

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

Also present were: Matt Rauschenbach, Chief Financial Officer; Robbie Rose, Fire Chief; Allen Lewis, Public Works Director; Gloria Moore, Library Director; John Rodman, Planning Director; Keith Hardt, Electric Director; Major Sandy Blizzard, Police Department; Susan Hodges, Human Resources Director; and Mike Voss, of the Washington Daily News.

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

APPROVAL OF MINUTES

Councilman Mercer acknowledged discussions held with the City Clerk regarding the correction of a typographical error in the minutes from January 23rd noting that a motion regarding Charlotte Street Bridge was duplicated on page 26 of the agenda packet. One of those motions will be deleted. By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council approved the minutes of January 9th & 23rd as presented.

APPROVAL/AMENDMENTS TO AGENDA

Mayor Jennings explained that the public hearing regarding the Charlotte Street Bridge will be held on February 27th at 6:00pm.

Councilman Mercer requested that Consent Agenda Item D: Approve – Purchase Orders for Load Management Switch Installations (\$20,000) be moved to Old Business Item C.

Mayor Jennings noted that staff has requested that New Business Item C: Authorize – City Manager to contract with Mid-East Commission to compile NCDOT Bicycle Master Plan **and** Approve corresponding purchase order (\$35,000) be removed from the agenda for discussion at a later date.

City Manager, Josh Kay requested adding Closed Session 143-318.11(a)(3)Attorney/Client Privilege.

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

CONSENT AGENDA

By motion of Councilman Pitt, seconded by Councilman Brooks, Council approved the consent agenda as amended.

A. Declare/Surplus/Authorize – Sale of a vehicle through electronic auction using GovDeals

Vehicle Number	Make/Model Description	Serial Number	Odometer Reading
#488	1991 International Garbage Truck w/E-Z Packer 20 cubic yard body	1HTSDNXXRMH373801	117,576

B. Declare/Surplus/Authorize – Sale of two trenchers through electronic auction using GovDeals of these vehicles through electronic auction using GovDeals.

Vehicle Number	Make/Model Description	Serial Number	Odometer Reading
#611	1998 Ditch Witch Trencher Model 7020	Ser. # N5P063	N/A
#621	1997 Ditch Witch Trencher Model 3700DD	Ser. # 3P1264	N/A

C. Accept & Authorize – Ratify the Letter of Credit **and** Authorize City Manager/Attorney to effectuate the City's authority in accordance with the terms (\$70,000)

D. **Item moved to Old Business Item C:** Approve – Purchase Orders for Load Management Switch Installations (\$20,000)

E. Approve – Purchase Orders >\$20,000

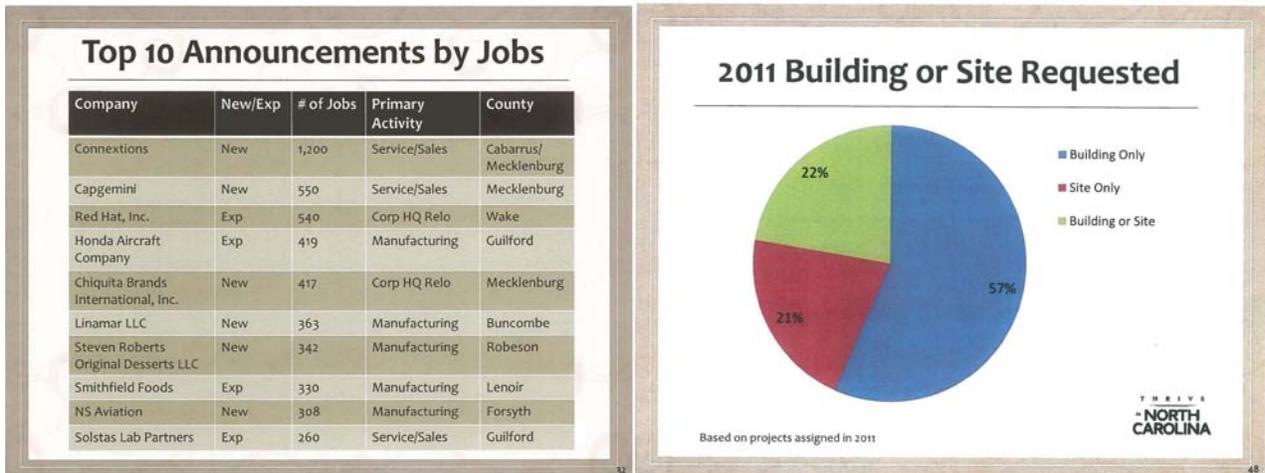
#10783 \$21,900 to Piedmont Truck Center for a Ford F250 to replace vehicle #652

#10784 \$11,291.98 to Quality Truck Bodies for the Reading truck body. The vehicle will be purchased through the State contract and \$35,000 is budgeted for the purchase in 35-90-7250-7403

#10764 \$21,750 to Tencarva Machinery Co. for sewer pumps in the 13th & Bridge St. project to increase capacity. \$40,000 is budgeted for this project in account 32-90-8230-7400

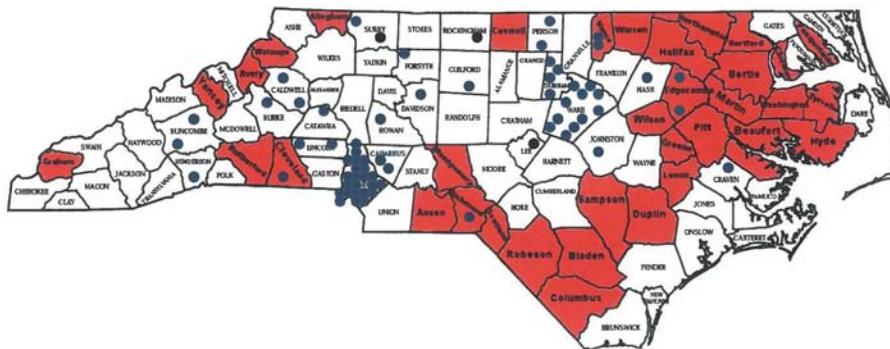
MR. TOM THOMPSON - ECONOMIC DEVELOPMENT UPDATE

Tom Thompson, Economic Development Commission reviewed several documents with Council which details job announcements throughout the state. He also reviewed JDIG grants which are a return of the company’s withholdings, the state returns 75% of this to the company for up to 12 years. Most of the JDIG grants and job announcements are in the Piedmont area. Currently, we have one company in the Skills Center working on a product and they would probably be interested in the Quick Start 2 Building if it were still available. At the same time, we have two clients working with us now on the Quick Start 2 Building, which are both \$25million investments. P & G Manufacturing Company will be moving into the Industrial Park, they are expanding and building 50,000sq.ft.



