

The Washington City Council met in a regular session on Monday, September 29, 2008 at 4:30 p.m. in the Council Chambers at the Municipal Building. Present were: Judy Jennette, Mayor; Doug Mercer, Mayor Pro tem; Richard Brooks, Councilman; Gil Davis, Councilman; Jim Smith, City Manager; Cynthia S. Bennett, City Clerk; Reatha B. Johnson, Acting City Clerk; and Franz Holscher, City Attorney.

Councilman Archie Jennings arrived at 4:40pm and Councilman Darwin Woolard arrived at 4:50 p.m. and both were made a part of the minutes.

Also present were: Anita Radcliffe, Acting Finance Director; Jimmy Davis, Fire Chief; Allen Lewis, Public Works Director; Bobby Roberson, Planning and Community Development Director; Philip Mobley, Parks & Recreation Director; Mick Reed, Police Chief; Keith Hardt, Electric Director; Susan Hodges, Human Resources Director; Lynn Lewis, Washington Tourism Director; Gloria Moore, Library Director; Ray Midgett, IT Director; Mike Voss, of the Washington Daily News; and Jay Niver with Beaufort Observer.

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

APPROVAL/AMENDMENTS TO AGENDA

Mayor Jennette added under Scheduled Public Appearances Item C: Mr. David Gossett; East Carolina Wildlife Arts Festival.

Mayor Jennette stated she had been notified by Bianca Gentile to remove item VI.A.10 Building Reuse and Restoration Grants Program. Ms. Gentile stated in her memo that project has been put on hold.

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

***Note: Mayor Pro tem Mercer requested to amend the previous motion and remove item A & D from the Consent Agenda to item 13 & 14 under VI.A – Old Business.**

On motion of Mayor Pro tem Mercer, seconded by Councilman Davis the amendments were unanimously approved.

APPROVAL OF MINUTES

On motion of Councilman Davis, seconded by Councilman Brooks, Council unanimously approved the minutes of August 11, August 25, September 2, September 5, and September 8, 2008 as amended.

APPOINTMENT AND OATH OF OFFICE FOR CYNTHIA BENNETT AS CITY CLERK

Mayor Jennette stated it was time for Council to install the new City Clerk, Cynthia Bennett. Mayor Pro tem Mercer stated a motion was needed to appoint the Clerk first.

On motion of Mayor Pro tem Mercer and seconded by Councilman Davis, Council unanimously appointed Cynthia Bennett as City Clerk with the salary to begin at the lower level of Salary Range 23.

Mayor Jennette thanked Reatha Johnson, Acting City Clerk, for all of her many months of dedicated service and hard work on this project.

APPROVAL OF CONSENT AGENDA

On motion of Councilman Jennings, seconded by Mayor Pro tem Mercer, Council unanimously approved the Consent Agenda, as amended.

- A. **Item moved to VI.A.13 Adopt** – Budget Ordinance Amendment to Provide Funds for the Completion of the Turnage Theater Infrastructure Improvements located at the rear of the newly completed addition (\$9,500)
- B. **Adopt** – Budget Ordinance Amendment to appropriate funds for the purchase of AMR water meters (\$8,148)

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2008-2009**

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

Section 1. The account number 30-90-7250-7400, Capital Outlay, portion of the Water Fund appropriations budget be increased in the amount of \$8,148 to provide funds for AMR water meters.

Section 2. The account number 30-90-4020-8300, Principal Payments Installment Notes, Debt Service portion of the Water Fund appropriations budget be decreased in the amount of \$6,412 to provide funds for AMR water meters.

Section 3. The account number 30-90-4020-8301, Interest Payments Installment Notes, Debt Service, portion of the Water Fund appropriations budget be decreased in the amount of \$1,736 to provide funds for AMR water meters.

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 29th day of September, 2008.

s/Judy M. Jennette
JUDY M. JENNETTE
MAYOR

ATTEST:

s/Cynthia S. Bennett
CYNTHIA S. BENNETT
CITY CLERK

- C. **Authorize** – Disposition of Discontinued Outdoor/Lighting Fixture at 1817 West 5th Street
- D. **Item moved to VI.A.14 Approve** – Purchase of a derrick digger line truck from Altec (\$200,000)

MR. JACK MAY – TAXICAB FARES

Mr. May was not in the audience at this time.

MR. PAUL FOXWORTH – PARACLETUS LIFE ENRICHMENT SERVICES

Mr. Paul Foxworth came forward and informed the Council that Paracletus was a newly formed non-profit in Beaufort County and was currently operating at 300 E. 10th

Street, which is the former Second Baptist Church. They are operating a safe haven program that will house a computer lab, reading lab, tutors, etc for children. Mr. Foxworth said he is here to appeal to the Council to be a vision partner for this project in the amount of \$250. He is looking for 100 vision partners to help get the project up and running until grant funds come in. Vision partners would be placed on a plaque in the vestibule.

Major Jennette asked Mr. Foxworth approximately how many students would this program serve. He stated they are budgeting for 30 to begin with, but have the capacity for 300.

Mr. Foxworth stated he is currently working on the second part of this project which partners with the Beaufort County Board of Education. This would allow members to spend time with school children making a plan for their success for that week. This also puts them in a business adventures program or student run business.

Mayor Jennette inquired if this project is funded by the Church or is it strictly apart from the Church. Mr. Foxworth stated this is strictly separate from the Church, although he does Pastor a Church which shares the same building.

Mr. Smith asked Mr. Foxworth if he has any statistics showing that this type of program has been successful anyplace else? Mr. Foxworth stated he did not. He further stated there is a \$20 registration fee each year and \$10 weekly donation fee for those parents that can afford it, other than that the project is strictly funded by grants. Mr. Foxworth also explained they are partnering with the Boys and Girls Club and utilizing both facilities for this program.

MR. DAVID GOSSETT - EAST CAROLINA WILDLIFE ARTS FESTIVAL

Mr. Gossett, stated he was speaking to the Council as show Chairman and had been given authority by the board of directors to make any decisions that may need to be made to determine the future of the show.

Mr. Gossett gave a brief history of the East Carolina Wildfowl Guild and East Carolina Wildlife Arts Festival. The first event was held in Washington in 1996. Mr. Gossett explained that during the time Mr. Ed Burchins, served as City Manager they were so sure the show would have a positive impact on the economy of the City of Washington that the City would partner with the Guild and be a sponsor of the show. Mr. Gossett stated that Mr. Burchins told him the City would let the Guild use the Civic Center and the Peterson Building at no cost and this would make the City a sponsor of the event with an in-kind contribution. Mr. Gossett explained that the fees have gone up since last year. He further noted the Guild is prepared to pay the same amount as last year and is asking the City for the difference in fees charged in 2008 and proposed fees next year. Councilman Davis asked what amount they paid last year. Mr. Gossett stated they paid \$2,962 in 2008 and the proposed fees for 2009 would be \$4402. Mr. Gossett stated he would be glad to give the City updates at any point and asked to keep the lines of communication open with the City Manager and Council.

Upon motion of Councilman Jennings, seconded by Councilman Davis, Council unanimously approved the following: I move that the City acknowledge the Wildlife Guild's contribution to the community and authorize the charging of a \$2500 flat fee to be allocated as the Manager and show director see fit for the 2009 show.

Mr. Smith stated we would treat this like the Christmas Parade and carry a line item in the budget for the difference from \$2500 to the current fee proposal. With proper calculations the amount appropriated to the Guild would be \$1900 for the 2009 show.

Councilman Jennings stated he just wanted to make sure that it was clear that this would be a flat fee of \$2500 that they would be charged each year. Mayor Pro tem Mercer stated we just need to keep it simple.

Upon motion of Councilman Woolard, seconded by Councilman Jennings, Council unanimously approved the amended budget ordinance for \$1900 instead of \$1500 to provide funds for the Wildlife Arts Festival.

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2008-2009**

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

Section 1. That account number 10-40-6170-9109, City Council portion of the General Fund appropriations budget be increased in the amount of \$1,900 to provide funds for the Wildlife Arts Festival.

Section 2. That account number 10-00-9990-9900, Contingency portion of the General Fund appropriations budget be decreased in the amount of \$1,900 to provide funds for the Wildlife Arts Festival.

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 29th day of September, 2008.

s/Judy M. Jennette
JUDY M. JENNETTE
MAYOR

ATTEST:

s/Cynthia S. Bennett
CYNTHIA S. BENNETT
CITY CLERK

ECONOMIC DEVELOPMENT COMMISSION

Catherine Glover, Chamber of Commerce came forward and stated she thought it would be appropriate to have a public hearing on October 20, 2008 regarding the business privilege license. She further stated this would be an opportunity for the business owners to come forward and voice their opinions.

Councilman Jennings stated we may be setting this aside until next budget year and fix it then.

Mayor Pro tem Mercer stated that he was the one that started this discussion during budget session and noted there was a long set of fees that hadn't been adjusted for many years and suggested some be increased. He didn't know why some were adjusted and others weren't. Mayor Pro tem Mercer noted that we have a discussion regarding this later in this agenda and we can make the decision at that time.

Councilman Jennings asked if we would decide at that time whether we would have a public hearing or not. Mayor Pro tem Mercer stated, "Yes". Catherine Glover asked that she be notified if the Council decided to have a public hearing. Councilman Jennings updated the Council on the EDC stating they have a few prospects on the spec. buildings, but nothing that he can disclose. He has asked that Mr. Thompson come in the future on a regular basis and give updates and he has agreed.

TOURISM DEVELOPMENT AUTHORITY

Lynn Lewis had no report. Mayor Jennette stated that Judy Randall was at the last meeting and did a study regarding tourism and is submitting a report that can be used as an economic development tool for the City.

HUMAN RELATIONS COUNCIL

Mayor Jennette stated she was unable to attend the last meeting. Jim Smith stated he attended and Chief Mick Reed gave a report on the Next Step project.

DOWNTOWN WASHINGTON ON THE WATERFRONT

Councilman Jennings stated nothing particular to report except the topic of bathroom locations. Mr. Bobby Roberson stated this project is at the Planning Board level and they are looking at several locations and running down costs and footprint/size. Mr. Roberson stated the two locations are adjacent to the pumping station or what is noted as the "great lawn" and the existing site. Councilman Jennings was curious as how this got to the Planning Board level. Councilman Davis noted the subcommittee sent this to the Planning Board for their concurrence and they started out with six locations and have narrowed it down to two.

Mayor Pro tem Mercer noted he thought you needed to find the location and then design the building, not the other way around. Councilman Jennings stated this grant is only for \$100,000. Mayor Jennette said she agreed with Mayor Pro tem Mercer, but you still need to have the size of the facility in order to narrow down the site. Mr. Roberson explained that he had used the facilities at Haven's Gardens as an example and a facility of that size would cost \$150,000-\$175,000.

Councilman Jennings asked Mr. Roberson to coordinate with the Planning Board and bring all six sites back to the Council for review, this puts Council back in the process and makes sure they are on the right track.

CITIZENS FOR REVITALIZATION

Councilman Jennings had asked for Chris Furlough to come and make a presentation and they will have that hopefully at the next meeting. They are currently working on some items and reviewing past plans. The committee wanted to get some concrete information about maintenance work in the Central Business District and they wanted to have that information before they made a presentation to City Council. Councilman Jennings stated this is not the group the Council charged to learn about the hotel business.

WARREN FIELD AIRPORT

Jim Smith, City Manager stated the major issue we have been dealing with is a contaminated load of jet fuel and we didn't have the capacity in-house to deal with that kind of issue. We have been working with Public Works, State Dept. of Agriculture (tank inspections) and fuel supplier as well as our insurance carrier to remedy the problem. Apparently, there is an additive put into the jet fuel to absorb the moisture and stop it from freezing. Over time that concentrates at the bottom of the jet fuel tank and the tank went down to about 5" of fuel in the bottom of the tank, subsequently this was loaded into the jet fuel tanker truck, thus that fuel couldn't be used. We are currently looking at replacing the tank and going to a self-serve facility. At this time we are not selling any jet fuel and will probably be down at least 3-4 months.

