carrier Safety Administration rule on Controlled Substance and Alcohol Use Testing

No employee involved in an accident that requires an alcohol test shall consume any alcohol for eight (8) hours following the accident or until a post-accident alcohol test is administered, whichever comes first.

7. Return To Duty Testing - Prior to returning to work following any positive drug or alcohol test, the employee shall be required to provide a negative return to duty drug and/or alcohol test.
8. Follow-Up Testing - An employee who tests positive for alcohol or drugs shall be subject to periodic, unannounced drug testing by the City separate from any testing done through the Employee Assistance Program or Substance Abuse Professional for a period up to two years.

**VI. REFUSAL TO TEST**

**A. What Constitutes a Refusal to Test**

**1. Drug Test**

An employee or applicant is considered to have refused to submit to a drug test when he/she:

- a. Fails to provide an adequate urine, saliva, or other testing sample without a valid medical explanation; or
  - b. Engages in conduct that clearly obstructs the testing process; or
  - c. Fails to remain readily available for testing after an accident.
2. Alcohol Test
- An employee or applicant is considered to have refused to submit to an alcohol test when he/she:
- a. Fails to provide an adequate breath or other testing sample without a valid medical explanation; or
  - b. Engages in conduct that clearly obstructs the testing process; or
  - c. Fails to remain readily available for testing after an accident; or
  - d. Refuses to sign the breath alcohol confirmation test certification.
- B. A refusal to test shall be treated as a positive drug or alcohol test. An employee who refuses to test shall be subject to the provisions outlined in Section VII. Consequences of Improper Drug/Alcohol Use.

#### VII. CONSEQUENCES OF IMPROPER DRUG / ALCOHOL USE

- A. Probationary Employee – Any employee serving in an initial probationary period who receives a positive alcohol or a confirmed positive drug test shall be terminated from employment with the City.
- B. Temporary Employee - Any temporary employee who receives a positive alcohol or a confirmed positive drug test shall be terminated from employment with the City.
- C. Part-time Employee - Any part-time employee who receives a positive alcohol or a confirmed positive drug test shall be terminated from employment with the City.
- D. Regular Full-Time Employee
  1. Disciplinary Action - A regular employee who receives a positive alcohol test or a confirmed positive drug test shall be suspended for no less than forty (40) hours, 48 hours for Public Safety personnel (Police & Fire), without pay. The provisions of Article VII of the Personnel Policy related to pre-disciplinary conference do not apply to suspension for a positive drug or alcohol test. Further discipline up to and including termination may occur after appropriate consideration is given to all facts and circumstances.
  2. Substance Abuse Counseling - The employee shall be referred to the Employee Assistance Program (EAP) or other certified Substance Abuse Professional (SAP). To protect the safety of the employee, co-workers and the public, an employee shall not be allowed to return to work during rehabilitation until written permission is received from the EAP counselor or SAP. The employee shall be allowed to use vacation leave following the period of disciplinary suspension and until enrollment in the program(s) and permission to return to work has been received as long the

employee is able to accomplish this in a reasonable period of time. Sick leave may only be used after all other accrued time (including compensatory time and holidays) has been exhausted. Failure to properly participate in and complete the program without good cause will result in disciplinary action up to and including termination. The employee shall provide documentation verifying completion of the program(s) to which he/she was referred.

3. Return to Duty Testing – Prior to returning to work, the employee shall be required to provide a negative return to duty drug and/or alcohol test.
  4. Follow Up Testing – An employee who tests positive for alcohol or drugs shall be subject to periodic, unannounced drug testing by the City separate from any testing done through the EAP / SAP for a period of up to two years. FMCSA/DOT regulations require a minimum of six (6) follow up tests in the first twelve (12) month period following a positive drug or alcohol test.
  5. Second Offense - If a second violation of this policy occurs, the employee may be terminated from employment with the City.
- E. Additional Consequences for Employees in Positions that require a CDL

Any employee subject to the FMCSA/DOT guidelines shall be referred to a DOT certified SAP for an initial assessment and a return to work assessment prior to returning to safety sensitive functions.