**NC COUNTIES WITH JDIG GRANTS
 2008-2011**

(Shaded counties are the top 33% in terms of poverty)



The state only allows 25 JPIG grants per year. They will most likely pick the largest companies to have the greatest effect of the grant, not focusing on high poverty counties where the funding is really needed.

COMMENTS FROM THE PUBLIC

Nancy O'Neill, Cats about Town Program, discussed with Council why trapping cats and taking them to farms will not work and is easier said than done. She agreed there were too many cats downtown. We shouldn't want all of the cats gone from downtown, if the current cats leave, more will appear. Currently, there are four established cat colonies on Main Street. Each colony consists of 4-6 cats. They are continuing their efforts on reducing the number of cats, through adoption and relocation.

Mayor Jennings thanked Ms. O'Neill for her efforts and honesty regarding the number of cats and the nuisance they can create. Whereas the current assessment applied to the success of the program is the health and neutering of the cats and would you agree to a reduction in the number of cats. If there was a cat that was creating a nuisance, would the program agree to relocate this cat? Ms. O'Neill stated the program would be respectful of property owner rights and try to relocate the cat.

Mayor Pro tem Roberson suggested trapping the cats and releasing them at the airport. He further inquired about what would be done to property damage created by the cats? The merchants appear to be happy with the reduction in the number of cats downtown. Monica Ferrari stated she checked the awning and it appeared one of the tears is probably from a cat, but the other appears to be cut with a knife/scissors. The railings have been blocked off so the cats can't jump from the railings on to the awnings. Councilman Pitt asked if the cat colonies were vital to downtown? Ms. O'Neill stated she felt they were because they keep the rodent population down. Councilman Moultrie stated we should be sensitive to those who love cats and he hopes we can find resolution tonight and move on.

PUBLIC HEARING – FY 2011 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

Mayor Jennings opened the public hearing. Reed Whitesell, Holland Consulting Planners stated this is the first of two public hearings required for CDBG FY2011 grants. Mr. Whitesell reviewed correspondence from Vicki Miller, Director of Community Investment and Assistance. All houses in Phase I – Keys Landing subdivision should be occupied by 5/31/12. Mr. Whitesell asked Ms. Miller for confirmation on the following items:

*The city may apply for FY11 Catalyst funding, since the city has been granted an extension on #05-C-1490 until 5/31/12. (Miller's response) Since technically the Grant Agreement was amended to allow for more time, and as long as the city is in compliance with the work-out agreement for the 05-C-1490 project, the city may apply for 2011 Catalyst funds. In order for the city to be considered for funding for the Catalyst application, the 05-C-1490 project must be completed as agreed by the time funding decisions are made.

* The city may not apply for an FY11 Catalyst HD component to complete a portion or all of Phase II of the Keys Landing subdivision, because Phase I of the project will not be complete by the FY11 Catalyst deadline of 4/30/12/. (Miller's response) That is correct.

*Once Phase I of the project is substantially complete, city representatives may meet with CI to discuss either FY 12 Catalyst and/or Contingency funds to complete Phase II of the project. (Miller's response) We always welcome the opportunity to discuss potential projects. As mentioned, Contingency projects are not guaranteed due to funding availability.

The purpose of the public hearing is to obtain the views and proposals of the citizens of the City of Washington with regard to the determination of priorities for the community development and housing needs of the city.

Funding categories for FY 2011, as sponsored by the North Carolina Department of Commerce, Division of Community Investment and Assistance, are as follows:

- NC Catalyst Grants to local governments to develop viable communities by providing decent housing, a suitable living environment, and expanding economic opportunities, principally for persons of low and moderate-income. Awards: \$250,000-\$500,000

- Infrastructure: Provides public water or sewer to correct severe health or environmental problems.

- Scattered Site Housing: Given to county governments on a rotating basis to address the most critical housing needs of very low-income families Awards: \$400,000.
- Small Business Entrepreneurial Assistance: Creates and retains jobs for struggling small local businesses. Awards: \$150,000-\$250,000.

Phase I consists of five houses, while Phase II includes seven houses. Phase II granting could provide infrastructure for the remaining seven houses. Rev. David Moore has acquired financing through the NC Housing Financing Agency and permanent financing will be through First South Bank.

Mr. Whitesell stated the plan is to continue working in the 6th & 7th Street area roughly between Bonner and Respass from 5th up to 7th Street. Concentrating strictly on low to moderate, owner occupied, moderately deteriorating housing. Possibly use some of these funds to extend the greenway at the Harding Street corridor. This is a three part process: rehab possibly 7-8, low to moderate income/owner occupied dwellings, acquisitions and code enforcement. If Council is interested in this project, he will need the go ahead from Council due to the application being due by April 30th and the need for another public hearing.

Mr. Whitesell explained the “forgiven loan” which is forgiven in 8 years, but changing that to partial forgiven and a partial 0% amortizing loan. This would allow the generation of program income that could be placed into an emergency repair fund.

Mayor Pro tem Roberson asked Mr. Whitesell what the city’s match would be for this grant? Mr. Whitesell noted the match would be \$50,000 or 10% of the \$500,000 grant amount.

Councilman Mercer asked for clarification regarding grant applications in FY11; can we apply for grants as long it is not regarding the Keys Landing project. Mr. Whitesell stated that is correct. Questions were asked regarding whether the infrastructure grants for water/sewer(septic tanks & wells) was actually a grant or loan. Mr. Whitesell explained these are grants and actually would fully upgrade the water & sewer connections, but the majority of the time the plumbing is completely upgraded along with a new HVAC. Councilman Mercer inquired if grants could be available for the Main & Respass pumping station. Mr. Whitesell explained a letter of interest would need to be prepared for the severe needs category.

Mayor Jennings called for public comments. There being no public comments, the public hearing was closed.