Councilman Woolard inquired as to the amount of fuel that was lost. Mr. Smith stated approximately \$12,000. He further noted that with all the wildfires and the additional sell of fuel for that project it sort of evened out.

Mayor Pro tem Mercer asked who adds the additive to the fuel. Mr. Smith said the supplier adds that, he further added that our tank does not have a circulation system

to keep it suspended in the fuel. Mayor Jennette asked that if the self-serve tanks would take care of problems like this. Mr. Smith explained that it would resolve a lot of problems. Mayor Pro tem Mercer stated that self-serve pumps need to be put on the fast track. Mayor Jennette inquired if the Rural Airport money would take care of most of the self-serve project. Mr. Smith stated that was correct.

Councilman Jennings noted the time as 5:40pm and there was a presentation of a proclamation scheduled at 5:30pm.

PRESENTATION – PROCLAMATION PINE NEEDLES GARDEN CLUB

Mayor Jennette presented Pine Needles Garden Club with the following proclamation:

PROCLAMATION

PINE NEEDLES GARDEN CLUB

WHEREAS, the Pine Needles Garden Club sponsored the first Crabs on the Move Project from 2006-2008; and

WHEREAS, the Crabs on the Move Project raised \$44,000 for local charities and created Beaufort County's first outdoor public art exhibit; and

WHEREAS, the Crabs on the Move Project brought all of Beaufort County together to work for a common goal.

NOW, THEREFORE, I, JUDY M. JENNETTE, MAYOR of the CITY OF WASHINGTON, North Carolina proclaim the day of 14 of July, 2008 as Crabs on the Move Day.

IN WITNESS WHEREOF, I here unto set my hand and cause the seal of our City of Washington to be affixed hereto:

This the 14th day of July, 2008

s/Judy M. Jennette
JUDY M. JENNETTE
MAYOR OF WASHINGTON NC

ATTEST:

s/Reatha B. Johnson
REATHA B. JOHNSON
ACTING CITY CLERK

ANNEXATION REPORT

Councilman Jennings stated there was nothing to report at this time.

HAVEN'S GARDEN REPORT

Mr. Philp Mobley, Parks and Recreation Director, stated they have been in contact with Mr. Eatmon, DOT for a time table and are also waiting on the Wildlife Commission regarding boat ramps, thirdly, Susan Suggs continues to work on the Master Plan and will review surveys from the City Council. Mr. Mobley explained he has spoken with Bill Forman, Coastal Science and Engineering regarding pilings and walkway area and estimates regarding the study, plan, drawings, CAMA permits and encroachments with DOT.

Councilman Jennings asked if Susan Suggs would be able to meet the deadline Council requested. Mr. Mobley explained he was confident that she could. Mr. Jennings stated that the walkway under the bridge would be the best chance we would

ever get to be able to cross Hwy. 32 safely and he doesn't want to miss this opportunity by not having all of our permits submitted in time. Mr. Mobley will get these estimates from Bill Forman. Councilman Jennings asked what if Mr. Mobley knew what DOT's schedule is. Mr. Mobley has heard the start date is May and we are hoping for that because the CAMA Major Permit review can take up to six months. Mr. Mobley stated he hopes to have the estimates from Mr. Forman by October 20th and hopefully apply/receive a PARTF grant.

HARBOR MANAGEMENT REPORT

David Emmerling presented a report from the Harbor Committee which establishes an initial list of priorities for further research and clarification. The priorities under review are as follows:

1. Development of a plan to establish a baseline and measure the impact of the mooring field and harbor expansion on water quality
2. Determine the feasibility and consequences of requesting DWQ to upgrade the classification of city waters from "C" to "B"
3. Determine the feasibility of increasing the availability of marine pump out facilities
4. Research and develop an approach for enforcement of no-wake zones
5. Research and recommend an approach to manage harbor related issues and practices that protect the harbor and people who use it
6. Research and recommend policies and practices that will allow the management and control of abandoned and derelict boats
7. Research and recommend policies and procedures that will allow for the establishment of a mooring field
8. Develop and recommend information materials for transient boaters

Mr. Emmerling stated they have made progress on each of these items and hope that within the next 60-90 days the committee would have a set of recommendations for Council's consideration. Mr. Emmerling discussed working with DWQ to have the water quality re-evaluated for a better rating. Mayor Pro tem Mercer explained this rating was probably a carryover from approximately 10-15 years ago and it has yet to be reclassified.

Council convened for a break and reconvened at 6:00pm

CONSIDER – PRELIMINARY SUBDIVISION PLAT APPROVAL OF WHEAT FIELD SUBDIVISION LOCATED OFF OLD BATH HIGHWAY

Dot Moate stated she is here today representing the Planning Board concerning the preliminary subdivision plat of Wheat Field, presented by John Wehrenberg. The preliminary subdivision contains 14 lots and the Planning Board recommended approval of the plat subject to the conditions marked on the attachment "A".

Ms. Moate stated that a lengthy discussion occurred on the approval of sidewalks and the Subdivision Ordinance provided under Section 17-123 a provision for sidewalks and states: sidewalks shall be provided by the sub-divider as deemed necessary by the City Planner and installed in accordance with the requirements of the Public Works Department. She further stated that sidewalks are reviewed by the Planning Board and are recommended to the City Planner for appropriate action. The Planning Board therefore recommended that sidewalks not be required for this subdivision because of the following reasons: the development being low density and a high end scale development. The Planning Board members were unanimous in making this recommendation for approval.

Mayor Jennette opened the Public Hearing

John Wehrenberg came forward and stated he is the developer for the proposed subdivision. He had previously asked the Council to look at Star Hill Farm Subdivision

in Greenville and he has modeled Wheat Field after this subdivision. He explained that about a year ago he had received approval for a 50 lot subdivision at this same location. The current request is for 14 lots that are of a higher end development. Mr. Wehrenberg gave a brief synopsis of Star Hill Farm Subdivision in Greenville and some of the highlights he hopes to place in Wheat Field.

Mayor Pro tem Mercer asked Mr. Wehrenberg to review the plat of the tracts that he owns and make sure the lots are numbered appropriately.

Mayor Jennette closed the Public Hearing

Upon motion of Mayor Pro tem Mercer, seconded by Councilman Davis, Council unanimously accepted the recommendation of the Planning Board and approved the preliminary subdivision plat of Wheat Field Subdivision subject to the conditions by the Subdivision Review Committee marked Attachment "A" on the City Council Action form and repeal the approval of the earlier plat of 50 lots.

**CONSIDER – PRELIMINARY SUBDIVISION PLAT APPROVAL OF IRON CREEK
PHASE III LOCATED OFF OF IRON MINE WAY**

Ms. Dot Moate stated she is here representing the Planning Board concerning the preliminary subdivision of Iron Creek Phase III. Ms. Moate stated that after a lengthy discussion the Planning Board recommended that Iron Creek Phase III be tabled until an environmental impact statement is presented to the Planning Board. The environmental impact statement is set forth under Article II, Procedure for Approval, Subsection 29. The environmental impact statement pursuant to Chapter 113A of the North Carolina General Statutes may be required of the sub-divider if the preliminary plat:

1. The preliminary plat exceeds two acres in area
2. If the board deems it necessary due to the nature of the land to be subdivided or peculiarities in the proposed layout

Ms. Moate also stated the Planning Board felt that because of flooding issues in the past for Sections I and II that prior to approving Phase III a more in depth study should be developed and approved in order to prevent additional flooding in the area. The Planning Board members were unanimous in their recommendation to City Council.

Mayor Pro tem Mercer asked what would be required in the study.

Bobby Roberson, Director of Planning & Development stated this is basically to look at the flooding issue. Mayor Pro tem Mercer stated that an environmental assessment is a broad topic and this should be a drainage based study.

Mr. Roberson explained that the General Statutes references an environmental statement that is based on flooding and drainage issues.

Councilman Jennings asked if the same developer for Phase I & II was the same for Phase III. Mr. Roberson stated that was correct. Councilman Jennings noted that he would not be comfortable approving Phase III until the drainage issues in Phase I & II were resolved.

Mayor Jennette explained that this was advertised as a public hearing and we are offering them a chance to speak and noted another public hearing will need to be held after the Planning Board makes their recommendation.

Mayor Jennette opened the Public Hearing.

Charles Daniel, resident of Iron Creek came forward and presented issues to be addressed concerning Iron Creek Phase III. Mr. Daniel presented photos of flooding in the subdivision. He further noted that as more houses are built in Phase II the flooding

gets worse. Mr. Daniel noted that Phase I has storm drains but Phase II does not. He noted the residents would not oppose Phase III if the developer could guarantee there would be no evidence of flooding. Mr. Daniel stated the residents are paying a drainage fee that is not doing any good. Mr. Daniel presented the following to Council.

ISSUES TO BE ADDRESSED CONCERNING IRON CREEK/PHASE III

As we see with the current national financial crisis, no one was minding the store, no one is to blame, no apparent oversight was in effect and the cost of cleaning up this mess will be absorbed by the taxpayers. The residents of Iron Cree are also taxpayers and with that in mind there are issues that must be addressed in order to approve Phase III of Iron Creek.

The things that should be clearly understood and addressed are these:

- Are an Environmental Impact Study and Storm Water & Erosion Control Plans required for this project?
- If so, have they been completed?
- Have they been reviewed and appropriately approved by the City of Washington?
- Have they been reviewed and appropriately approved by all governing State and Federal permitting agencies?
- Are any of these approvals conditional upon modifications to the existing Site Work, Drainage, Erosion Control or Utility design documents?
- If modification to any engineered design is required what safeguards are in place to insure that all modifications are made and that the work will be inspected to guarantee compliance with all permits?
- Is the developer being required to post a bond to guarantee not only the completion of the site and utility work but also the performance of same over an extended period of time sufficient to insure that storm water issues have been dealt with in a manner satisfactory to all stakeholders, the City of Washington, State and Federal agencies and most importantly the homeowners.
- What engineering has been done to remedy the existing problems with stormwater runoff in Phase II – Iron Creek?
- Is the City of Washington willing to make approval of Phase III – Iron Creek conditional upon a soundly engineered and approved solution to remedy the existing drainage problems?

There should be no approval of this project unless and until all of these matters are resolved in a manner that complies with local, state and federal law and is in accordance with responsible engineering practices.

Councilman Woolard stated he would like to commend the Public Works Department for their work on this drainage issue as well as S.T. Wooten Company for the snag and drag.

Mr. Daniel stated that the trestle at Maple Branch needs to be removed because it is acting as a dam. Jim Smith, City Manager stated there were currently no funds available to remove the trestle.

Franz Holscher, City Attorney requested to keep a copy of the pictures and give them to the Clerk to have for the next public hearing.

Sam Jarvis, engineer representing the owner of the subdivision. Mr. Jarvis further explained that had planned on having an information session with the residents to try and address these issues before it came to Council as a public hearing. Mr. Jarvis stated this project first came before the Council in 1997 and staff noted at that time they were adequately satisfied that the drainage design had been completed. Mr. Jarvis explained the difference in elevation from the time the subdivision was first developed until now. He stated that DOT has replaced and upgraded drainage pipes to

help with this issue as well as S.T. Wooten removing dams. Mr. Jarvis stated there is downstream obstruction that has taken away the storage capacity at Mitchell Branch and any rainfall accumulation starts with an already filled drainage area. This problem is downstream on someone else's land and they don't have permission to go on that property and remedy the problem. Mr. Jarvis further stated they would like to meet with the residents and help resolve these issues. Councilman Jennings asked Mr. Jarvis that when DOT upgraded the pipes in 2000 was there a beaver problem of this magnitude until this occurred, which also was about the same time that Phase 2 was being developed.

Franz Holscher asked if the downstream obstruction did not exist when Phase 1 and Phase 2 was permitted. Mr. Jarvis stated that was correct and it began around 2001 and got worse. Mayor Pro tem Mercer noted that DOT added additional culverts under Hwy 264 to allow the water to flow away, and then the beavers decided to create dams as well as debris and fallen trees.