In addition to the consequences identified hereinabove, a positive drug test or alcohol test of .04 or greater for an employee whose position requires a CDL shall be reported to the NC Department of Motor Vehicles (NCDMV) within five (5) days in accordance with state law (G.S 20-37.19). The written notification shall include the following information:

- Name of the driver
- Address of the driver
- Drivers license number
- Social Security number
- Results of the drug or alcohol test

Upon receiving said notice, the NCDMV will place a disqualification on the driving record of the individual. This disqualification will remain in effect until the NCDMV receives proof of the individual's successful completion of assessment and treatment by a SAP in accordance with 49 C.F. R. 382-503.

If an employee's CDL is disqualified, the employee shall be placed on leave without pay status until the CDL is reinstated. The maximum duration for leave status shall be thirty (30) days. If the employee's CDL is not reinstated within thirty (30) days, his/her employment will be terminated, unless the City Manager determines that extenuating circumstances exist and approves an extension of leave.

During the period of time when the City recognizes that an employee's CDL license will likely be disqualified and the actual disqualification, the employee may be allowed to return to work provided that meaningful work can be identified and provided that all other return to work requirements have been met. In no case, however, shall he/she be allowed to operate a City vehicle or

perform any safety-sensitive function until the status of the employee's CDL is confirmed with the NCDMV to be valid and a return to work note is received from a DOT certified SAP.

4. Follow Up Testing – An employee who tests positive for alcohol or drugs shall be subject to periodic, unannounced drug testing by the City separate from any testing done through the EAP /SAP for a period of up to two years. FMCSA/DOT regulations require a minimum of six (6) follow up tests in the first twelve (12) month period following a positive drug or alcohol test.
5. Second Offense - If a second violation of this policy occurs, the employee may be terminated from employment with the City.

E. Additional Consequences for Employees in Positions that require a CDL

Any employee subject to the FMCSA/DOT guidelines shall be referred to a DOT certified SAP for an initial assessment and a return to work assessment prior to returning to safety sensitive functions.

In addition to the consequences identified hereinabove, a positive drug test or alcohol test of .04 or greater for an employee whose position requires a CDL shall be reported to the NC Department of Motor Vehicles (NCDMV) within five (5) days in accordance with state law (G.S 20-37.19). The written notification shall include the following information:

- Name of the driver
- Address of the driver
- Drivers license number
- Social Security number
- Results of the drug or alcohol test

Upon receiving said notice, the NCDMV will place a disqualification on the driving record of the individual. This disqualification will remain in effect until the NCDMV receives proof of the individual's successful completion of assessment and treatment by a SAP in accordance with 49 C.F. R. 382-503.

If an employee's CDL is disqualified, the employee shall be placed on leave without pay status until the CDL is reinstated. The maximum duration for leave status shall be thirty (30) days. If the employee's CDL is not reinstated within thirty (30) days, his/her employment will be terminated, unless the City Manager determines that extenuating circumstances exist and approves an extension of leave.

- F. During the period of time when the City recognizes that an employee's CDL license will likely be disqualified and the actual disqualification, the employee may be allowed to return to work provided that meaningful work can be identified and provided that all other return to work requirements have been met. In no case, however, shall he/she be allowed to operate a City vehicle or perform any safety-sensitive function until the status of the employee's CDL is confirmed with the NCDMV to be valid and a return to work note is received from a DOT certified SAP.

VIII. DRUG TESTING PROCEDURES AND METHODOLOGY

- A. Testing procedures and safeguards to ensure the integrity of all drug and alcohol testing done on City personnel are the responsibility of the agency retained for those purposes by the City

of Washington. Under the general supervision of this agency, the City Human Resources Department shall have the option of performing specimen collection.