MEMO – SEATOW PAMLICO DOCKAGE

SeaTow Pamlico, dba Inland Enterprises, LLC has executed a Waterfront Docking agreement with the City of Washington. During the past year SeaTow Pamlico has been an invaluable resource to the Waterfront Docks Division, giving advice and assistance to the staff and boaters alike. Dock Attendants have requested logs to be removed from the docks an average of once per month via work order and other times while Larry Williams, Owner, was on site. SeaTow continues to be an asset in the community as well. During recent Storms, his expertise has guided planning and recovery. His experience and contacts with other marinas has been a good resource when comparing policies, rules and regulations. His availability in the area has enabled him to be of assistance to our “resident” boaters as well as the community at large. In addition to the usual benefit, SeaTow also implemented the Automated Radio Check system. This system aids the hailing and distress channel (16) by cutting down the amount of radio traffic on its frequency, which allows the USCG more open air time for vessels in need of emergency assistance. This system provides radio checks 24/7. The new docking agreement will be for the period of April 1, 2012 March 31, 2013.

Councilman Mercer asked staff to detail the services that the City provides to SeaTow(docking space at no cost). We need to review what we are getting in comparison to what we are giving away. Mayor Jennings noted that the docking is provided at no cost in exchange for the clearing of debris in the water. Currently, we do not have anyone else lined up to provide this service. Council would like to revisit this agreement. Mr. Kay stated that the agreement has already been executed, but will review for the next renewal.

HUMAN RELATIONS COUNCIL

Multicultural Festival October 23, 2011 Operations Report

*Initial funds (seed money from partner agencies) \$755.00
Grass Roots (Arts Council) \$500.00
Washington Human Relations Council 255.00
*Funds raised: \$1,251.00
Potash Corp. and Kids Fossil Dig \$800.00
Rod Cantrell with Edward Jones Investments 75.00
Ray Moore with Moore Oil 50.00
Sue Nicholson 75.00
Rick Gagliano 65.00
Public Donations 186.00
*Revenue from T-Shirt Sale \$169.00

Several expenses were incurred; the following is a list of major expenses that were covered in some way with raised funds, seed money, t-shirt revenue and donations.
Total Expenses: \$2,389.70

Litho Graphix \$ 44.84
Grand Rentals 395.00
The Flag Company 387.12
Oriental Trading 120.74
Party Makers 107.00
Lone Bull Advertising 510.00
Civic Center Rental 350.00
Flair by Sharon 475.00

Note: Some other expenses were incurred but with no money being available, planning committee members made a total contribution of \$554.00

Update - Ed Peed Commemoration

Avenues for advertisement:

- > Banners >About Town Ad
- >Word of mouth >Cable 9

Discussion -Formulated list of Interpreters for the Latino community at Brown Library

A list of Spanish speaking interpreters had been forwarded to Ms. Moore for consideration of the vacant position at the Library.

Discuss -Proclamations for the month of February:

- >Human Relations Council Month > Ed Peed Day
- > Brotherhood/Sisterhood Week >ASALH

Discussion -Beaufort County 300th Anniversary Celebration: Board members nominated Vice chairwoman Cherry and Board member Howard to represent the Washington/Beaufort County Human Relations Council on the committee for the 300th anniversary of Beaufort County.

FYI : All reminders and announcements were discussed at this time inclusive of October, November, and December report submitted to City Council. Chief Reed announced the employment of Kimberly Grimes as the Criminal Justice Program Administrator (Project next Step).

RESIGNATION: Board member Castro submitted her resignation letter (effective 1-10-2012) and offered her regrets as she will be pursuing her Master's degree.

**WASHINGTON TOURISM DEVELOPMENT AUTHORITY RESOLUTION
TO SUPPORT YEAR-ROUND ACCESS TO FESTIVAL PARK RESTROOMS**

WHEREAS, the new waterfront Festival Park has been completed; and

WHEREAS, Festival Park is an asset for the enjoyment of both residents and visitors to Washington;
and

WHEREAS, the City of Washington, the Tomasulo Family, the Washington Harbor District Alliance, and other organizations have financially supported the improvements and building of a premiere venue for year-round use and entertainment; and

WHEREAS, the Washington Tourism Development Authority promotes the events, activities, and use of Festival Park for public events; and

WHEREAS, the mild climate in eastern North Carolina attracts visitors and residents to the Washington waterfront year-round.

NOW, THEREFORE, BE IT RESOLVED, that the Washington Tourism Development Authority supports the immediate opening of and year-round use of the Festival Park restrooms for the public.

ADOPTED this the 18th day of January, 2012.

s/Lynn W. Lewis
Tourism Development Director

s/David Gossett, Chairman
Washington Tourism
Development Authority

WASHINGTON HARBOR DISTRICT ALLIANCE

Washington Maritime Group

The Washington Maritime Committee has been formed under the Economic Restructuring Committee in recognition of the impact our city's waterfront has on the downtown.

The Maritime Committee has determined these five activities as the most important for the advancement of the Washington waterfront, viewed by the committee as an important economic driver for Washington.

- Establish Water Front Advocate Group to bring issues to the City
- Determine appropriate management model for the City's Waterfront Docks
- Build new boater bathrooms, public restrooms, and dock attendant's facility
- Establish and recommend final layout for City Docks and Waterfront
- Provide diesel and gasoline to boaters

So as others on the Economic Restructuring Committee continue to work on business recruitment, hotel development and furthering the Visualization and Reinvestment Strategy, this team will now handle issues concerning the waterfront. The group hopes to serve the Mayor and Council well and invites the Mayor and council to attend any meeting.

Downtown Washington Historic Window Cling Decorations – A small group is trying to address the negative impact the empty, unkempt buildings have on the image of downtown Washington. Rebecca Clark and John Schermerhorn have lobbied for private funds and have installed historical photographs in two of the windows of the Fowle Building. Four historical images of Washington have been displayed. Text describing the historical context of the pictures will be added. Once expanded to other empty buildings a brochure will be produced that will offer a map and more information on the history of our commercial district. Washington Area Historic Foundation has been supportive of the project both financially and operationally. WHDA hopes this will help to visually fill the gap between retail establishments when walking and driving through downtown.

Old City Hall- Main Street Solutions Fund Grant

Indicators are positive when it comes to the possibilities of securing \$200,000 in State money from the Main Street Center's Solutions Fund Grant. Announcements should be made by the end of the month. In the mean time, Ms. Piciotta and Ms. Darre have made great progress on the plans for Old City Hall. They continue to meet with the Planning Dept., Public Works and Permitting on the feasibility of their plans and hope to identify any problems or concerns with their plans before construction begins in March. They also continue to meet with John Wood of the State Historic Preservation Office and hope to successfully apply for State Historic Tax Credits.

Golden Leaf Community Initiative Grant

The Washington Chamber of Commerce, with the assistance from WHDA and City Planning is applying for the Golden Leaf Community Initiative Grant program. The Chamber hopes to spur small business development by creating "*Beaufort's Next Bright Idea*" a business plan competition designed to incentivize small business owners and other entrepreneur's to create or expand businesses within Beaufort County, NC.