On motion of Councilman Jennings, seconded by Councilman Brooks, Council unanimously accepted the recommendation of the Planning Board and continued the preliminary subdivision plat approval of Iron Creek Phase III. Mayor Pro tem Mercer amended the motion to be subject to the completion of the drainage basin study.

Mayor Jennette closed the Public Hearing

COMMENTS FROM THE PUBLIC

There were no comments from the public at this time.

BEAUFORT COUNTY MASTER GARDENER PROGRAM

Jim Keen, Chair, Community Gardens made a presentation to Council. He noted they are a new organization that is only two years old with 63 members. Their mission is to aid the NC Cooperative Extension Office in Horticulture education. He has met with the City Manager and there is a 1.1 acre of unused land that could be used as a community garden starting out with approximately 40 plots for production of personal use vegetables. The plot of land is adjacent to the overflow Susiegray McConnell parking area and is located on Warren Airport property which is across of the Extension Center.

Mr. Keen requested the approval of the project and assistance by:

1. Granting a 5-year, renewable lease of the property to our organization for use as a community garden.
2. Providing technical and financial assistance in connecting to and maintaining the existing Extension Center irrigation water tap for the anticipated community garden water needs.
3. Providing technical and financial assistance in installing additional security lighting for the gardens.
4. Providing payment-in-kind assistance through the City Manager's office on an as-needed, requested basis. Examples include providing organic mulch through the City leaf collection program.
5. Become a partner in our community garden organization and appoint a city representative to attend periodic general meetings.

Mayor Jennette stated that during the staff meeting today it was noted this is airport property and we have to get approval from FAA before Council can bless this project. She noted that once that letter is received then the Council can move forward on this, hopefully by October 20th meeting. Mayor Jennette asked Ann Darkow to work with the City to get the numbers regarding water and electricity to that area. Mayor Pro tem Mercer stated it may be more feasible to get water from the adjacent hanger than to go under the road.

JASON BRILEY - NORTHGATE

Mr. Briley noted that since February they have sold 9 houses and currently have 7 under construction with 6 completed and 3 are under contract. Of those numbers 7 have been approved for low-moderate income with one additional pending. Mayor Jennette stated this is coming along nicely and it is a good partnership.

Franz Holscher asked how many since 2006 are potential LMI purchasers. Jason Briley stated he has one qualified and awaiting final approval from Crisis Housing and four more awaiting further information to complete the appropriate documentation. Franz Holscher encouraged Mr. Briley to get this information to Bobby Roberson as quickly as possible as the deadline is December 2009 to sell 25 more lots to LMI residents.

PRIVILEGE LICENSE FEES

Robin Lewis, President of Robin Lewis Consulting, Inc. gave a brief background on herself and then presented a report on privilege license. Ms. Lewis explained that G.S. 160A-211 allows cities to have the power to levy a privilege license tax on all trades, businesses carried on within the city. The statute only limits a few types of businesses from either exempting them on a local level or having a fixed rate for their license. She provided Council with a list of both.

Washington currently has some city classifications on a flat rate and others on a gross receipts tax with two different caps. Specifically, retail, wholesale, manufacturing and service.

Ms. Lewis stated she is a firm believer in keeping it as simple as possible, for both the city staff and the taxpayer. Which based on Washington's gross receipt formula it appears there is a similarity in our thinking. Therefore, my recommendation would be to have all city classifications on gross sales/receipts. To simplify even more, only keep the four classifications that are on gross receipts currently and repeal the others. Any business that is currently paying a flat rate would be moved to a gross receipts tax. Another suggestion would be to add a "miscellaneous" classification based on number of employees for any business who may claim no gross receipts, such as an administrative office. In addition, eliminate multiple caps and have only one cap, allowing the maximum tax of \$2500. Based on municipalities listed in the spreadsheet, they either do not have a cap or their maximum tax is more than the \$2500, so she believes the current maximum is reasonable.

Lastly, she would recommend revisiting the privilege license tax every two to three years to determine if the maximum should be increased. She was highly with the City of Washington staff and their outstanding collection rate of 91%.

Ms. Lewis explained that the City's ordinance requires business owners to keep profit and loss statements. Councilman Jennings asked Ms. Lewis how they communicated this information to the business owner.

Mayor Pro tem Mercer asked if the State Association of Privilege License had made any effort to remove the inequities in fees. Ms. Lewis stated that was done in 1997 but nothing has been done since that time. She explained that this is a very touchy situation and she brings this up every year.

Jim Smith stated the City has done some research regarding this and noted there was \$200,000 revenue in the budget for privilege license and suggests going to a \$1500 across the board and eliminating all miscellaneous categories except those that don't report revenue will go on the number of employees. Those billed at \$1000 would not be re-billed, but next year would be billed \$1500. The other option would be to leave cap at \$2500 but reduce the \$0.75 to \$0.60 and so on, this would help the smaller businesses, but keep larger retailer paying \$2500. These numbers have not been calculated yet.

Mayor Pro tem Mercer noted he thought at the last meeting we decided to not adjust any more fees and to bring this up at budget time.

On motion of Mayor Pro tem Mercer he moved that we leave all the fees we've adopted at present time in place and will review them all at budget time. Motion died for lack of a second.

Councilman Jennings stated he needed clarification regarding the different suggestions on privilege license fee and when referring to them during this discussion we note the following:

1. The way we used to do it with a \$500 cap which generates \$100,000 in revenue.
2. The way we recently approved with a \$2500 cap which generates \$200,000 in revenue.
3. Proposal which is being shaped as a new way to do privilege license fees.

Councilman Jennings stated we need to know what the change will produce and do this in conjunction with the business community so they know what to expect instead of just sending them a bill with no explanation.

On motion of Councilman Jennings he moved that this year we return to Plan 1 (\$500 cap) with a 20% increase or \$100 over the maximum making the maximum \$600 subject to a full review and cooperative effort of the business community with the understanding that at the next budget cycle we will implement something more comprehensive and more considerate of our existing business practice. Motion died for lack of a second.

Mayor Pro tem Mercer asked where would we find that \$40,000 difference. Mayor Pro tem Mercer stated there would be 31 businesses that would receive a refund. Robin Lewis stated that when business stated they have no gross receipts then they are required to pay the maximum. She further stated that there are at least nine cities that are looking at implementing gross receipts and some with a cap and some without a cap. She encouraged the Council that Washington is not alone in doing this, there have been 9 others just this year making changes. Motion died for lack of a second.

Jim Smith noted he met today with the Chamber and they are aware that the \$200,000 is in the budget and we need to get that money and maybe they can help collect some more accurate data.

On motion of Councilman Woolard, seconded by Councilman Davis, Council approved the motion to leave the \$1000 and \$1500 as the maximum to get us through this year and come together with the people of the community and have a public hearing to get our ideas together for the next year.

Mayor Pro tem Mercer asked what about those that have already been billed with a maximum of \$500 will they be re-billed for the extra \$500.

On motion of Councilman Davis and seconded by Councilman Woolard the motion was amended as follows: leave the \$1000 and \$1500 as maximums and those billed for \$500 will not re-billed for the additional \$500. Motion carried.

AYES:

Councilman Woolard
Councilman Davis
Councilman Jennings
Councilman Brooks

NAYES:

Mayor Pro tem Mercer

**ADOPT – BUDGET ORDINANCE AMENDMENT FOR BEEBE MEMORIAL PARK
PROJECT (\$25,000)**

Philip Mobley, Director of Parks and Recreation, explained this is the final phase of this project. He further stated they are requesting about \$25,000 to complete the project that will be added to the \$40,000 originally appropriated. Councilman Jennings asked if any money was received from the County. Mayor Jennette stated they did not give any money for this project, thus the reason for the increase.

Mayor Pro tem Mercer requested a picture of the shelter. Mayor Jennette stated this shelter requires a lot of concrete because it is an elevated platform to be used as a stage. Councilman Jennings asked what the timeline was for this project, would it go into the next budget year. Mayor Pro tem Mercer noted concern about the price per square foot to construct this. Mayor Jennette stated the commitment at budget time was to get this project complete. Councilman Davis asked how long was the bid guaranteed for? Mr. Mobley stated he spoke with the contractor and noted he would contact him after tonight's meeting to discuss and confirm the bid amount. Councilman Woolard stated we need to finish this project. Mayor Pro tem Mercer asked what the bid amounts were. Mr. Mobley stated the first bid was approximately \$100,000 and the second bid was \$80,000. Mr. Mobley stated that with the second bid several items were removed such as the colored concrete. Mayor Pro tem Mercer asked if the stone columns could be removed and save \$12,000 and remove the memorial walkway. Jim Smith stated the committee felt that without the stone columns the shelter looked like a picnic shelter. Mr. Smith asked if we could delay the installation of the headstones and save that \$4700 until next year as they are being stored at the City's warehouse.

On motion of Councilman Woolard, seconded by Mayor Pro tem Mercer, Council unanimously adopted the budget ordinance amendment in the amount of \$25,000 for the final phase of improvements at Beebe Memorial Park.

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2008-2009**

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

Section 1. That account number 10-40-6130-7301, BeeBee Park Improvements, Parks & Grounds portion of the General Fund appropriations budget be increased in the amount of \$25,000 to provide funds for shelter construction and other improvements.

Section 2. That account number 10-00-9990-9900, Contingency portion of the General Fund appropriations budget be decreased in the amount of \$25,000 to provide funds for shelter construction and other improvements at BeeBee Park.

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 29th day of September, 2008.

s/Judy M. Jennette
JUDY M. JENNETTE
MAYOR

ATTEST:
s/Cynthia S. Bennett
CYNTHIA S. BENNETT
CITY CLERK

AWARD – CONTRACT FOR BEEBE MEMORIAL PARK IMPROVEMENTS (\$81,705)

On motion of Councilman Woolard, seconded by Mayor Pro tem Mercer, Council unanimously awarded the construction contract to American Builders for the final phase of improvements to Beebe Memorial Park in the amount of \$81,705.

ADOPT – PROPOSED PLAN FOR CITY COUNCIL LAPTOP COMPUTERS

Mayor Jennette noted that at the last meeting Council tabled this until money was found to do this project, but Councilman Jennings asked to have this placed back on the agenda for this month for further discussion.

Councilman Jennings stated the savings would be almost immediate and the payback would be in a short period of time and this is something that would happen inevitably in the near future. Councilman Jennings stated he would like to table this with a mandate to enact this at the next budget so we are ready for it and talk about different ways to do this project since this is not in the budget at this time. Councilman Jennings suggested that he work with Mr. Midgett and the City Manager in coordinating this effort.

Mayor Jennette suggested we check with other towns to see how they do this.

Ray Midgett, IT Director stated that the City Clerk's office was working on putting the City Code on-line and all of this would be on the network and we could put the agenda on the network as well.

Mayor Pro tem Mercer stated he didn't have a problem with receiving this on a flash drive, but then he could print it himself. Mr. Midgett suggested we put this on the server and let everyone connect to it that way.

ADOPT – RESOLUTION FORMALLY APPROVING THE RUNYON CREEK BRIDGE REPLACEMENT PROJECT AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE ATTACHED MUNICIPAL AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

Allen Lewis, Director of Public Works, is requesting the Council adopt a resolution that states the City will be responsible for all municipal-owned utilities within the existing NCDOT right of way be relocated for the construction project. There are no City water or sewer utility conflicts with this project. There may be some overhead electric utilities that need to be relocated on the east side of the creek.

On motion of Councilman Davis, seconded by Councilman Woolard, Council unanimously adopted the Resolution approving the Runyon Creek bridge replacement project and authorizing the Mayor and City Clerk to execute the Municipal Agreement with NCDOT.