- B. The testing or processing phase shall consist of a two-step procedure:
  - 1. Initial screening test using an immunoassay testing method; and
  - 2. Confirmation test using gas chromatography/mass spectrometry (GC/MS) method.
- C. When the lab receives an authorized specimen, it will conduct an initial screening test to check for the presence of illegal drugs. This initial screening test involves using an immunoassay testing method.
- D. The threshold levels established by the Department of Health and Human Services for Federal Workplace Drug Testing programs, as may be amended, are hereby adopted and incorporated herein by reference.
- E. The laboratory conducting the test must be certified for federal workplace drug testing programs and must adhere to applicable federal rules, regulations and guidelines pertaining to the handling, testing, storage and preservation of samples.
- F. Should the initial test produce a positive result for the presence of an illegal drug, the lab will automatically perform a second test. Known as a confirmation test, the second test involves using a technologically different and more sensitive gas chromatography/mass spectrometry (GC/MS) testing method or an equivalent scientifically accepted method.
- G. The laboratory will report a test result as positive if, and only if, both the initial test and the confirmation test show the presence of an illegal drug.
- H. The laboratory will report all test results directly to the Medical Review Officer (MRO).
- I. In order to provide, to the greatest extent possible, for the privacy and confidentiality of applicants and employees who are required to submit to drug testing, all laboratory results will be sent directly to the Medical Review Officer. All specimens reported by the laboratory as negative will in turn be reported to the agency by the MRO as negative.
- J. With respect to confirmed positive results, the MRO:
  - 1. May conduct medical interviews with the applicant/employee;
  - 2. May review applicant/employee medical histories or any other biomedical factors;
  - 3. Shall review all medical records made available by the tested employee when a confirmed positive could have resulted from legally prescribed medication; and/or
  - 4. May deem the results scientifically insufficient for further action and declare the result to be negative based on a review of such data or facts as he or she may deem appropriate.
- K. Each step in collecting and processing specimens shall be documented to establish procedural integrity and the chain of custody.

- L. Where a positive result is confirmed, specimens shall be maintained by the laboratory in secured, refrigerated storage in accordance with federal regulations.
- M. A positive result which the MRO justifies by appropriate medical or scientific documentation to account for the result as other than the intentional ingestion of an illegal drug will be reported as a qualified negative result and may not be released for purposes of identifying illegal drug use. Records of the MRO shall only be released to the City Manager or Human Resources Director and, when necessary, to a duly authorized supervisor.
- N. All records and information of personnel actions taken on applicants and veteran employees with verified positive test results shall be maintained in accordance with state law and local personnel policies.

### **Appendix A**

#### **List of Safety Sensitive Activities & Positions**

##### **Activities Defined as Safety-Sensitive by FMCSA/DOT for CDL**

- Performing – A driver is considered to be performing a safety-sensitive function during any period which he/she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.
- On duty time – All time spent providing a breath sample or drug testing specimen, including travel time to and from the collection site, in order to comply with the random, reasonable suspicion, post accident, or follow-up testing required by the DOT/FMCSA rule on Controlled Substances and Alcohol Use Testing for drivers of commercial motor vehicles.

#### **Safety Sensitive Positions**

Positions in which employees are entrusted with preserving the public health and safety or the safety of other employees. Employees in these positions have a special responsibility to maintain physical and mental fitness for duty at all times. The kinds of classifications determined to be safety sensitive are:

- All sworn Police personnel
- All Fire/Rescue/ EMS responders, including volunteers
- All emergency response communicators
  - Telecommunication Supervisor
  - Telecommunicators
  - Utilities Communications Technicians
- Positions requiring consistent and frequent operation of heavy equipment, trucks, or automobiles; or positions in which equipment operation is an important and primary job task on a periodic basis.
  - Equipment Operators
  - Utility Maintenance Technicians
  - Meter Readers
  - Field Customer Services Representatives
  - Building Code Officials
- Mechanics and other positions repairing vehicles carrying employees or the public.
  - Equipment Mechanics
- Positions whose primary duties are to ensure the safety of clients, customers, and citizens in and around water and for providing emergency response.

- Lifeguards
- Aquatic & Fitness Supervisor
- Aquatic & Fitness Specialist
  
- Positions required to drive clients, customers, and citizens.
  - Recreation Program Supervisors
  - Program Assistants for senior and youth programs
- Positions in which an employee's failure in performance could pose a threat to public health generally or to the environment.
  - Asst. Public Works Director (ORC for water distribution, wastewater, & backflow/cross connection)
  - Distribution & Collection System Supervisor
  - Cross Connection Control Technician
  - Water Resources Superintendent
  - Operations / Pretreatment Supervisor
  - Treatment Facilities Supervisor
  - Treatment Plant Operators
  - Laboratory Supervisor
  - Chemical Analysts
  - Treatment Facility Maintenance Mechanics
- Other positions as required by law, or so designated by the City Manager due to specific safety sensitivity of individual jobs.