If awarded, WHDA will continue to provide assistance with this project by serving on the judging committee.

“A Perfect Day” Beaufort County’s Wedding Planner Guide

In an effort to promote Washington as an ideal place to hold weddings, WHDA Organization Committee is in the process of creating a new publication called “A Perfect Day”. This publication will highlight small businesses, venues and services that cater to the bride on the big day. This is the only publication of its kind in Beaufort County. WHDA’s goals are two-fold, one is to support the small businesses in Beaufort County as the average amount spent on a wedding is \$29,000 and the other is to create a fundraiser for WHDA that does not rely on weather as the Beach Music Festival and the Crab Pickin’ does. The publication should be distributed in late March 2012.

The 2nd Annual Washington Marine Market

The Washington Harbor District Alliance is will host the second Marine Market on Saturday, April 28th from 9 AM to 9PM. The event will offer a nautical market along the City of Washington docks where one can browse through all types of nautical gear – both new and used – or take advantage of the bargains on everything from fishing tackle to boats. But this year WHDA is proud to announce we’ve joined forces with the BoCo Music Festival. This will help the two agencies to present a quality venue, attract hundreds if not thousands downtown and will help keep the cost of production to a minimum.

WHDA 2012 Calendar of Events	
April	Music in the Streets Starts April 3rd - Runs every Third Friday thru Oct. Saturday Market Begins April 21 st . Continues every weekend Nautical Market April 28th
May	Artwalk – Thursday, May 10th Sat Market Every Saturday Music in the Streets May 18 th
June	Sat Market Every Saturday Music in the Streets June 15th Little Washington Sailing Club 2012 Season
July	Sat Market Every Saturday July 4 th Celebrations Music in the Streets July 20th Little Washington Sailing Club 2012 Season
August	Sat Market Every Saturday Music in the Streets 17th Pickin on the Pamlico - Sat., Aug. 25th Little Washington Sailing Club 2012 Season
September	Sat Market Every Saturday Rockin’ on the River - Saturday, Sept. 15th Music in the Streets September 21st
October	Sat Market Every Saturday Music in the Streets October 19th (Assist) Smoke on the Water Oct. 26/Oct. 27
November	Art Walk Thursday, Nov. 8th
December	Flotilla & Hometown Holiday Sat., Dec. 1

Music in the Streets will be Celebrating its 10th Year!

The MITS volunteer committee is putting the final touches on a promotional CD that will feature many of the favorite musicians hosted at last year’s MITS. The committee hopes to raise funds by selling the CD.

Board Continues to Meet:

The WHDA Board meets every third Wednesday of the Month at 8:30AM at the Inner Banks Artisans Center. The meetings are open to the public and any interested person is invited to attend.

FINANCIAL REPORTS

Councilman Mercer reiterated that the revenues and expenses do not balance, although they are better than they have been. Mayor Pro tem Roberson asked Mr. Kay to develop a plan of action to get our finances in line and to have this information presented at the Committee of the Whole meeting.

APPOINTMENTS: – WASHINGTON HOUSING AUTHORITY AND HUMAN RELATIONS COUNCIL

City Attorney, Franz Holscher, explained that the City Code provides that the Council makes appointments to the Housing Authority, while State Statute says the Mayor makes the appointment. This is a section of the City Code that will need to be changed. Mayor Jennings advised this appointment will be pulled and made by him at the March Council meeting.

Councilman Pitt nominated Melita Davis to fill the unexpired term of Nattalie Castro. By motion of Mayor Pro tem Roberson, seconded by Councilman Brooks, Council appointed Melita Davis to the Human Relations Council to fill the unexpired term of Nattalie Castro, term to expire June 30, 2012.

ADOPT/AUTHORIZE – RESOLUTION TO LEASE PROPERTY ON AIRPORT ROAD TO THE BEAUFORT COUNTY COOPERATIVE EXTENSION AND AUTHORIZE CITY MANAGER TO NEGOTIATE AND TO EXECUTE (3 YEARS) LEASE

City Manager, Josh Kay explained that the Master Gardener program of the Beaufort County Cooperative Extension service has requested to renew their lease of approximately an acre of land opposite the Extension Service building on Airport Road. The land has no present Airport use and has been used by the Master Gardner Program for the last three years. The Master Gardener Program established a Community Gardens Program where local citizens who do not have access to garden plots can establish a plot with the assistance from the Master Gardener Program. The current lease is set to expire February 14, 2012. In addition to reducing the City's maintenance responsibilities, the consideration for the lease is that the property shall be utilized in conjunction with and in furtherance of the Beaufort County Master Gardener Program, a public use, and the lease will restrict the use of the property to the same. Mr. Kay further explained that this is a renewal of the current lease.

Mayor Pro tem Roberson suggested possible screening of the garden area in the off season.

Councilman Mercer suggested that in the future, if agreements are the same and just a renewal, to please note that in the beginning of the action item to alleviate reading. He also stated that there would've been no need to include the agreement in the packet if it was just a renewal.

By motion of Councilman Moultrie, seconded by Councilman Brooks, Council adopted the Resolution to Lease Property on Airport Road to the Beaufort County Cooperative Extension for three (3) years and Authorized the City Manager to further negotiate, if necessary, and execute the lease.

RESOLUTION TO LEASE PROPERTY ON AIRPORT ROAD

FOR USE BY THE BEAUFORT COUNTY COOPERATIVE EXTENSION

WHEREAS, the City of Washington ("City") owns the Warren Field Airport, including that 1.31 acres located generally on the South side of Airport Road and as more specifically depicted on Exhibit A attached hereto and incorporated herein by reference (hereinafter referred to as "Premises"), which Premises the City finds it does not currently have a use for.

WHEREAS, the City Council therefore finds the Premises is currently surplus to the City's needs and will not be needed by the City for the term of the lease proposed hereby.

WHEREAS, the Beaufort County Cooperative Extension, through its Beaufort County Master Gardener Program, desires to utilize said Premises for the purposes of said Program, which purposes and program constitute a public use.

WHEREAS, the City Council supports said Program, finds that it will benefit the citizens of the City and the County of Beaufort, and finds the proposed public use to be acceptable and will reduce the City's maintenance responsibilities.

WHEREAS, North Carolina General Statute § 1 60A-272 authorizes the City to enter into leases of up to 10 years upon a resolution of the City Council adopted at a regular meeting after 10 days' public notice.