NORTH CAROLINA
BEAUFORT COUNTY

8/6/07

NORTH CAROLINA
DEPARTMENT
OF TRANSPORTATION

MUNICIPAL AGREEMENT

AND

PROJECT: B-4019

CITY OF WASHINGTON

WBS: 33386.1.1

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the state of North Carolina, hereinafter referred to as the "Department" and the City of Washington, a municipal corporation, hereinafter referred to as the "Municipality";

WIT N E S S E T H:

WHEREAS, the Department has prepared and adopted plans to make certain street and highway constructions and improvements within the Municipality under Project B-4019, Beaufort County, said plans consisting of the replacement of Bridge No. 103 over Runyon Creek on NC 32 in City of Washington; said project having a right-of-way width as shown on the project plans on file with the Department's office in Raleigh, North Carolina; and,

WHEREAS, the Department and the Municipality have agreed that the corporate limits of the Municipality,

as of the date of the awarding of the contract for the construction of the above-mentioned project, are to be used in determining the duties, responsibilities, rights and legal obligations of the parties hereto for the purposes of this Agreement; and,

WHEREAS, the Municipality and the Department are authorized by the following legislation: General Statutes of North Carolina, Section 136-66.1, Section 160A-296 and 297, Section 136-18, and Section 20-169, to provide adequate traffic operating controls and control devices for the safe and efficient utilization of highways; and,

WHEREAS, the City Council of the Municipality has approved the construction of said project in accordance with the plans and specifications on file with the Department and has agreed to participate in certain costs thereof in the manner and to the extent as hereinafter set out and has further agreed to the establishment and maintenance of certain traffic operating controls as hereinafter set out. NOW, THEREFORE, in consideration of the premises and the benefits accruing to the Department and the Municipality as the result of the construction of Project B-4019, Beaufort County, it is agreed as follows:

1. The Department shall be responsible for the preparation of the environmental and/or planning document, including any environmental permits, needed to construct the project. All work shall be done in accordance with Departmental procedures and guidelines.
2. The Department shall be responsible for the design of the project plans and specifications for the project. All work shall be done in accordance with Departmental standards and specifications.
3. The Municipality, except as set out in Paragraph 4 hereinbelow, shall perform, or cause to be performed, the work hereinafter set out when the same shall become necessary by reason of the construction or relocation of streets or sidewalks, or by reason of the widening or improvement thereof; said work to be performed, or provision made therefor, in a manner satisfactory to the Department prior to beginning construction of the project herein referred to:
 - (A) The Municipality, without expense to the Department, shall exercise any rights which it may have under any franchise to effect all necessary changes, adjustments, and relocations of telephone, telegraph, and electric power lines; underground cables, gas lines, and other pipelines or conduits; or any privately-or publicly-owned utilities.
 - (B) The Municipality, without cost or obligation to the Department, except as set out in Paragraph 5 hereinbelow, shall lay, change, relay, repair, and otherwise adjust any municipally owned electric, water, sewer, and gas lines, and any other pipelines or conduits; and shall make all necessary adjustments to house or lot connections or services lying within the right of way or construction limits, whichever is greater, of the project, whether said connections or services are owned by the Municipality or by others. The Municipality shall make every effort to promptly relocate said municipally-owned utilities and to make all necessary adjustments to said

house or lot connections or services in order that the Department will not be delayed in the construction of the project.

4. The Department, where necessitated by construction, will make vertical adjustments of two (2) feet or less to the existing manholes, meter boxes, and valve boxes at no expense to the Municipality.
5. The Department will reimburse the Municipality in accordance with the Municipally-Owned Utility Policy of the Department contained in the official minutes of the November 14, 1986, meeting of the Board of Transportation, which policy is incorporated herein by reference.
6. The Department shall acquire the right of way necessary to provide a right of way of the width and of the length as called for in the plans and specifications of the project on file with the Department, such right of way to be provided by the Department without any cost whatsoever to the Municipality.
7. It is further agreed that, upon completion of the project, the Department shall establish, maintain and enforce traffic operating controls on Project B-4019 in accordance with the project plans, the North Carolina General Statutes, the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, the Policy on Street and Driveway Access to North Carolina Highways dated January 9, 1987, or subsequent revision thereof, and all Departmental criteria.
8. Subject to successful completion of the planning document and all required environmental work, the Department will construct the project in accordance with the plans and specifications adopted therefor or as altered or amended by the Department. The Department shall have the right to abandon the project at any time before the Municipality has been called upon to perform any part of its agreement.

IT IS UNDERSTOOD AND AGREED that the approval of the project by the Department is subject to the conditions of this Agreement and that no expenditure of funds on the part of the Department will be made until the terms of this Agreement have been complied with on the part of the Municipality.

IN WITNESS WHEREOF, this agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given, as evidenced by the attached certified copy of Resolution, Ordinance or Charter Provision, as the case may be.

s/Judy M. Jennette
JUDY M. JENNETTE
MAYOR

ATTEST:

s/Cynthia S. Bennett
CYNTHIA S. BENNETT
CITY CLERK

s/Anita C. Radcliffe
ANITA C. RADCLIFFE
INTERIM FINANCE DIRECTOR

**COPY OF A RESOLUTION PASSED BY THE CITY COUNCIL OF THE CITY OF
WASHINGTON, NORTH CAROLINA**

A motion was made Councilman Davis and seconded by Councilman Woolard for the adoption of the following Resolution, and upon being put to a vote was duly adopted:

WHEREAS, the North Carolina Department of Transportation has prepared and adopted plans to make certain street and highway improvement of Bridge No. 103 over Runyon Creek on NC 32 in Washington; and,

WHEREAS, said Department of Transportation and this Municipality propose to enter into an Agreement for the above-captioned project whereby this Municipality agrees; (1) to effect the necessary adjustment of any utilities under franchise without cost to the Department of Transportation, and (2) to provide for the adjustment of any municipally-owned utilities without cost to the Department of Transportation, except that said Department will reimburse this Municipality in accordance with said Department's Municipally-Owned Utility Policy; and,

WHEREAS, the Department agrees to acquire the right of way and construct the project in accordance with the approved project plans, and,

WHEREAS, the Agreement will further provide for the establishment, maintenance, and enforcement of traffic operating controls for the regulation and movement of traffic on the project upon its completion.

NOW, THEREFORE, BE IT RESOLVED that Project B-4019, Beaufort County, is hereby formally approved by the City Council of the City of Washington and that the Mayor and Clerk of this Municipality are hereby empowered to sign and execute the Agreement with the Department of Transportation.

I, Cynthia S. Bennett Clerk of the City of Washington, do hereby certify that the foregoing is a true and correct copy of the excerpts from the Minutes of the meeting of the City Council duly held on the 29th day of September, 2008.

WITNESS, my hand and the official seal of said Municipality on this 2nd day of October, 2008.

s/Cynthia S. Bennett
Clerk

APPROVE – CONTRACT FOR POLICE SERVICES AND PROCESS BILLING/COLLECTION THROUGH THE FINANCE DEPARTMENT

Mick Reed, Police Chief explained the current process and the reason for requesting a change. If an outside entity needs assistance they request that from the Chief of Police then officers sign up and are paid directly from the entity at a rate of \$25 per hour. Chief Reed stated he is trying to avoid a potential situation if the officer gets hurt while performing this duty, there may be a question from Worker's Comp as to if the officer was actually "on-duty" with the City. Secondly, he suggests that the entity pay the officer through the City's finance office instead of paying the officer directly to keep the process consistent and routine.

Councilman Woolard asked who would be affected most. Chief Reed stated the school system would be affected the most. Chief Reed presented a salary comparison. Mayor Pro tem inquired about the insurance benefit paid to the employee if the officer works overtime, it was noted this was actually worker's comp and changes if the officer is paid more.

Current Payment Directly to Officers	
<u>Charge \$25.00 per hour</u>	\$25
Salary per hour	\$25
Fed, State, & FICA Taxes	\$7.50
Retirement	\$1.50
Insurance/Misc.	\$2.27
Salary per hour	\$25.00
Benefits	<u>\$11.27 = City cost</u>
	\$36.27

	Or
Officer Receives	\$13.73
City Retains	\$11.27

Option – Officer Receives \$25 per hour regardless of rank

<u>Charge \$45.00 per Officer</u>	\$45.00
Salary per hour	\$40.00
Fed, State & FICA Taxes	\$10.80
Retirement	\$2.40
Insurance/Misc.	<u>\$2.27</u>
	\$15.47
Gross Pay	\$40.00
Deductions	\$(15.47)
Net Pay	\$24.53
Amount charged	\$45.00
Officer Receives	\$24.53
City processing, uniforms, Radios, vehicles, fuel, etc.	\$5.00

Chief Reed wants to make sure the officer is covered while performing this duty, but the City is also supplying fuel, uniforms, etc. Option three would charge the entity \$45 per officer which after benefits and taxes are taken out the officer would make \$24.53 as opposed to \$25.00 and this keeps the insurance in place should the officer get injured.

Jim Smith, City Manager suggested that so we don't get into the problem we are in with privilege license we should send out notices and start in January 2009. Councilman Jennings noted he thought the fees schedule was supposed to be part of the departmental budget process. Chief Reed stating he was asking for permission to look at the change and he has already talked with some of his agencies and notified them of the possible change.

On motion of Councilman Woolard, seconded by Councilman Jennings, Council unanimously authorized the Chief of Police or his designee to enter into contracts with organizations for Police Services and process billing/collection through the Finance Department, the compensation of officers for such services to be set at \$45/hr to be effective January 1, 2009.

FINANCIAL REPORTS

Anita Radcliffe, Acting Finance Director explained that it is normal for the general fund to operate in a deficit for six month until they receive the ad valorem taxes. Ms. Radcliffe presented information on the General Fund and the Enterprise Funds, and accepted any questions from Council.

APPROVE – RESOLUTION UPDATING FARES TO BE CHARGED BY TAXICABS OPERATING IN THE CITY OF WASHINGTON

Jim Smith, City Manager explained that Mr. Lucky Warren, of Lucky's Cab Service appeared before Council with regard to the impact of increasing fuel costs on the cost of providing taxicab service in the City. He requested at that time to increase fares. Mr. Smith stated fares will be increased \$1.00 in each zone and additional passengers at \$.50. The increase will reflect \$6.00 for zones 1 & 2 and \$8.00 for zone 3.

On motion of Councilman Woolard, seconded by Councilman Jennings, Council unanimously adopted a resolution updating fares to be charged by taxicabs operating in the City of Washington.

RESOLUTION UPDATING FARES TO BE CHARGED BY TAXICABS OPERATING IN THE CITY OF WASHINGTON, NORTH CAROLINA

WHEREAS, Section 8-52 of the Code of the City of Washington relating to taxicabs provides that from time to time the City Council shall adopt a Schedule of Rates to be charged by taxicabs for hauling passengers; and

WHEREAS, an increase has been requested due in part to gas price increases and is needed in the Schedule of Rates to assist taxicab operators in offsetting the inflated cost of operations;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Washington that a new Schedule of Rates is hereby adopted as follows:

Schedule of Rates

1. The fare for one passenger shall be fixed by the charge for the zone in which the passenger is picked up or discharged at destination, whichever is higher, and the charge for each zone is as follows:

Zone I \$6.00
Zone II \$6.00
Zone III \$8.00

The zones mentioned above are shown upon a map of the City of Washington entitled, "Taxicab Zoning Map September, 2008". Said map is on file with the City Clerk and the Chief of Police.

2. An additional fare of \$0.50 for each additional passenger may be charged if pickup and destination are the same as the original passenger, within the above zones.
3. A copy of the zone map and fares shall be posted in each cab.

BE IT FURTHER RESOLVED that the Chief of Police shall cause taxicab zone maps to be printed and distributed for display in each taxicab within the City of Washington, along with the above Schedule of Rates.

THIS THE 29TH DAY OF SEPTEMBER, 2008.

s/Judy M. Jennette
JUDY M. JENNETTE
MAYOR

ATTEST:

s/Cynthia S. Bennett
CYNTHIA S. BENNETT
CITY CLERK

ADOPT – BUDGET ORDINANCE AMENDMENT FOR OUTSTANDING PURCHASE ORDERS FROM FY 07/08 (\$3,052,579)

Anita Radcliffe, Acting Finance Director stated this budget ordinance amendment for purchase orders outstanding from fiscal year 2007-2008 that are being brought

forward.