Mayor Jennette noted for the minutes a big thank you for the ladies of Cypress Landing for their donation to the Library.

#### **DELL STUTZMAN – LITERACY VOLUNTEERS OF BEAUFORT COUNTY**

Ms. Dell Stutzman, representing the Literacy Volunteers of Beaufort County, appeared before Council to request \$1500.00. She explained the program which partners with Beaufort County Community College in helping students in various areas of study. Seventy percent of the students are from the City of Washington.

Councilman Jennings came in at this point and is made a part of the minutes.

#### **ECONOMIC DEVELOPMENT COMMISSION**

Councilman Gahagan stated that EDC had a setback and received only \$1.6 million of the \$6 million in grants from the Golden Leaf Foundation they had hoped to receive. They have to find another way to help companies grow and produce more jobs to deal with the loss of 5,000 manufacturing jobs. There was a question about the way the Golden Leaf measured out tier status and it was a rule change that happened after they submitted their grants. EDC was asking for \$6 million of the \$10 they were distributing.

#### **TOURISM DEVELOPMENT AUTHORITY**

Lynn Lewis, TDA Director, stated she attended an annual meeting in Winston Salem and they won an innovation award for the workshop that was held in February for community leaders and other community partners. They have a summer intern through Job Link. They are making plans for improvements at the Civic Center and hope to find some grants to help out.

#### **HUMAN RELATIONS COUNCIL**

Mayor Jennette stated the Human Relations Council were interested in keeping the Bobby Andrews Recreation Center open throughout June and July and the Council has made it clear they would like to see that happen. They have been asked to keep CAPRI going. The pulpit exchange was rescheduled to August 19<sup>th</sup> and "Men who Cook" is on for September. Sheriff Jordan came and asked that a service be scheduled for presentations of Jewish, Christian and Moslem faith.

### **DOWNTOWN WASHINGTON ON THE WATERFRONT**

This was delayed until Joey Toler comes. Councilman Gahagan commented that he attended the Nomination Committee meeting and it is moving in a direction to give this Council confidence in the future.

### **PARKING COMMITTEE**

Councilman Jennings stated they have not reconvened.

### **WARREN FIELD AIRPORT**

Mr. Smith stated he had a meeting with Trade Wind Aviation and that John Hayes is leaving and they are actively interviewing people for a new on site manager. The fencing project was completed ahead of schedule. They are working with Wildlife to see if they can get an additional archery season to try to manage the deer herd there. Legislature approved an additional season because of the large number of deer in many places in the state. The deadline for applications was set for April 1<sup>st</sup>. They are trying to decide what they are going to do. Construction on the new Hill hangar has begun.

There was a discussion of the first round of the Rural Airports Grant allowed by the State Legislature in FY 06-07. There was supposed to be an application process, which didn't happen, and they are trying to find out what actually occurred. The City has been assured it will be funded in the second round which begins next month. Grants are supposed to be up to \$200,000.

Mayor Jennette asked how many airports were eligible for this money. James Tripp stated that everyone was funded except the City and one other municipality.

### **APPOINTMENTS - SUBCOMMITTEE – ANNEXATION STUDY**

Councilman Jennings volunteered to serve on the Annexation Study Subcommittee.

Mayor Jennette stated she will try to have something going on by the July meeting.

### **PLANNING BOARD - TO FILL EXPIRING TERM OF DAN MCNEILL**

On motion of Councilman Brooks, seconded by Councilman Gibson, Council unanimously reappointed Dan McNeill to the Planning Board, term to expire June 30, 2010.

### **ENLARGED PLANNING BOARD - TO FILL THE EXPIRING TERM OF ROBERT HENKEL**

On motion of Councilman Brooks, seconded by Councilman Gibson, Council unanimously reappointed Robert Henkel to the Enlarged Planning Board, term to expire June 30, 2010, subject to the concurrence of the Beaufort County Board of Commissioners.