WHEREAS, the required notice has been published and the City Council is convened in a regular meeting.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Washington that: The City Council hereby approves the proposed lease of said Premises owned by the City to be utilized by the Beaufort County Cooperative Extension for three (3) years and authorizes the City Manager to further negotiate, if necessary, and execute said lease.

Adopted this 13th day of February, 2012.

ATTEST:

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

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

**STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT**

LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter referred to as "Agreement") is made and entered into as of the 15th day of February, 2012, by and between the **CITY OF WASHINGTON**, a municipal corporation of the State of North Carolina (hereinafter referred to as "Lessor" or "City") and the **STATE OF NORTH CAROLINA FOR NORTH CAROLINA STATE UNIVERSITY** (hereinafter referred to as "Lessee").

WITNESSETH

WHEREAS, authority to approve and execute this Agreement was delegated to the Board of Trustees of North Carolina State University by the Department of Administration by letter dated October 23, 2000; and further delegated by the Board of Trustees to the Vice Chancellor for Finance and Business on November 17, 2000.

WHEREAS, Lessor owns the Warren Field Airport (hereinafter referred to as "Airport"), including that certain real property located generally on the south side of Airport Road and as more specifically depicted on Exhibit A attached hereto and incorporated herein by reference (hereinafter referred to as "Premises").

WHEREAS, Lessor leased said Premises to Lessee from February 15, 2009 to February 14, 2012 in order to allow Lessee to utilize the same for the purpose of the Beaufort County Master Gardener Program (hereinafter referred to as "Program").

WHEREAS, Lessee has negotiated with Lessor and desires to lease said Premises from Lessor for another three (3) year term, which Premises will continue to be utilized in conjunction with said Program.

WHEREAS, Lessor desires to continue to lease said Premises to Lessee as Lessor supports and finds said Program has benefitted and will continue to benefit the citizens of the City and Beaufort County as well as finds the public purpose to be acceptable and has reduced and will continue to reduce the City's maintenance responsibilities.

WHEREAS, Lessor has found said Premises to be surplus to its current needs.

WHEREAS, after proper public notice, the City Council passed a Resolution authorizing this Agreement.

NOW, THEREFORE, subject to the terms and conditions hereinafter set forth, Lessor does hereby lease and let unto Lessee and Lessee hereby takes and accepts, together with all privileges and appurtenances thereto, the Premises. In consideration of the mutual promises and covenants herein contained, the benefits to the Lessor and Lessee, and for One Dollar (\$1.00) and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties do hereby agree as follows.

1. **Premises.** The Premises as defined herein is located generally on the south side of Airport Road and as more specifically depicted on Exhibit A attached hereto and incorporated herein by reference.

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

3. **Term.** The term of this Agreement shall be for three (3) years and shall commence as of the 15th day of February, 2012, and shall expire on the 14th day of February, 2015. Notwithstanding anything herein to the contrary, Lessor may unilaterally terminate this Agreement and/or reduce the size and boundaries of the Premises as may be necessary, in Lessor's sole discretion. Any such early termination or reduction by Lessor shall only be effective at the end of a growing season and upon six (6) months written notice given by Lessor to Lessee.

4. **Rental.** In addition to reducing the City's maintenance responsibilities, the consideration for this Agreement is that the property shall be utilized in conjunction with and in furtherance of said Program, which use constitutes an acceptable public purpose.

5. **Assignment.** Lessee shall not assign its interest in this Agreement, sublease any portion of the Premises, or permit third parties to occupy or use any portion of the Premises without Lessor's prior written consent, which consent may be withheld in Lessor's sole discretion. Notwithstanding the foregoing, Lessor hereby expressly authorizes Lessee to utilize the Premises for its Program and expressly authorizes Lessee to provide garden plots to participants in said Program.

6. **Use of Premises.** Lessee shall use the Premises during the term of this Agreement for the purposes specified herein and none other. The Premises described herein may be used by Lessee only for purposes that are in furtherance of and consistent with Lessee's Program. The primary use of the Premises shall be to provide garden plots to participants in said Program. No other enterprise, including but not limited to commercial enterprise or enterprise for profit, will be operated on the Premises. Any revenue produced through the Program operated at the Premises shall be used solely to support said Program. In the event there ever exists revenue surplus to the needs of the Program, said revenue shall be reinvested back into the Community Garden and/or the Master Gardener Program. Lessee shall not make any unlawful or offensive use of the Premises and agrees to keep the same in good maintenance and aesthetically pleasing appearance.

- a. Lessee shall perform all cultivation activities permitted hereunder in such a manner that said activities will not interfere with the use of the Airport by aircraft or in any way obstruct the runways, taxi strips, or approaches thereto. Lessee further agrees that it will cultivate no plant, crop, sod or other growth which will grow to a height that will interfere with the landing of aircraft or the other operational activities at the Airport. The type of planting, cultivation, harvest, crops, sod, or other growth to be grown on the Airport property by Lessee shall always be subject to advance approval by the City Manager or his designee.
- b. Any cultivation permitted hereunder shall be conducted in an economical and practical manner. In performing any cultivation contemplated hereunder or any other activity permitted by this Agreement, Lessee shall act in accordance with the best practices of

husbandry and use good and commonly accepted agronomic methods practiced in the geographical vicinity of the Airport with a view not only to the production of bountiful cultivation in any one year, but further with an effort continuously to improve and preserve the fertility and structure of the soil in an honest effort to preserve and, if possible, to increase the value and desirability of said lands for future cultivation. Fertilization shall be done pursuant to soil tests and recommendations by a reputable organization performing such tests and making such recommendations.

7. **Care and Maintenance.** Lessor shall not be responsible for any maintenance of the Premises and Lessee agrees, at Lessee's own expense as additional consideration for this Agreement, to maintain the Premises in an attractive manner, including but not limited to cutting and keeping any and all grass, bushes, shrubs, and trees properly trimmed so as to be aesthetically pleasing and in compliance with any and all ordinances of the City of Washington, including but not limited to zoning and public nuisance ordinances, and any applicable Federal Aviation Administration (hereafter "FAA") requirements. Lessee shall not permit anything, including but not limited to structures, vegetation, trees, etc., to obstruct the runway approach zone. Lessee shall pay for the repair of any and all damages to the Premises caused by Lessee, its agents, employees, invitees, guests, or their successors and assigns or any of them during the term hereof.