On motion of Councilman Davis, seconded by Councilman Brooks, Council unanimously adopted a budget ordinance amendment in the amount of \$3,052,579 for purchase orders outstanding from fiscal year 2007-2008 that are being brought forward into fiscal year 2008-2009 for payment.

AN ORDINANCE TO AMEND THE BUDGET ORDINANCE OF THE CITY OF WASHINGTON, N.C. FOR THE FISCAL YEAR 2008-2009

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

General Fund

Section 1. That the Estimated Revenues in the General Fund be increased in the following amounts and accounts shown:

10-00-3991-9910	Fund Balance Appropriated	\$632,623
10-00-3440-0000	CWMTF-Land Acquisition Grant	7,440
10-40-3614-3600	Waterfront Docks Grant	200,000
10-40-3617-3305	Rural Center Grant-Turnage	<u>34,070</u>
		\$874,133

Section 2. That account number 10-00-4125-4500, Wellness Program, Human Resources portion of the General Fund appropriations budget be increased in the amount of \$70 to provide funds for purchase order #41320, outstanding from FY 07/08.

Section 3. That account number 10-00-4125-7400, Capital Outlay, Human Resources portion of the General Fund appropriations budget be increased in the amount of \$599 to provide funds for purchase order #41316 outstanding from FY 07/08.

Section 4. That account number 10-00-4130-0400, Professional Services, Finance Director portion of the General Fund appropriations budget be increased in the amount of \$830 to provide funds for purchase order #41033 outstanding from FY 07/08.

Section 5. That account number 10-00-4132-4501, Program Enhancement, Information Technology portion of the General Fund appropriations budget be increased in the amount of \$30,791 to provide funds for purchase orders #37846, #40688, and #41325 outstanding from FY 07/08.

Section 6. That the following accounts in the Customer Service portion of the General Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #40839, #41049, and #40517 outstanding from FY 07/08.

10-00-4135-0400	Professional Services	\$5,490
10-00-4135-1201	Marketing and Promotions	<u>494</u>
		\$5,984

Section 7. That account number 10-00-4260-1500, Municipal Building portion of the General Fund appropriations budget be increased in the amount of \$10,000 to provide funds for purchase order #41301 outstanding from FY 07/08.

Section 8. That the following accounts in the Miscellaneous Non-Departmental portion of the General Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #41310 and #41329 outstanding from FY 07/08.

10-00-4400-5701	Miscellaneous Expense	\$4,825
10-00-4400-7100	Land Acquisition	<u>7,440</u>
		\$12,265

Section 9. That the following accounts in the Economic Development portion of the General Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #35935, #35934, and #41330 outstanding from FY 07/08.

10-00-4650-4508	Flanders Filters Tax Incentive	\$63,518
10-00-4650-4509	Shell Bldg. #2 Payment	22,500
10-40-4650-4511	Turnage Theater Tax Incentive	<u>20,400</u>
		\$106,418

Section 10. That the following accounts in the Police Department portion of the General Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #40864, #41257, and #41332 outstanding from FY 07/08.

10-10-4310-1402	Travel-Child Assault Grant	\$2,295
10-10-4310-3303	Supplies – Child Assault Grant	67
10-10-4310-7401	Capital Outlay – Grant	215
10-10-4310-3300	Departmental Supplies	58
10-10-4310-3600	Uniforms	244
10-10-4310-4500	Contract Services	<u>6,000</u>
		\$8,879

Section 11. That account number 10-10-4311-7400, Capital Outlay, E-911 Communications portion of the General Fund appropriations budget be increased in the amount of \$59,000 to provide funds for purchase order #41300 outstanding from FY 07/08.

Section 12. That the following accounts in the Fire Department portion of the General Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #38632, #41250 and #41287 outstanding from FY 07/08.

10-10-4340-0400	Professional Services	\$1,689
10-10-4340-1400	Employee Development	83
10-10-4340-1500	Maint/Repair Buildings	<u>150</u>
		\$1,922

Section 13. That account number 10-10-4341-1700, Maint/Repair Vehicle, EMS portion of the General Fund appropriations budget be increased in the amount of \$234 to provide funds for purchase order #41102 outstanding from FY 07/08.

Section 14. That the following accounts in the Planning/Zoning Department portion of the General Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #38692, #41338, and #41314 outstanding from FY 07/08.

10-10-4910-0400	Professional Services	\$9,442
10-10-4910-4509	Contract Services	<u>25,000</u>
		\$34,442

Section 15. That the following accounts in the Powell Bill Allocation portion of the General Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #38271, #41099, #41146, #35635, #36951, #39446, and #40145 outstanding from FY 07/08.

10-20-4511-4500	Street Paving	\$238,338
10-20-4511-5600	Materials	<u>15,010</u>
		\$253,348

Section 16. That account number 10-30-4700-3300, Departmental Supplies, Public Works Director portion of the General Fund appropriations budget be increased

in the amount of \$250 to provide funds for purchase order #40855 outstanding from FY 07/08.

Section 17. That the following accounts in the Library portion of the General Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #40854, #40852, and #41119 outstanding from FY 07/08.

10-40-6110-1400	Employee Development	\$950
10-40-6110-1500	Maint/Repair Building	9,000
10-40-6110-5600	Materials	<u>2,000</u>
		\$11,950

Section 18. That the account number 10-40-6121-3402, Summer Materials – Programs, Recreation Events and Facilities portion of the General Fund appropriations budget be increased in the amount of \$244 to provide funds for purchase order #41315 outstanding from FY 07/08.

Section 19. That the following accounts in the Senior Programs portion of the General Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #40892, #41255, and #41270 outstanding from FY 07/08.

10-40-6123-1500	Maint/Repair Building	138
10-40-6123-4500	Mid East Grant	<u>1,442</u>
		\$1,580

Section 20. That the following accounts in the Waterfront Docks portion of the General Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #41315, #41259, and #41260 outstanding from FY 07/08.

10-40-6124-3600	Employee Uniforms	\$48
10-40-6124-7400	Capital Outlay	<u>225,300</u>
		\$225,348

Section 21. That account number 10-40-6125-7400, Capital Outlay, Civic Center portion of the General Fund appropriations budget be increased in the amount of \$8,425 to provide funds for purchase orders #41334 outstanding from FY 07/08.

Section 22. That account number 10-40-6126-1604, Maint/Repair Office Equipment, Aquatic Center portion of the General Fund appropriations budget be increased in the amount of \$35 to provide funds for purchase order #39436 outstanding from FY 07/08.

Section 23. That the following accounts in the Recreation Parks & Grounds Maintenance portion of the General Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #40812, #40621, #40069, #38601, #38612, and #40828 outstanding from FY 07/08.

10-40-6130-1504	Maint/Repair Veterans Park	\$500
10-40-6130-1602	Main/Repair Radio	370
10-40-6130-4501	Contract Services – Grounds	2,355
10-40-6130-7300	Other Improvements	27,600
10-40-6130-7301	Bee Bee Park Improvements	<u>19,882</u>
		\$50,707

Section 24. That account number 10-40-6170-9115, Turnage Theater Project, Outside Agency portion of the General Fund appropriations budget be increased in the amount of \$50,812 to provide funds for purchase order #36219 outstanding from FY 07/08.

Water Fund

Section 25. That the Estimated Revenues in the Water Fund be increased in the amount of \$33,700 in the account Fund Balance Appropriated, account number 30-90-3991-9910.

Section 26. That account number 30-90-7250-7400, Capital Outlay, Water Meter Services portion of the Water Fund appropriations budget be increased in the amount of \$26,500 to provide funds for purchase order #41340 outstanding from FY 07/08.

Section 27. That the following accounts in the Water Treatment Plant portion of the Water Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #41317, #41327, #38736, and #39509 outstanding from FY 07/08.

30-90-8100-0401	Professional Services - Wells	\$3,000
30-90-8100-1602	Main/Repair Radios	500
30-90-8100-3302	Chemicals	2,459
30-90-8100-3303	Laboratory Supplies	<u>756</u>
		\$6,715

Section 28. That the following accounts in the Water Construction portion of the Water Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #41283, #41333, and #41337 outstanding from FY 07/08.

30-90-8180-0400	Professional Services	\$150
30-90-8100-1200	Printing & Publishing	<u>335</u>
		\$485

Sewer Fund

Section 29. That the Estimated Revenues in the Sewer Fund be increased in the amount of \$86,175 in the account Fund Balance Appropriated, account number 32-90-3991-9910.

Section 30. That account number 32-90-8200-4500, Contract Services, Wastewater Collection Maintenance portion of the Sewer Fund appropriations budget be increased in the amount of \$41,000 to provide funds for purchase order #41195 outstanding from FY 07/08.

Section 31. That the following accounts in the Wastewater Treatment portion of the Sewer Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #41138, #41096, #39509, #39761, and #40728 outstanding from FY 07/08.

32-90-8220-7400	Capital Outlay	\$9,500
32-90-8220-1500	Maint/Repair Bldg.	3,620
32-90-8220-1600	Maint/Repair Plant	27,581
32-90-8220-3303	Laboratory Supplies	1,135
32-90-8220-4501	Contract Lab Services	<u>481</u>
		\$42,317

Section 32. That the following accounts in the Wastewater Lift Station portion of the Sewer Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #41295, #41328, #40382, and #39241 outstanding from FY 07/08.

32-90-8230-7400	Capital Outlay	\$890
32-90-8230-1603	Maint/Repair Monitor Equip	525
32-90-8230-1600	Maint/Repair Pump Station	<u>1,443</u>
		\$2,858

Storm Water Fund

Section 33. That the Estimated Revenues in the Storm Water Fund be increased in the amount of \$27,610 in the account Fund Balance Appropriated, account number 34-90-3991-9910.

Section 34. That the following accounts in the Storm Water Fund appropriations budget be increased in the amounts shown to provide funds for purchase order #40224 and #38376 outstanding from FY 07/08.

34-90-5710-1601	Maintenance/Repair Jacks Creek	\$11,921
34-90-5710-7401	Installment Note Purchases	<u>15,689</u>
		\$27,610

Electric Fund

Section 35. That the Estimated Revenues in the Electric Fund be increased in the amounts and accounts shown:

35-90-3500-3605	NCDOT Hwy. 17 Reimbursement	\$337,722
35-90-3991-9910	Fund Balance Appropriated	<u>1,523,720</u>
		\$1,861,442

Section 36. That the following accounts in the Electric Director portion of the Electric Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #38394, #39110, #41280, #39108, #39227, #40618, #41236, and #41241 outstanding from FY 07/08.

35-90-7220-0405	Hwy 17 230 KV Relocation	\$308,950
35-90-7220-0406	Hwy 17 Line Relocation	25,015
35-90-7220-0407	Hwy 17 Bypass North	3,757
35-90-7220-0425	NCDOT-Clarks Creek Bridge	<u>3,495</u>
		\$341,217

Section 37. That the following accounts in the Utility Communications portion of the Electric Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #40408 and #41293 outstanding from FY 07/08.

35-90-7230-1100	Telephone	\$183
35-90-7230-3300	Departmental Supplies	<u>94</u>
		\$277

Section 38. That the following accounts in the Meter Services portion of the Electric Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #41229, #41230, #41224, #41225, and #41267 outstanding from FY 07/08.

35-90-7250-5601	Material Meter Repair	\$6,301
35-90-7250-7400	Capital Outlay	45,448
35-90-7250-7401	Installment Purchases	<u>119,121</u>
		\$170,870

Section 39. That the following accounts in the Substation Maintenance portion of the Electric Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #40484, #40273, #40873, #41225, #40763, #41077, #41150, #41222, #41225, #40840, #40616, #40790, #40840, #40873, #41227, #32623,

#40076, #40077, #40615, #40682, #40683, #40703, #40710, #40711, #40719, #40749, #40786, #40973, #40974, and #41335 outstanding from FY 07/08.