### **BOARD OF ADJUSTMENT O TO FILL THE EXPIRING TERM OF CHRIS TKACH**

On motion of Councilman Brooks, seconded by Councilman Gibson, Council unanimously reappointed Chris Tkach to the Board of Adjustment, term to expire June 30, 2010.

**ALTERNATE MEMBER - ENLARGED BOARD OF ADJUSTMENT - TO  
FILL THE EXPIRING TERM OF TIM CASHION**

On motion of Councilman Brooks, seconded by Councilman Jennings, Council unanimously reappointed Tim Cashion to the Alternate Member - Enlarged Board of Adjustment, term to expire June 30, 2010, subject to the concurrence of the Beaufort County Board of Commissioners.

**BOARD OF LIBRARY TRUSTEES - TO FILL THE EXPIRING TERM OF  
MURIEL BROTHERS AND JOY STALLINGS**

On motion of Councilman Gibson, seconded by Mayor Pro tem Woolard, Council unanimously reappointed Muriel Brothers to the Board of Library Trustees, term to expire June 30, 2013.

On motion of Councilman Gibson, seconded by Mayor Pro tem Woolard, Council unanimously appointed Anthony Franklin to the Board of Library Trustees to fill the expiring term of Joy Stallings, term to expire June 30, 2013.

**WASHINGTON HOUSING AUTHORITY - TO FILL THE EXPIRING  
TERMS OF ROSA BEAMON, JOHN MORGAN AND SWANSON  
GRAVES, III**

Council postponed appointments to the Washington Housing Authority.

**RECREATION ADVISORY COMMITTEE - TO FILL THE EXPIRING  
TERMS OF TIM WARE, CINDY COCHRAN, BETH SALEEBY  
FORD, GUY STOWE, WILLIAM EDWARD CHERRY, CATHY  
BOYD AND WAYNE HARRELL**

On motion of Councilman Jennings, seconded by Mayor Pro tem Woolard, Council unanimously reappointed Tim Ware and Cindy Cochran to the Recreation Advisory Committee, term to expire June 30, 2010; and appointed Joe Taylor to fill the expiring term of Beth Saleeby, term to expire June 30, 2008.

Appointments to replace Guy Stowe, William Edward Cherry, Cathy Boyd and Wayne Harrell were postponed and ads will continue to run in the paper.

**HISTORIC PRESERVATION COMMISSION - TO FILL THE  
EXPIRING TERM OF KATHERINE TATE AND CHARLES S.  
MAJOR, II**

Councilman Jennings moved that the City Council appoint Ann Stuart Rumley and reappoint Charles S. Major to the Historic Preservation Commission. Councilman Brooks seconded the motion.

Councilman Gibson recommended that Katherine Tate and Ann Stuart Rumley be appointed.

Councilman Jennings withdrew his motion and made another motion to appoint Ann Stuart Rumley to a vacant position on the Historic Preservation Commission. Councilman Gahagan seconded the motion. Motion carried unanimously.

Councilman Jennings moved to appoint Charles S. Major to a full term. Mayor Pro tem Woolard seconded the motion.

AYES: Mayor Pro tem Woolard  
Councilman Jennings

NAYS: Councilman Gahagan  
Councilman Gibson  
Councilman Brooks

On motion of Councilman Jennings, seconded by Councilman Gahagan, Council unanimously appointed Katherine Tate to fill a vacant position on the Historic Preservation Commission.

Terms for the two appointments expire June 30, 2010.

**WASHINGTON TOURISM DEVELOPMENT AUTHORITY - TO  
FILL THE EXPIRING TERM OF DEVAN DESAI, SCOTT  
SHEPPARD, JIM POTEET AND LINLEY GIBBS**

On motion of Councilman Jennings, seconded by Councilman Gibson, Council unanimously appointed Nan McLendon to the Washington Tourism Development Authority, to fill the expiring term of Devan Desai, term to expire June 30, 2010; and reappointed Scott Sheppard, Jim Poteet and Linley Gibbs, terms to expire June 30, 2010.

**AQUATIC COMMITTEE - TO APPOINT/REAPPOINT EXPIRING TERMS  
OF ARNOLD BARNES, GRACE LEKSON AND FRANCES HULBERT**

Mary Jones has been attending instead of Grace Lekson and Philip is recommending she replace Grace Lekson.