8. **Alterations.** The parties recognize that Lessee has made certain preparations to the Premises as previously approved by the City Manager in order to use the Premises as hereinbefore provided. Other than the care and maintenance provided for hereinabove, Lessee shall make no additional alterations or improvements to the Premises without prior written consent from Lessor. Any alteration or improvement that is made by Lessee without prior written consent from Lessor or that is inconsistent, in Lessor's sole discretion, with Lessor's prior written consent shall constitute default hereunder. All such alterations and improvements made with Lessor's consent shall be properly maintained by Lessee.

9. **Inspections and Access.** Lessee does hereby agree that Lessor shall be allowed to inspect the Premises at any time. Lessee shall provide Lessor with such reasonable access over and across the Premises as may be necessary to enable and assist Lessor in performing any such act that is necessary, in Lessor's sole discretion, for the administration of the Airport.

10. **Insurance.** Lessee, as a state institution of higher learning, self-insures for general liability, subject to the provisions of the North Carolina Tort Claims Act. Lessee also maintains the Employees Excess Liability Insurance Policy, through a commercial insurer, with coverage limits of \$10,000,000.00 on a per occurrence basis.

11. **Personal Property Taxes.** Lessee shall pay or discharge prior to delinquency all taxes and other charges assessed against or levied upon its fixtures, equipment, furnishings, and its other personal property located on the Premises.

12. **Utilities.** The provision of utilities, including water, sewer, and electricity, if any, shall be covered under a separate agreement; however, Lessee shall be responsible for all applicable charges, including but not limited to "hook-up" and customary monthly charges for the same.

13. **Reservations.** It is expressly understood by Lessee that Lessor has entered this Agreement only to the extent of its authority to do so and that this Agreement is made contingent upon and

subject to the approval of FAA or any other branch, board or bureau of the Federal, State or local government which might have jurisdiction over the Airport and control of activities which may be carried on within its boundaries. It is also expressly understood by Lessee that Lessor, in its sole discretion, may make any improvements to the Airport property, upon appropriate notice, that may diminish the area of potential cultivation. Any portion of the cultivatable lands contemplated herein may be withdrawn from cultivation by Lessor for necessary building construction or other improvements without cost to Lessor, at the end of a growing season and upon six (6) months written notice given by Lessor to Lessee.

14. **Other Operations.** Lessee understands there are other operations being carried on at the Airport. Lessee agrees to cooperate in all respects with all of the parties who are presently or who may in the future be utilizing the Airport for other purposes and agrees to coordinate its activities with said operations insofar as possible so as to achieve an orderly, safe and harmonious joint usage thereof by all parties. In this regard, Lessee shall communicate and collaborate with both Lessor and the current Airport operator in its use of the Premises. Lessee agrees that, in the event there shall be any dispute between itself and any of the other operators on the Airport, Lessor shall have full power and authority to hear both sides and render a decision which shall be binding upon it.

15. **Release, Waiver of Claims and Indemnity.** Lessee shall occupy the Premises at Lessee's own risk. Lessee for itself, its invitees and guests and their respective joint venturers, partners, parents, subsidiaries, affiliates, predecessors in interest, successors in interest, assigns and each of their respective officers, directors, employees, shareholders, agents, accountants, attorneys, insurance carriers, sureties, representatives, consultants and advisors, both past and present, hereby shall unconditionally waive and release, unless the City is negligent, the City of Washington and its present and former employees, officials, and elected officials in both their respective individual and official capacities, agents, personal representatives, attorneys, insurers, heirs, successors and assigns, and each of them, respectively, of, from, and for all and any manner of action or actions, cause and causes of action, claims, demands, costs, loss of services, expenses, attorney's fees, compensation and all consequential, compensatory, general, special and/or punitive damages or liabilities, known or unknown, which may result directly or indirectly from or be in any way related to, connected with or growing out of this Agreement, Lessee's occupancy as well as use of said Premises, including use by invitees or guests of Lessee as well as participants in the Program, and the Program. This provision shall survive the termination of this Agreement and shall be in full force and effect beyond the term or termination of this Agreement, however terminated.

16. **Adherence to Regulations.** Lessee shall comply with all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of and agreements with all governments, departments, commissions, boards, Courts, authorities, agents, officials, officers and other parties, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Airport property or any part thereof, including the Premises. Further, Lessee shall comply with any and all local, state, federal or other rules and regulations as well as all applicable environmental rules and regulations, including but not limited to such rules and regulations regulating hazardous or similar substances or conditions, their storage or disposal. Lessee shall not intentionally and knowingly use any Airport property, including the Premises, for any purpose or in manner in violation of any law, ordinance, rule, or regulation adopted or imposed by any federal, state, county, municipal body, or other governmental agency. Lessee's activities contemplated herein shall conform to and be consistent with any applicable provision of the then current Airport plan as well

as the minimum standards, rules and regulations, adopted for the Airport by the City, as amended.

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

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

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

20. **Surrender of Possession and Holding Over.** Upon the expiration or other termination of this Agreement, Lessee shall quit and surrender the Premises to Lessor. Upon expiration or other termination of this Agreement, Lessee shall retain ownership of and shall remove any items of personal property, including fixtures, made or placed on or about the Premises by Lessee, provided that Lessee returns the Premises to its condition prior to installation or placement of such item(s) thereon. If Lessee shall remain in possession of the Premises or any part thereof after the expiration of the term of this Agreement, either with or without Lessor's acquiescence, Lessee shall be deemed a tenant at will, and such holding over by Lessee shall in no way constitute a renewal of this Agreement.

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

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

23. **Miscellaneous.**

- a. The State of North Carolina or the North Carolina State auditor shall have access to persons and records as a result of all agreements entered into by North Carolina State University in

accordance with North Carolina General Statute §147-64.7 and Session Law 2010-194, Section 21.