35-90-8370-1400	Employee Development	\$395
35-90-8370-1600	Maint/Repair Equipment	6,416
35-90-8370-1602	Maint/Repair Radio	5,754
35-90-8370-1603	Maint/Repair Substation	23,763
35-90-8370-1700	Maint/Repair Vehicles	6
35-90-8370-7400	Capital Outlay	108,448
35-90-8370-7401	Installment Note Purchases	<u>422,902</u>
		\$567,684

Section 40. That the following accounts in the Power Line Maintenance portion of the Electric Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #41309, #40621, #40685, #39884, #40872, and #40875 outstanding from FY 07/08.

35-90-8380-1500	Main/Repair Building	\$161
35-90-8380-1501	Main/Repair Grounds	690
35-90-8380-1700	Main/Repair Vehicles	6
35-90-8380-3300	Departmental Supplies	2,554
35-90-8380-1602	Maint/Repair Radios	<u>320</u>
		\$3,731

Section 41. That the following accounts in the Power Line Construction portion of the Electric Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #40950, #37476, #40685, #32623, #40615, #40684, #40685, #41012, #41016, #41020, and #41335 outstanding from FY 07/08.

35-90-8390-5607	Materials – Special Projects	\$3,825
35-90-8390-4502	Contract Services	25,702
35-90-8390-7401	Installment Note Purchases	747,622
35-90-8390-7400	Capital Outlay	<u>514</u>
		\$777,663

Airport Fund

Section 42. That the Estimated Revenues in the Airport Fund be increased in the amounts and accounts shown:

37-90-3991-9910	Fund Balance Appropriated	\$17,667
37-90-3490-0002	Grant Funds – 36237.38.4.1	8,744
37-90-3490-0005	Grant Funds – 36237.38.7.1	<u>140,122</u>
		\$166,533

Section 43. That the following accounts in the Airport Fund appropriations budget be increased in the amounts shown to provide funds for purchase orders #40965, #41319, #41336, #40611, and #41336 outstanding from FY 07/08.

37-90-4530-1500	Maint/Repair Bldg.	\$1,125
37-90-4530-4508	Vision 100 Grant 36237.38.4.1	9,716
37-90-4530-4511	Vision 100 Grant 36237.38.7.1	<u>155,692</u>
		\$166,533

Solid Waste Fund

Section 44. That the Estimated Revenues in the Solid Waste Fund be increased in the amount of \$486 in the account Fund Balance Appropriated, account number 38-90-3991-9900.

Section 45. That account number 38-90-4710-1200, Printing and Publishing portion of the Solid Waste Fund be increased by \$486 to provide funds for purchase order #40851 outstanding from FY 07/08.

UDAG Fund

Section 46. That the Estimated Revenues in the UDAG Fund appropriations budget be increased in the amount of \$2,500 in the account Fund Balance Appropriated, account number 67-60-3991-9910.

Section 47. That account number 67-60-8280-9700, Façade Grants portion of the UDAG Fund appropriations budget be increased in the amount of \$2,500 to provide funds for purchase order #38639 and #39669 outstanding from FY 07/08.

Section 48. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 49. This ordinance shall become effective upon its adoption.

Adopted this the 29th day of September, 2008.

s/Judy M. Jennette
JUDY M. JENNETTE
MAYOR

ATTEST:

s/Cynthia S. Bennett
CYNTHIA S. BENNETT
CITY CLERK

ACCEPT – REVISED GRANT FROM THE RURAL CENTER IN THE AMOUNT OF \$40,000 AND AUTHORIZE THE MAYOR TO ENTER INTO THE LOAN/PERFORMANCE AGREEMENT WITH THE TURNAGE THEATER

Bobby Roberson, Planning and Community Development Director, explained that this will not cost the City any money only his administrative cost. Mayor Pro tem Mercer stated the City has to put up in-kind service or pay 3% as its percentage. Mr. Roberson noted the City is providing in-kind service as its 3%.

On motion of Councilman Woolard, seconded by Councilman Jennings, Council unanimously accepted the grant from The Rural Center in the amount of \$40,000 and authorizes the Mayor to enter into the Loan/Performance agreement with the Turnage Theater.

LOAN/PERFORMANCE AGREEMENT

This Loan/Performance Agreement (the “Agreement”) is entered into this the 29 day of September, 2008 by and between Turnage Theaters Foundation, Inc., a North Carolina corporation with an office located at 150 West Main Street, Washington, North Carolina (hereinafter referred to as the “Business”) and the City of Washington, a municipal corporation organized under the laws of the State of North Carolina having an address of 102 East Second Street, Washington, North Carolina (hereinafter referred to as the “Governmental Unit”), who hereby agree as follows.

WITNESSETH:

WHEREAS, the Business is the owner of certain real estate located at 150 West Main Street, Washington, North Carolina (hereinafter referred to as “Property”); and

WHEREAS, Governmental Unit has provided loan support to or for the benefit of the Business in order to stimulate reuse of the Property and support economic development in the local geographic area; and

WHEREAS, said loan support was funded by the Rural Economic Development Center, Inc. (hereinafter referred to as the "Center") through Grant Contract No. 2006-300-60501-107 pursuant to the Center's mission to stimulate and support economic development in the rural areas of North Carolina; and

WHEREAS, the Center requires Business to enter into this Agreement as a condition of providing the support to the Governmental Unit for this project.

NOW, THEREFORE, in consideration of the mutual promises and other valuable considerations as shall be set out herein, the receipt and legal sufficiency of which are hereby acknowledged, the parties hereto do mutually agree to the following terms and conditions.

1. **Project.** The Business has or shall develop, perform, and complete the work set out in Exhibit A attached hereto and incorporated herein by reference; any and all obligations of the Governmental Unit under said Grant Contract including exhibits thereto, which Grant Contract is incorporated herein by reference; and that work described in the proposal entitled "Turnage Theaters Building Renovation" as approved by the Center (hereinafter referred to collectively as the "Project"). Business shall perform for or will do whatever is requested or necessary, including but not limited to furnish the Governmental Unit with all requested or necessary information, documentation, and reports in a timely manner, to enable and assist the Governmental Unit in performing and satisfying all of its obligations under said Grant Contract in a timely fashion.

2. **Loan.** Governmental Unit hereby loans to the Business an amount up to and not to exceed \$40,000.00 to fund the Project. Business hereby represents and warrants that all such sums as may be loaned under this Agreement shall be utilized exclusively for the purposes of this Project. The parties acknowledge that this Loan will be repayable only in the event the Business fails to achieve certain job creation goals described in paragraph 3 below. In the event such job creation goals are not achieved, the Business agrees to pay to the Governmental Unit or its designee for redistribution back to the Center, the amount set forth in paragraph 5 below. As evidence of the obligation of the Business hereunder, the Business shall execute the promissory note, which is attached hereto as Exhibit B and incorporated herein by reference. Upon receipt of written confirmation from the Center that Business and the Governmental Unit have satisfied all of their respective obligations, including but not limited to job creation and job maintenance, under the Grant Contract and this Agreement, the Governmental Unit will mark said original promissory note "satisfied and paid in full" and forward the same to Business.

a. It is understood that the Governmental Unit's obligation to provide said loan support under this Agreement is contingent upon the availability and continuation of funds to the Center for such purpose. In the event that funds for this Project become unavailable and/or the Center terminates its Grant Contract with the Governmental Unit, the Governmental Unit may terminate this Agreement without liability to or recourse from the Business. All obligations of the Governmental Unit to make available said loan support under this Agreement shall cease upon such termination.

b. It is understood by the parties that said Grant Contract requires a cash match equal to the amount of Center funding (\$40,000.00). It is further understood that 3% of the cash match required by the Grant Contract must be provided by the Governmental Unit and may be satisfied through the provision of in-kind services and the Business is responsible for the remaining amount (97%) of the cash match required by the Grant Contract. Business's share of the cash

match may come from either public or private sources or a combination of both. All funds provided for the cash match must contribute to the renovation costs contemplated by the Project. Building acquisition, equipment or start-up costs will not be considered for the cash match required by the Grant Contract. The loan support provided hereby will pay for up to 50% of eligible expenses that are supported by invoices for the renovation Project up to the total loan amount. No portion of loan support will be made available to the Business until the Governmental Unit provides the Business with the cash match required of it by the Grant Contract and, thereafter, the Business will provide the balance of the cash match required by the Grant Contract from public or private sources or a combination of both.

c. The Business shall maintain and provide upon request all documentation, including invoices, to support the payment of said eligible expenses as more specifically provided for hereinabove, including but not limited to a breakdown of said eligible expenses and related invoices paid for through said loan support, the Governmental Unit's share of said cash match, and the Business's share of said cash match, respectively.

3. **Job Creation.** The Business hereby agrees to create 4 jobs as defined below within twenty-nine months of 6/7/2006, the effective date of the Governmental Unit's Grant Contract with the Center. The Business hereby acknowledges the following: funding by the Center and the Governmental Unit is predicated upon this covenant by the Business to create 4 jobs, failure to achieve this objective will constitute a material default under the terms of this Agreement, and any such failure shall require the Business to repay all or a portion of the loan support pursuant to the provisions of paragraph 5 below. For the purposes of this Agreement, a "Job" shall mean a full-time job (consisting of at least 35 hours per week of employment and eligibility for all benefits generally available for full-time employees of the Business) with the Business, at a wage at least equal to minimum wage, and located in North Carolina.

4. **Verification of Jobs.** The Business's baseline job numbers will be verified as of the effective date of the Governmental Unit's Grant Contract with the Center. On the date that the specified number of minimum jobs is obtained (the "Job Commitment Date"), the Business shall notify the Governmental Unit so that the Governmental Unit and the Center can verify satisfaction of the conditions. The Job numbers shall be verified again at the date that is six months following the Job Commitment Date. The Business shall provide to the Governmental Unit and the Center, or their respective designees, full and complete access to all records of the Business that would be reasonably necessary to verify the number and types of jobs created, and the wages paid to employees. Failure to provide such access upon reasonable request shall constitute a default under the terms of this Agreement.

5. **Repayment.** If the Business fails to create the required number of Jobs within twenty-nine months of the effective date of the Governmental Unit's Grant Contract with the Center, or if the Business has created such Jobs by such date, but has not maintained that total number of Jobs until the date that is 6 months following the Job Commitment Date; then, in those events, the Business shall repay to the Governmental Unit or its designee, for redistribution back to the Center, an amount equal to the product of (i) \$10,000.00 (the amount of loan funds divided by the number of Jobs in paragraph 3) and (ii) the number of Jobs required to be created under paragraph 3 above, minus the lesser of (A) the number of Jobs in existence on the Job Commitment Date and (B) the number of Jobs in existence on the date that is 6 months following the Job Commitment Date. If a requirement exists to repay any sums hereunder, the Governmental Unit shall notify the Business in writing of the amount to be repaid and shall direct it to pay such amount directly to the Center. All such amounts due hereunder shall be due upon demand by the Governmental Unit or the Center. If not paid within 30 days following demand hereunder, the unpaid amount due hereunder or any instrument securing this obligation, shall bear interest at the rate of 10% per annum after demand until paid. Upon default in such payment, the Governmental Unit or the Center may employ an attorney to enforce their rights and remedies and the Business

hereby agrees to pay the reasonable attorney's fees for the Governmental Unit or the Center, not exceeding a sum of 15% of the outstanding balance owing hereunder, plus all other reasonable expenses incurred by such party in exercising any of its rights and remedies upon such default.

6. **Records.** The Business agrees to maintain full, accurate and verifiable records, supporting documents, and all other pertinent data for this Project to enable the verification of the requirements contained in this Agreement. All such financial records, supporting documents, and other pertinent records related to the Project shall be maintained for a period of at least 5 years from the Job Commitment Date. In the event any such records are audited, all such records shall be retained beyond the 5 year period until any and all audit findings have been resolved. The Business agrees to make available to the Governmental Unit, the Center, or their designated representatives, all of its records which relate to the Project and the creation of Jobs, and agree to allow the Governmental Unit or the Center or their representatives to audit, examine, and copy any and all data, documents, proceedings, records and notes of activity related in any way to the Project or such Job creation. Access to these records shall be allowed upon request at any time during normal business hours, and as often as the Governmental Unit or the Center or said representatives may deem necessary.