On motion of Councilman Gahagan, seconded by Councilman Brooks, Council unanimously reappointed Arnold Barnes and Frances Hulbert and appointed Mary Jones to fill the expiring term of Grace Lekson, terms to expire June 30, 2008.

On motion of Councilman Gahagan, seconded by Councilman Gibson, Council unanimously appointed Cliff Hales as ex-officio to replace Julia Hicks.

**HUMAN RELATIONS COUNCIL – TO APPOINT/REAPPOINT WILLIAM  
O’PHARROW, CYNTHIA LOVICK, AND ALICE MOORE**

On motion of Councilman Gahagan, seconded by Councilman Gibson, Council unanimously reappointed William O’Pharrow, Cynthia Lovick and Alice Moore to the Human Relations Council, terms to expire June 30, 2010.

**ANIMAL CONTROL APPEAL BOARD – TO APPOINT/REAPPOINT LISA  
MELISAUSKAS AND DOUG MERCER**

On motion of Mayor Pro tem Woolard, seconded by Councilman Brooks, Council unanimously reappointed Lisa Melisauskas and Doug Mercer to the Animal Control Appeal Board, terms to expire June 30, 2010.

**UPDATE – ON THE GEORGE REDEVELOPMENT PROJECT**

Bobby Roberson stated that there has been a change of ownership with Progress Partners so Stan Friedman will give an overview.

Stan Friedman stated that they have two groups of people who are very interested in building a hotel at The George. Negotiations are going on and time is of the essence to get the grant. They feel they will have something in the very near future.

Mr. Roberson stated that he has talked with Gail Brock with DCA and the primary concern was the \$750,000 grant and what if the group changed. An amendment requires a public hearing and then due diligence has to produce the same number of jobs or more than was in the original application. Ms. Brock stated that she will be coming down for a monitoring visit and he has asked that it be continued until the middle of July. Afterwards, a letter will be received from her on the status. A public hearing will probably be held in August.

Councilman Jennings asked for a time line commitment. Mr. Roberson stated that Gail Brock is looking for a letter from the City of Washington stating that the grant has changed partners and are moving forward on the \$750,000 and she will determine the time line. The time line on the letter should be the end of July, based on conversations with her. The City of Washington, in conjunction with the public-private partnership, can save the \$750,000 if the new owners meet all the CDBG criteria, including the time line established by the Department of Commerce.

### **ZONING OVERLAY**

Mr. Roberson referred to the overlay map and called upon John Rodman, to present the information. He first let Council know that there will be a public comment session on Wednesday at 5:00 p.m. on the height requirements.

Mr. Rodman explained how the different zones work. There are seventeen zoning districts with each having its own set of standards. An overlay zone is when you take a zone and lay another on top of it, which is usually more stringent, example the Flood Zone and the National Historic Register. Each zone has its own guidelines. Right now, the height limitations for businesses is 96 feet, but when you put the local historic overlay zone, buildings can only be consistent with other buildings. The Old Roberson Beverage and Old Buggy Works are not within the local historic district, so height limitations are 96 feet. The Historic Commission and Planning Board are talking about whether 96 feet is appropriate for the BI-H district and are looking at the O&I district as well.

### **ACCEPT – GIFT FOR SUSIGRAY MCCONNELL SPORTS COMPLEX FROM MR. JOHN P. MCCONNELL AND ADOPT BUDGET ORDINANCE AMENDMENT IN THE AMOUNT OF \$30,000**

Mr. Mobley stated that Mr. McConnell has given \$150,000, \$30,000 for five years. This \$30,000 will be used to put in a second driveway off Spring Road.

On motion of Councilman Jennings, seconded by Mayor Pro tem Woolard, Council unanimously accepted the gift installment in the amount of \$30,000 from Mr. John P. McConnell.

On motion of Mayor Pro tem Woolard, seconded by Councilman Brooks, Council unanimously adopted a budget ordinance amendment in the amount of \$30,000 for use at the Susiegray McConnell Sports Complex.

### **AN ORDINANCE TO AMEND THE BUDGET ORDINANCE OF THE CITY OF WASHINGTON, N.C. FOR THE FISCAL YEAR 2006-2007**

**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 \$30,000 in the account Contributions to Recreation-McConnell, account number 10-40-3360-0003.