- b. If Lessee provides any data to Lessor pursuant to this Agreement then Lessor shall preserve and maintain the data to the extent needed to fulfill Lessee's obligations under the North Carolina Public Records Act and under the Federal and North Carolina Rules of Civil Procedure, including specifically that Lessor shall immediately preserve and maintain data (and any generated email correspondence) upon Lessee's request or upon notice of litigation and further Lessor shall make available to Lessee all data that Lessee may specify within the time limits required.
- c. North Carolina General Statute §133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any employee of Lessee of any gift from anyone with a contract with Lessee, or from any person seeking to do business with Lessee. By execution of this Agreement, Lessor attests, for its entire organization, including employees or agents, that it is not aware that any such gift has been offered, accepted or promised by any employees of its organization.
- d. If Lessee provides Lessor with personal identifiers as listed in North Carolina General Statute §132-1.10 and in North Carolina General Statute §14-133.20(b) or any other legally confidential information including "personally identifiable information" from student education records as defined by the Family Educational Rights and Privacy Act ("FERPA"), 34 CFR §99.3, Lessor hereby certifies that collection of this information from Lessee is necessary for the performance of Lessor's duties and responsibilities on behalf of Lessee under this Agreement. Lessor further certifies that it shall maintain the confidential and exempt status of any social security number information, as required by North Carolina General Statute §132-1.10(c)(1), and that it shall not re-disclose personally identifiable information as directed by FERPA, 34 CFR §99.33, or by other State and Federal laws. Failure to abide by legally applicable security measures and disclosure restrictions may result in the interruption, suspension and/or termination of the relationship with Lessor for a period of at least five (5) years from date of violation. If Lessor experiences a security breach, as defined in North Carolina General Statute §75.61(14), relating to this information, in addition to the Lessor's responsibilities under the North Carolina Identity Theft Protection Act, Lessor shall immediately notify Lessee with the information listed in North Carolina General Statute §75-65(d)(1-4) and shall fully cooperate with Lessee. Lessor shall indemnify Lessee for any breach of confidentiality or failure of its responsibilities to protect confidential information. Specifically, with regard to, but not limited to, the cost of notification of affected persons as a result of its unauthorized release of Lessee data provided to Lessor pursuant to the Agreement.

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

IN WITNESS WHEREOF, after due authority given, the parties hereto have executed this Agreement effective 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 Government Budget and Fiscal Control Act.

CITY OF WASHINGTON

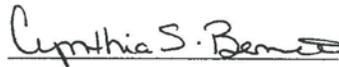
 (SEAL)
MATT RAUSCHENBACH,
Chief Financial Officer



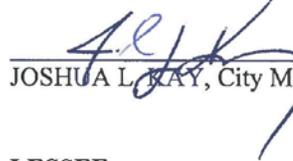
LESSOR:

CITY OF WASHINGTON

ATTEST:

 (SEAL)

CYNTHIA S. BENNETT, City Clerk

By:  (SEAL)

JOSHUA L. KAY, City Manager

LESSEE:

STATE OF NORTH CAROLINA FOR
NORTH CAROLINA STATE UNIVERSITY

By:  (SEAL)
CHARLES D. LEFFLER,
Vice Chancellor for Finance and Business

STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT

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

Witness my hand and official seal, this the 28 day of February, 2012.

Reatha B. Johnson
NOTARY PUBLIC
BEAUFORT COUNTY, NC

My Commission Expires: 12/14/2014

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, Tabitha Groelle, a Notary Public in and for the County and State aforesaid, do hereby certify that ~~Kathryn S. Platt~~ CHARLES D. LEFFLER, personally appeared before me this date and acknowledged the due execution by ~~him~~ her of the foregoing instrument as Vice Chancellor for Finance and Business for NORTH CAROLINA STATE UNIVERSITY for the purposes therein expressed.

Witness my hand and official seal, this the 8 day of March, 2012.

Tabitha Groelle
NOTARY PUBLIC
Tabitha Groelle
Notary Printed Name

My Commission Expires: 9-7-16

TABITHA GROELLE
NOTARY PUBLIC
WAKE COUNTY, N.C.

EXHIBIT A

Those certain tracts or parcels of land lying and being in the City of Washington, Beaufort County, North Carolina, more particularly described as follows:

BEING all of that approximately 1.31 acres, more or less, having approximate dimensions of 176 feet by 217 feet by 200 feet by 145 feet and by 197 feet, which approximately 197 feet abut Airport Road as shown on that aerial map in the office of the City Manager for the City of Washington.



APPROVE – ORDINANCE FEEDING OF FERAL ANIMALS

Mr. Kay explained that by amending Section 22-97 (j) would decriminalize this section of City Code, thereby, allowing for the violator to be charged with a civil penalty (\$50) rather than a misdemeanor. Councilman Mercer noticed that with rewriting Section 22-97 and the penalty may be paid to the Magistrates Court instead of the City. He fears that by routing collection through the courts will increase the penalty to \$160. He suggested that the amendment should state that the penalty should be paid to the Office of Collections within 14 days, if not paid within that 14 day period, the penalty could be referred to the Magistrate Court system. Mayor Jennings stated that if the wording was changed as opposed to what is presented tonight, then we will have to wait for approval because the ordinance that is adopted has to be correct at the time Council adopts it.

Mayor Jennings asked if a recess was taken could the ordinance be written to reflect the aforementioned changes? Mr. Holscher stated that he and staff would do their best to incorporate the changes suggested.

Council stood in recess 6:45pm-7:00pm.

Councilman Mercer stated that the corrections have been incorporated as suggested and was ready to make a motion. By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council adopted an Ordinance amending Chapter 22, Parks and Recreation, Article IV, Use of Waterways, Wharves, Docks, Boardwalk and Promenade, Section 22-97, Unlawful Acts, of the Code of the City of Washington, North Carolina to Decriminalize Certain Provisions of Section 22-97 and Impose Civil Penalties for Violations of those certain Provisions.

**AN ORDINANCE AMENDING
CHAPTER 22, PARKS AND RECREATION, ARTICLE IV, USE OF WATERWAYS,
WHARVES, DOCKS, BOARDWALK AND PROMENADE, SECTION 22-97, UNLAWFUL
ACTS, OF THE CODE OF THE CITY OF WASHINGTON, NORTH CAROLINA TO
DECRIMINALIZE CERTAIN PROVISIONS OF SECTION 22-97 AND
IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF THOSE CERTAIN PROVISIONS**

WHEREAS, North Carolina General Statute Chapter 160A, Cities and Towns, Article 8, Delegation and Exercise of General Police Power, authorizes cities and towns to, among other things, provide that violations of ordinances shall subject the offender to a civil penalty to be recovered in a civil action in the nature of a debt if the offender does not pay the penalty within a prescribed period of time after being cited for a violation of the ordinance.

NOW THEREFORE, BE IT ORDAINED by the City Council for the City of Washington, North Carolina that Chapter 2, Parks and Recreation, Article IV, Use of Waterways, Wharves, Docks, Boardwalk and Promenade, Section 22-97, Unlawful acts, shall be amended as follows.

Section 1. Section 22-97, Unlawful acts, is hereby amended by deleting the section title, Unlawful acts, and replacing it with the following.

Sec. 22-97. Prohibited acts.