7. **Reports.** All funds awarded to the Business under this Agreement are appropriated by the North Carolina General Assembly. Accordingly, the Business acknowledges and agrees that it will be subject to any applicable audit and reporting requirements. Such audit and reporting requirements may vary depending upon the amount and source of funding received by the Business and are subject to change from time to time.

(a) N.C.G.S. § 143C-6.23 "State grant funds: administration, oversight and reporting requirements", North Carolina Administrative Code. The Business as Sub-Grantee also agrees to provide a certification, an accounting of State funds received, used or expended, and a description of program activities and accomplishments. Depending on the level of State funding received, these reports are due within six (6) or nine (9) months after the fiscal year end for the Business as Sub-Grantee and will be completed using forms provided by the Center.

(b) N.C.G.S. § 159-34, The Local Government and Fiscal Control Act -Annual Independent Audit, Rules, and Regulations: Upon completion, the Business agrees to forward to the Center one copy of any audited financial statements and accompanying reports covering the period of time that the Business has an active award contract with the Center.

In addition to the audit and reporting requirements mandated by the State of North Carolina, the Business agrees to comply with any requests made by the Center from time to time for other financial and organizational materials to permit the Center to comply with its fiscal monitoring responsibilities.

8. **Representations and Warranties.** The Business hereby represents and warrants the following:

(a) It is duly organized and existing, and, if a corporate entity, is duly incorporated under the laws of the state of North Carolina.

(b) The execution and delivery of this Agreement has been duly authorized by all necessary action and are not in contravention of law nor in contravention of any certificate of authority, bylaws, or other applicable organizational documents of such party, nor the provisions of any indenture, agreement, or undertaking to which it is a party or by which it is bound.

(c) There is no action, suit, proceeding, or investigation at law or in equity

before any court, public board, or body pending, or to such party's knowledge, threatened against or affecting it, that could or might adversely affect the Project, the creation of the Jobs, or any of the transactions contemplated by this Agreement, or the validity or enforceability of this Agreement or such party's ability to discharge its obligations under this Agreement. If it is subsequently - found that an act, suit, proceeding or investigation did or could threaten the development of the Project or the creation of such Jobs, such party shall be liable to the Governmental Unit and to the Center for repayment of the entire amount of the Loan.

(d) Such party shall at all times preserve its legal existence, except that it may merge or consolidate with or into or sell all or substantially all of its assets to any entity that expressly undertakes, assumes for itself, and agrees in writing to be bound by all of the obligations and undertakings of such party contained in this Agreement. If such party so merges, consolidates, or sells its assets without such an undertaking being provided, such party agrees to repay to the Governmental Unit and the Center the full amount of sums loaned under this Agreement.

(e) No consent or approval is necessary from any governmental authority as a condition to the execution and delivery of this Agreement by such party or the performance of any of its obligations hereunder, or all such requisite governmental consents or approvals have been obtained. Such party shall provide the Governmental Unit or the Center with evidence of the existence of any such necessary consents or approvals at the time of the execution of this Agreement.

(f) Such party is solvent.

9. **Liabilities and Loss.** The Governmental Unit assumes no liability with respect to accidents, bodily injury, illness, breach of contract or any other damages or loss, or with respect to any claims arising out of any activities undertaken by the Business under this Agreement, whether with respect to persons or property of the Business, or third parties. The Business agrees to obtain insurance or otherwise protect itself or others as it may deem desirable. Further, the Business agrees to indemnify, defend and save harmless the Governmental Unit and its officers, agents and employees against any liability, including costs and expenses and attorneys' fees, for the Business's violation of any proprietary right or right of privacy arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any information published resulting from the work of the Project or based on any libelous or other unlawful matter contained in such information. The Business also further agrees to indemnify, defend and save harmless the Governmental Unit and its officers, agents and employees from any and all claims and losses accruing or resulting to any and all subcontractors, materialmen, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the Project and the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Business or its agents in the performance of the Project and this Agreement.

10. **Special Provisions and Conditions.**

(a) Nondiscrimination. The Business agrees not to discriminate by reason of age, race, religion, color, sex, national origin, or handicap related to the activities of this Agreement.

(b) Compliance with Laws. The Business shall at all times comply with all laws, ordinances, and regulations of the State, Federal and Local Governments which may in any manner affect the performance of this Agreement.

(c) Non-Assignability. The Business shall not assign any interest in this Agreement, nor should it transfer any interest in the same, without the written consent of the Governmental Unit; provided however, that claims for money due

to the Business from the Governmental Unit under this Agreement may be assigned to any commercial bank or other financial institution without such approval. Governmental Unit may assign any of its rights hereunder or under said Promissory Note to the Center.

(d) Personnel. The Business represents that it has, or will secure at its own expense, all personnel required to monitor, carry out, and perform the scope of services of the Grant Contract, this Agreement and the Project. Such employees shall not be employees of the Governmental Unit. Such personnel shall be fully qualified and shall be authorized under state and local law to perform such services.

11. **Notice.** All notices required or permitted hereunder and all communications in respect hereof shall be in writing and shall be deemed given when personally delivered or when deposited in the United States Mails, certified, return receipt requested, postage prepaid, and addressed as follows:

To the Governmental Unit: Attn: City Manager
City of Washington
P.O. Box 1988
Washington, NC 27889

With a copy to: Rural Economic Development Center, Inc.
Attn: Melody Adams
4021 Carya Drive
Raleigh, NC 27610

If to the Business: Attn: Robert Chumbley, Executive Director
Turnage Theaters Foundation, Inc.
150 West Main Street
Washington, NC 27889

or addressed to such other address or to the attention of such other individual as either party above shall specify in a notice pursuant to this subsection.

12. **Relationship of Parties.** In carrying out the terms and conditions of this Agreement, Business is an independent party from the Governmental Unit and is not an agent or employee of the Governmental Unit. Nothing in this Agreement shall create or be construed as creating a partnership, joint venture or employee relationship between the Governmental Unit and the Business.

13. **Execution.** This Agreement may be executed in one or more counterparts, each of which, when executed, shall be deemed an original, and all such counterparts, together, shall constitute one and the same Agreement which shall be sufficiently evidenced by one of such original counterparts.

14. **Construction.** This Agreement shall be construed and governed by the laws of the state of North Carolina.

15. **Entire Agreement.** This Agreement supercedes all prior agreements between the Business and the Governmental Unit, and expresses an entire understanding with respect to the transactions contemplated herein, and shall not be amended, modified or altered except pursuant to a writing signed by the Business and the Governmental Unit.

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

PRE-AUDIT CERTIFICATE

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

s/Anita C. Radcliffe
Anita C. Radcliffe
Interim Finance Director

s/Judy M. Jennette
JUDY M. JENNETTE
MAYOR

Attest:

s/Cynthia S. Bennett
CYNTHIA S. BENNETT
CITY CLERK

TURNAGE THEATERS FOUNDATION, INC.

s/Robert Chumbley
ROBERT CHUMBLEY

EXHIBIT A

SCOPE OF SERVICES

The Building Reuse and Restoration Grants Program is designed to spur economic activity and job creation by assisting in the productive reuse of vacant buildings in small towns, with priority to those with a population of less than 5,000. This program is part of the Economic Infrastructure Fund, a program funded by the North Carolina General Assembly (House Bill 1352) to stimulate economic development and job creation in distressed areas through constructing water and wastewater facilities, addressing technology needs, renovating vacant buildings, and implementing research and demonstration projects in North Carolina.

The Building Reuse and Restoration Grants Program has two distinct categories of grants: pre-development grants and development grants. Pre-development grants will provide funding for activities, such as feasibility assessments, architectural/engineering analyses, etc., needed to solidify firm commitments from private businesses, investors, lenders, and other funding grants. Development grants are provided for more fully detailed projects ready to begin renovation.

The Building Reuse and Restoration Grants Program will support City of Washington in the reuse of the Turnage Theaters building, located at 150 West Main Street, Washington, North Carolina. The building has been vacant since 1981. The 25,000 square foot building was constructed in 1913, with an addition added in 1930, and served as an entertainment and retail center for the City of Washington. The City of Washington, in conjunction with the Turnage Theaters Foundation, will use the facility for a mixed use of entertainment and retail. The new use of the building will result in the creation of 4 net new full time jobs within the contract period. The development grant funds will be used to assist in the construction and up fit of the building including the items listed in the Scope of Work. These items are needed before the building can be up-fitted to house the new business.

The development grant funds will be used to assist in the construction and up fit of the building including the items listed in the Scope of Work. To meet the terms of this contract, the City of Washington agrees to complete the following activities:

1. Administer the Building Reuse and Restoration Development Grant for a time period commencing on June 7, 2006 and ending on November 7, 2008.
2. Provide for renovations as outlined in the Scope of Work attached to Exhibit A. In addition, submit invoices and progress reports pertaining to the project as outlined in the Exhibits Band C.
3. Complete by project end a final report, which outlines the results of the funded project and how it has influenced investment and job creation in the surrounding area.
4. Cooperate with and assist the Rural Center in ongoing program monitoring and evaluation, including timely submission of all program reports as outlined in Exhibit C, Reporting Schedule.
5. Maintain adequate records of all financial transactions and expenditures as related to the Building Reuse and Restoration Development Grant and make these available to the Rural Center on an agreed upon schedule.
6. Complete the project objectives and activities outlined below within the contract time period.

SCOPE OF WORK

Objective: Refurbish and up fit the interior and exterior of the building to accommodate the business need. All work should be completed according to the application and contractor's cost estimates submitted and meet all applicable building code requirements. Project activities include:

A: Objective: Remove and replace roof for the Turnage Theaters building.

Activities:

1. Remove all existing roofing and flashing on the building which consists of 7,700 square feet.
2. Replace all decking materials and damaged structural steel.
3. Install 7,700 square feet of new thermoplastic membrane roof.
4. Install new flashing, end drains and accessories throughout the membrane area.

DISCUSSION – TRANSPORTATION IMPROVEMENT PLAN PRIORITIES

Bobby Roberson, Planning and Community Development Director stated this is an informational item. He further explained he is in communication with Eddie Davis that heads up the MPO process. Mr. Roberson noted that other items could be added, such as bikeways, airport, and add that the entire Hwy 17 be four lane, etc. Mr. Roberson noted that between now and March the Council needs to firm up their priorities list. Mayor Pro tem Mercer noted a conflict with Project Reference # U-2723 as it references extending Slatestone Road to Hwy 264 and Highland Drive. Mr. Roberson stated he would have the correct numbers for Council.

ACCEPT – REVISED GRANT AGREEMENT FROM THE N.C. DEPARTMENT OF CULTURAL RESOURCES BY INCREASING THE AMOUNT FROM \$25,000 TO \$43,500 AND TO ENTER INTO THE GRANT AGREEMENT

Mayor Jennette noted the grant revision is for completing the City of Washington's inventory as well as Beaufort County's inventory.

On motion of Councilman Woolard, seconded by Councilman Jennings, Council unanimously accepted the grant revision from the NC Department of Cultural Resources by increasing the amount from \$25,000 to \$43,500 and authorizes the Mayor to enter into the grant agreement.

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2008-2009**

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 \$18,500 in the account North Carolina Archives and History Grant, account number 10- 10-3491-3303.

Section 2. That account number 10-10-4910-4509, Contract Services Historic District Study portion of the General Fund appropriations budget be increased in the amount of \$18,500 to provide funds for the expanded historic study.

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 29th day of September, 2008.

s/Judy M. Jennette
JUDY M. JENNETTE
MAYOR

ATTEST:

s/Cynthia S. Bennett
CYNTHIA S. BENNETT
CITY CLERK

**ADOPT – BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDS FOR THE
COMPLETION OF THE TURNAGE THEATER INFRASTRUCTURE IMPROVEMENTS
LOCATED AT THE REAR OF THE NEWLY COMPLETED ADDITION (\$9,500)**

Mayor Pro tem Mercer inquired as to why it has taken five years to complete this project as it originated in 2003. Jim Smith, City Manager noted that the increase is due to the installation of a handicap ramp over storm drains and this was not in the original budget.