Section 2. The account number 10-40-6130-7300, Other Improvements, Parks & Grounds portion of the General Fund appropriations budget be increased in the amount of \$30,000 to provide funds for second driveway entrance to Sports Complex.

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 11<sup>th</sup> day of June, 2007.

s/Judy Jennette  
**JUDY JENNETTE**  
**MAYOR**

ATTEST:

s/Rita A. Thompson  
**RITA A. THOMPSON, CMC**  
**CITY CLERK**

**AWARD – CONTRACT FOR EMERGENCY STORM DEBRIS  
CLEARANCE AND DISPOSAL AND AUTHORIZE CITY  
MANAGER TO SIGN CONTRACT ON A AS NEEDED  
BASIS**

On motion of Councilman Gibson, seconded by Councilman Brooks, Council unanimously awarded the contract for emergency roadway debris clearance and disposal to EHE Recycling & Disposal, Inc. and authorized the City Manager to sign the contract on an as needed basis.

**STATE OF NORTH CAROLINA**

**Time and Materials Agreement  
Emergency Roadway Debris  
Clearance and Disposal**

**CITY OF WASHINGTON  
WASHINGTON, NORTH CAROLINA**

**THIS AGREEMENT** entered into this 11<sup>th</sup> day of May June, 2007 between the City of Washington, Washington, North Carolina., a body politic and corporate under the laws of the State of North Carolina (hereinafter "City") and EJE Recycling & Disposal, Inc., a Corporation/partnership/Sole Proprietor, the address of which is 802 Recycling Lane, Greenville, NC (hereinafter "Contractor").

**Whereas**, the City has been devastated by storms in the past generating debris on public and private property; and

**Whereas**, the threat of such storms still exist; and

**Whereas**, the City desires to enter into a standby Agreement for emergency roadway debris clearance and disposal of a natural disaster, and

**Whereas**, the City desires to retain a Contractor to remove aforesaid debris; and

**Whereas**, the Contractor has represented to the City that its staff is qualified to provide the work required in this Agreement in a professional, timely manner; and

**Whereas**, the City has relied upon the above representations by Contractor, and

**Now, therefore**, in consideration of these promises and of the mutual covenants herein set forth, the City of Washington does hereby approve and instruct the City Manager to enter into a standby Agreement with EJE Recycling & Disposal, Inc. for Emergency Roadway Debris Clearance of all eligible storm generated debris in the storm effected area(s) of the City of Washington as described in the Scope of Services.

s/James C. Smith  
**JAMES C. SMITH**  
**CITY MANAGER**

s/Wayne Bell  
**WAYNE BELL**  
**PLANT MANAGER**

**FYI – CONTRACTS FOR PETROLEUM PRODUCTS FOR FY 2007-2008**

Councilman Gibson questioned why we are buying 89 octane instead of 87 octane? Ms. Williams explained that the 89 octane was bid because some of the cars are not running right on the 87; however, they are still alternating tanker loads between 87 and 89.

Councilman Gibson stated that we need to get automobiles that can function properly on 87 octane. Ms. Williams stated that we buy off state contract. Mr. Smith stated that it is transition what is going to be available in the police package. This is the last year for the Crown Victoria. The state buys so many we get a better price. Councilman Gibson stated we need to protest the gas guzzling cars and be thinking economically.

Ms. Williams stated the 87 octane quote will be available on June 25<sup>th</sup>. Mr. Smith stated that we buy whatever the posted price is.

Council took a five minute break.

**PUBLIC HEARINGS - CERTIFICATE OF CONVENIENCE – AND NECESSITY FOR MICHAEL C. GRIFFIN D/B/A GRIFF'S TRANSPORT SERVICES**

Michael Griffin, of Griff's Transport Services, was not present.

Council discussed whether to hold the hearing and take action later at the Committee of the Whole meeting.

Mayor Jennette opened the public hearing.

There was no one present to speak.

Mayor Jennette closed the hearing.

On motion of Mayor Pro tem Woolard, seconded by Councilman Jennings, Council unanimously approved the Certificate of Convenience and Necessity for Michael C. Griffin to operate one taxicab in the City of Washington as Griff's Transport Services.

On motion of Councilman Jennings, seconded by Mayor Pro tem Woolard, Council unanimously tabled this motion until June 25, 2007.

**NOTE - City Clerk reviewed the policy adopted on persons being present at Council meetings. This actually applies, according to the**

**ordinance adopted, for persons who have zoning requests and was included in Chapter 27, Zoning of the City Code.**

**COMMENTS FROM THE PUBLIC: (IMMEDIATELY FOLLOWING PUBLIC HEARINGS)**

Mr. Gary Tomosulo stated he had put all the DWOW members and volunteers in the same category as a few rotten apples that disgraced the Main Street Program. He stated his comments were directed to them, and he apologized. On behalf of himself, the Downtown Merchants, he thanked everyone for their tireless efforts in making Washington a better place.

Mr. Tomosulo, speaking for himself, stated he was offended by Brad Davis' audits and stuff. He explained that he was not accusing anyone of doing anything wrong, he just wanted to know how much money DWOW raised in 2004, 2005 and 2006 and would like to see the audits. He questioned if DWOW has raised enough money to pay even half of the Director's salary. He stated that money could have accomplished a lot downtown. He doesn't like to be told that he should just work for his merchants, because he does, and doesn't get paid. He stated he wants the \$100,000 to go downtown and challenged to do more than anybody. He stated that DWOW has had three years to get their act together. Now, he says he is getting blamed for stopping the Boat Show. He asked when is DWOW going to start making their own money? He stated he is not a developer, he rents his buildings, but he is not a developer. He thanked Council for being patient with him.

Mr. Eric Green passed out invitations to Council for a festival in the park to be held on Saturday in the greenspace at the waterfront. The whole community will be invited. They have raised \$1500 so far, and plan to sell food and have entertainment.

Ms. Dot Moate stated that the last time the issue came up relative to DWOW and the downtown merchants, Council decided to have a joint meeting. She asked that DWOW have the opportunity to present their side of the issue on this. She stated they have done their audits and performed according to law. She stated they have to quit bashing each other in public. She stated they have tried to work with the merchants and are working with the merchants.

It was agreed that it would be better to have the new board and new directors in place before having a joint meeting.

Councilman Jennings stated that we need to start getting along, that's why a meeting was suggested. He stated the feuding has to stop, that meeting is not a settlement or mediation of any kind. He asked could they meet or do they have to have Council make everybody get along? Ms. Moat stated they don't need that, and yes, they are ready to meet.

Mayor Jennette stated that DWOW has their audits, etc, and they have to move on.

Mr. Bill Sykes talked about vessels docking, and that once the Land Use Plan is approved and mooring fields are established, is Council going to establish a Harbor Management Plan. That plan will establish ordinances hopefully that will protect and enhance the harbor. He hopes the plan will be based somewhat like the Carolina Beach plan that has been implemented. He is pleased with the progress.

Councilman Jennings suggested that the Dock Master role be expanded to a Harbor Master's role.

**CLOSED SESSION – UNDER G. S. 143-318.11 (A)(3)  
ATTORNEY/CLIENT**

On motion of Mayor Pro tem Woolard, seconded by Councilman Jennings, Council unanimously agreed to go into closed session under G.S. 143-18.11(a)(3) Attorney/Client privilege.

On motion of Councilman Brooks, seconded by Councilman Jennings, Council unanimously agreed to come out of closed session at 7:15 p.m.

**NORTHGATE SUBDIVISION**

On motion of Mayor Pro tem Woolard,, seconded by Councilman Brooks, Council unanimously agreed to notify the N. C. Redevelopment Center of the City of Washington's decision to accept the N.. Redevelopment Center's final relief offer as contained in its May 18· 2007 memorandum concerning the Northgate Subdivision Infrastructure Project Grant No. 00-D-133.

**CONTINUE MEETING**

On motion of Mayor Pro tem Woolard, seconded by Councilman Jennings, Council unanimously adjourned the meeting until Monday, June 25, 2007 at 7:00 a.m. at Blackbeard's Restaurant.

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**Rita A. Thompson, CMC  
City Clerk**