On motion of Councilman Woolard, seconded by Councilman Brooks, Council unanimously adopted the budget ordinance to provide funds for the completion of the infrastructure improvements located at the rear of the Turnage Theater addition.

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2008-2009**

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

Section 1. That account number 10-40-6170-9115, Turnage Theater Project, Outside Agency portion of the General Fund appropriations budget be increased in the amount of \$9,500 to provide funds for infrastructure improvements.

Section 2. That account number 10-00-9990-9900, Contingency portion of the General Fund appropriations budget be decreased in the amount of \$9,500 to provide funds for infrastructure improvements at Turnage Theater.

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 29th day of September, 2008.

s/Judy M. Jennette
JUDY M. JENNETTE
MAYOR

ATTEST:

s/Cynthia S. Bennett
CYNTHIA S. BENNETT
CITY CLERK

ADOPT – RESOLUTION / CITY CLERK TO INVESTIGATE A PETITION FOR A NON-CONTIGUOUS ANNEXATION PROPERTY LOCATED @ 2407 W. 5TH ST.

Bobby Roberson, Planning and Community Development Director explained we need to investigate the annexation and advertise for a public hearing at the October meeting. Mr. Roberson stated the Corps of Engineers is moving out of the Carawan Building into the old Base Camp. Federal requirements state that municipal services have to be attached to the building and they can't get sewer services unless they are annexed. Mr. Roberson stated the building will be leased and the property owner will pay taxes.

On motion of Councilman Woolard, seconded by Councilman Brooks, Council unanimously adopted the resolution directing the City Clerk to investigate a petition for a non-contiguous annexation received under General Statutes 160A-58.1.

**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 September 29, 2008 by the Washington City Council; and

WHEREAS, G.S. 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/Judy M. Jennette
JUDY M. JENNETTE
MAYOR

ATTEST:

s/Reatha Johnson
REATHA JOHNSON
ACTING CITY CLERK

Annexation #08-A-02
RMH Leasing LLC

**ADOPT – RESOLUTION THAT THE FINANCING OF ELECTRIC SYSTEM
PROJECTS WILL HAVE NO MATERIAL ADVERSE EFFECT ON REVENUES OR
OPERATIONS**

Keith Hardt, Electric Utilities Director, noted this was similar to the Resolution passed in April for lease purchase financing. He noted that prior to execution of the contract with the lending institution we must acquire concurrence from the NCEMPA Board of Directors that the financing of electric systems projects will have no material adverse effect on revenues or the operation of the City's electrical system.

On motion of Councilman Woolard, seconded by Councilman Jennings, Council unanimously adopted a resolution declaring that the financing of electric system projects will have no material adverse effect on revenue or the operation of the City's electric system.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WASHINGTON
DECLARING THAT THE FINANCING OF ELECTRIC SYSTEM PROJECTS WILL
HAVE NO MATERIAL ADVERSE EFFECT ON REVENUES OR THE OPERATION OF
THE CITY'S ELECTRIC SYSTEM**

WHEREAS, the City of Washington's Electric Director has determined the need for electric system improvements and;

WHEREAS, the City of Washington's Electric Director has recommended that the City undertake the following improvements to its electric system to improve reliability of service and reduce cost to customers;

1. Replace a vacuum circuit breaker in the City's Main Substation to improve the reliability of the substation infrastructure.
2. Replace two (2) substation power transformers in the City's Main Substation. These units are operating at or above their base rating form most of the year need to be upgraded. These existing units will be relocated to two other City substations to replace some aging units.
3. Replace two units in the City's rolling stock fleet.
4. Remove the existing overhead distribution facilities in the vicinity of the Town of Bath that span Bath Creek and Back Creek. These facilities will be replaced with underground facilities to serve the native electrical load. Due to the location of the overhead facilities spanning these waterways the City of Washington is converting these facilities to underground to improve service reliability and improve safety of the boating public.

WHEREAS, THE City intends to finance these projects by borrowing funds and securing the loan by granting security interest in favor of the lender in the property and equipment that will comprise these projects, all in accordance with the provisions of 160A-20 of the North Carolina General Statute and;

WHEREAS, the provisions of Section (6)(d)(2) of the Project Power Sales Agreement dated as of 1 May 1978, between the City of Washington and the North Carolina Eastern Municipal Power Agency provides, in part, that the City of Washington may encumber a portion of it's electric system upon making a determination that; taking into account past and current operating results of the City's electric system, the

encumbrance proposed to be placed on the improvements to secure the financing of the construction of the improvements will not have a material adverse effect on the revenues or the operation of the City's electric system, or materially increase the operating and maintenance expenses of it's electric system and;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Washington that the City hereby authorizes the following directives:

1. After thoroughly reviewing the details of the projects and financing thereof, and after reviewing the recommendation and opinions of the City's Electric Director concerning these projects, the City Council hereby finds and determines that, taking into account past and current operation results of the City's electric system, the encumbrance or potential future loss of the facilities due to meeting the requirements of any encumbrance will not, during the term, have any material adverse effect on the revenues or operations of the City's electric distribution system, or materially increase the operating and maintenance expenses of its electric system.
2. The City Council hereby directs the City Manager to provide a copy of this Resolution to the North Carolina Eastern Municipal Power Agency with the request that the North Carolina Eastern Municipal Power Agency concur in the determination made by City Council.

The foregoing resolution was adopted on the 29th day of September 2008.

s/Judy M. Jennette
JUDY M. JENNETTE
MAYOR

s/Cynthia S. Bennett
CYNTHIA S. BENNETT
CITY CLERK

**APPROVE – PURCHASE OF A DERRICK DIGGER LINE TRUCK FROM ALTEC
(\$200,000)**

Mayor Pro tem Mercer stated the action item states this was budgeted in 07/08, why wasn't it purchased at that time. Mr. Hardt stated that 59 month financing is not approved until May 15th then bids were taken for that truck. Mayor Pro tem Mercer noted that according to his documentation those trucks have a 20 year life span, then why are we replacing them every 10 years. Mr. Hardt explained the trucks do not have a 20 year life span that is a number assigned by the garage for their engine size. He also noted the trucks are tested every year for wear and tear and they last approximately 10 years. Mr. Hardt noted this was bid with the understanding we could purchase two at the same price and both trucks were budgeted. Mr. Hardt said we have 3 trucks, with only two working on a daily basis. The third truck is not used on a daily basis. Even though two may be the same age, one is in worse shape. Mr. Hardt stated that one truck is in last year's fiscal year and another in this fiscal year. Mr. Smith explained the City does lumps several items into the 59 month financing.

On motion of Councilman Woolard, seconded by Councilman Jennings, Council approved the purchase of a derrick digger line truck from Altec in the amount of \$194,023.

AYES:
Councilman Woolard
Councilman Davis
Councilman Jennings
Councilman Brooks

NAYES:
Mayor Pro tem Mercer

RECREATION ADVISORY COMMITTEE

Councilman Davis explained that Mr. Guy Blackwell has resigned to take a job as a Dock Facilities Attendant.

On motion of Councilman Davis, seconded by Councilman Jennings, Council appointed Erick Green to the Recreation Advisory Committee, to fill the unexpired term of Guy Blackwell, term to expire June 30, 2009.

DISCUSSION – PERSONNEL POLICY REVISIONS

Jim Smith, City Manager explained the table presented regarding personnel policy revisions and reviewed each of those changes. Mr. Smith noted there a several sections in the policy that need revisions and car allowance is one of those. Employees no longer keep a log as the income is reported to IRS as income. Mayor Jennette stated this might move faster if Mayor Pro tem Mercer serves on a subcommittee with the City Manager and the Human Resources Director.

On motion of Mayor Pro tem Mercer, seconded by Councilman Davis moved to adopt the changes he submitted and proposed tonight and form a subcommittee with at least two councilmen, the City Manager and the Human Resources Director to review the entire policy. Councilman Jennings amended the motion by adding that the changes proposed tonight may or may not be included in the final document.

Susan Hodges, Human Resources Director noted that if these revisions are adopted it affects a lot of employees that drive home City vehicles. Mayor Pro tem Mercer stated he agreed with that it is not the City's responsibility to provide transportation to and from work.

Jim Smith noted that a lot of the vehicles that are driven home are driven by the Police Department Detectives and the majority of those live outside of the City.

Councilman Brooks stated we are doing the same thing with this item as we did with privilege license and he is opposed to this. Councilman Woolard stated he was against that as well. Councilman Woolard noted we need to have a subcommittee and follow a process to make sure we are doing this right and he volunteered to serve on that committee.

Councilman Jennings stated he had a problem with using a policy that we know is wrong and don't take the steps to correct it. He further noted that if we go ahead and adopt the changes tonight then that would put a fire under the Council to get something done to correct the problems. Mayor Pro tem Mercer stated he had tried his best to make changes that were easy to understand and is a move in the right direction. Mayor Jennette asked if these changes were enforceable.

Councilman Jennings stated with employees driving vehicles home, this is a hidden expense for the City with the cost of fuel. If this was a condition of hiring someone, then we are in a lurch. He further noted there is not equity as to who receives this benefit and who doesn't. Mr. Smith stated that the vehicles that are driven home are specialized vehicles with special tools and equipment. Further discussion regarding City vehicles driven home.

Councilman Jennings suggested we reverse this process stating we will implement changes subject to revisions from the subcommittee and if he is the swing vote he would accept the idea that the subcommittee meet immediately and if action is not taken immediately then these changes would be automatically implemented within 30 days. Mayor Pro tem Mercer asked if the subcommittee would bring back a revised personnel policy with the Committee consisting of Mayor Pro tem Mercer, Jim Smith and Susan Hodges and suggested that the issues Mayor Pro tem Mercer suggested will be reviewed first.

Current motion on the floor: On motion of Mayor Pro tem Mercer, seconded by Councilman Davis moved to adopt the changes he submitted and proposed tonight and form a subcommittee with at least two councilmen, the City Manager and the Human Resources Director to review the entire policy. Councilman Jennings amended the motion by adding that the changes proposed tonight may or may not be included in the final document. Motion failed.

AYES:

Mayor Pro tem Mercer
Councilman Davis

NAYES:

Councilman Woolard
Councilman Jennings
Councilman Brooks

On motion of Councilman Jennings, seconded by Councilman Woolard the Council agreed to form a subcommittee consisting of Mayor Pro tem Mercer, Councilman Woolard, Jim Smith, City Manager and Susan Hodges, HR Director to meet immediately to review the entire HR(personnel) policy beginning with the proposed changes at hand and bring back recommendations for permanent changes to the policy within 30 days. If this action is not taken within 30 days the changes that are proposed currently go into effect. Councilman Jennings clarified his motion to reflect the November 10th meeting instead of 30 days.

AYES:

Councilman Woolard
Councilman Davis
Councilman Jennings
Councilman Brooks

NAYES:

Mayor Pro tem Mercer

**CLOSED SESSION – UNDER G.S. 143-318.11(a)(3)ATTORNEY/CLIENT,
G.S. 143-318.11(a)(6)PERSONNEL, G.S. 143-318.11 (a)(1) DISCLOSURE OF
CONFIDENTIAL INFORMATION, G.S. 143-318.10(e) THE PUBLIC RECORDS ACT**

On motion of Council Woolard, seconded by Councilman Jennings, Council unanimously agreed to go into closed session under G.S. 143-318.11(a)(3) Attorney/Client Privilege, G.S. 143-318.11(a)(6) Personnel, G.S. 143-318.11(a)(1) Disclosure of Confidential Information and G.S. 143-318.10(e) the Public Records Act.

On motion of Councilman Woolard, seconded by Councilman Jennings, Council unanimously agreed to come out of closed session.

On motion of Councilman Woolard, seconded by Councilman Brooks, Council unanimously adjourned the meeting at 10:40pm, until Monday, October 20, 2008 at 4:30 p.m. in the Council Chambers at the Municipal Building.

**CYNTHIA S. BENNETT
CITY CLERK**