Section 2. Section 22-97(j), *Violation, penalty*, is hereby amended by deleting the subsection in its entirety and replacing it with the following subsection.

Sec. 22-97. Prohibited acts.

(j) *Violation, penalty.* Any violation of Sec. 22-97(i) shall subject the offender to a civil penalty in the amount of \$50.00. Offenders shall be issued a written citation for all such violations and shall pay the same within fourteen (14) calendar days from the issuance of the citation to the office of the Collector of Revenue. If the citation is not paid within fourteen (14) calendar days of issuance, the offender shall be liable for an additional civil penalty of the same amount for failure to pay within fourteen (14) days. The civil penalties imposed hereunder shall be the sole method of enforcing violations of Sec. 22-97(i) and no citation issued for such violations shall be enforced through the application of North Carolina General Statute § 160A-175(b) or North Carolina General Statute § 14-4. It being the intent of this subsection that citations issued for such violations shall not be enforced through criminal misdemeanor prosecution. Said penalties may be collected by the city through Magistrate's Court, the cost for which will be assessed to the offender receiving the citation.

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

Section 4. Should any provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Section 5. This ordinance shall take effect and be enforced from and after the date of its adoption.

This the 13th day of February 2012.

ATTEST:

s/Cynthia S. Bennett, City Clerk
City of Washington

s/N. Archie Jennings, III, Mayor
City of Washington

Mr. Kay reviewed the two options regarding the ordinance amendment. As discussed at previous City Council meetings, there are concerns about the current ordinances of the City in relation to the feeding of feral animals within the corporate limits of Washington.

Option 1: Prohibit the feeding of feral animals in the City

1. Section 22-97 (i): Parks and Recreation should be amended to better define areas where the feeding of animals is prohibited. The proposed language is as follows:

Section 22-97 (i) Animal and bird feeding restrictions. Restrictions upon feeding of animals and birds in specified areas.

(1) No person shall do any of the following:

- a. Feed any bird or animal; or*
- b. Disperse any food material or other matter edible by any bird or animal so as to make such material or matter available to other birds or animals for ingestion.*

(2) No person shall leave any food or other matter edible by any bird or animal to remain on the ground after dispersing or dropping the same in or on the designated area.

(3) These restrictions shall apply to all City-owned parks, facilities, boardwalks, roads, easements, and rights-of-ways including, but not limited to, the following areas:

- a. Downtown area further defined by Bridge Street on the west, Bonner Street on the east, 2nd Street on the North, and the federal channel of the Pamlico River on the south (private single-family residences within the outlined area are exempt from these restrictions);*
- b. Festival Park;*
- c. Haven Garden;*
- d. Veterans Park; and*
- e. Boardwalk along Pamlico River.*

2. Section 22-97 (j) be amended with the attached ordinance to decriminalize this section of City Code, thereby, allowing for the violator to be charged with a civil penalty rather than a misdemeanor.

Option 2: Allow designated individuals and/or groups to feed animals in designated areas as approved by City Council

1. Section 22-97 (i) to be revised to add:

Section 22-97 (i) Animal and bird feeding restrictions. Restrictions upon feeding of animals and birds in specified areas.

(4) Certain individuals and/or groups may be exempt from the prohibitions of this section, provided they provide the following information to City Council and receive such exempt status from City Council on an annual basis. Exemption from the prohibitions may be withdrawn by City Council at any time and for any reason.

- a. Overall program description and purpose of program;*
- b. Locations where animals are to be fed;*
- c. Times that feeding will occur times shall be limited to no more than one hour per day;*
- d. List of individuals with up-to-date contact information that will be overseeing the feeding;*
- e. Disposition of animals fed and/or caught, including, but not limited to, number of*

animals, locations animals caught and released, and medical procedures or vaccines given; and
f. Any other information, plan, and/or requirement that City Council may impose or require from said individuals or groups.

2. Section 22-97 be amended with the attached ordinance to decriminalize this section of City Code, thereby, allowing for the violator to be charged with a civil penalty rather than a misdemeanor.

By motion of Councilman Moultrie, seconded by Councilman Brooks, Council adopted an Ordinance amending Chapter 22, Parks and Recreation, Article IV, Use of Waterways, Wharves, Docks, Boardwalk and Promenade, Section 22-97, Unlawful Acts, of the Code of the City of Washington, North Carolina to Further Define the Areas where the Feeding of Animals and Birds is Prohibited and Allow for Certain Individuals and/or Groups to be Exempted from the Prohibitions.

Councilman Mercer stated that this ordinance means any animal or bird, not just cats. Councilman Pitt stated someone will need to monitor the feeding program? Councilman Moultrie suggested a time frame of sixty (60) days to monitor and revisit this program. Mayor Pro tem Roberson asked who would need to be contacted regarding possible feeding violations? Mr. Kay stated the individual would make the Police Dept. aware of the issue.

AN ORDINANCE AMENDING

CHAPTER 22, PARKS AND RECREATION, ARTICLE IV, USE OF WATERWAYS, WHARVES, DOCKS, BOARDWALK AND PROMENADE, SECTION 22-97, UNLAWFUL ACTS, OF THE CODE OF THE CITY OF WASHINGTON, NORTH CAROLINA TO FURTHER DEFINE THE AREAS WHERE THE FEEDING OF ANIMALS AND BIRDS IS PROHIBITED AND ALLOW CERTAIN INDIVIDUALS AND/OR GROUPS TO BE EXEMPTED FROM THE PROHIBITIONS

NOW THEREFORE, BE IT ORDAINED by the City Council for the City of Washington, North Carolina that Chapter 2, Parks and Recreation, Article IV, Use of Waterways, Wharves, Docks, Boardwalk and Promenade, Section 22-97, Unlawful acts, shall be amended as follows.

Section 1. Section 22-97(i), *Animal and bird feeding restrictions*, is hereby amended by deleting the subsection in its entirety and replacing it with the following subsection.

Sec. 22-97. Prohibited acts.

(i) *Animal and bird feeding restrictions.* Restrictions upon feeding of animals and birds in specified areas.

- (1) No person shall do any of the following:
 - a. Feed any bird or animal; or
 - b. Disperse any food material or other matter edible by any bird or animal so as to make such material or matter available to other birds or animals for ingestion.
- (2) No person shall leave any food or other matter edible by any bird or animal to remain on the ground after dispersing or dropping the same in or on the designated area.
- (3) These restrictions shall apply to all City-owned parks, facilities, boardwalks, roads, easements, and rights-of-ways including, but not limited to, the following areas:
 - a. Downtown – area further defined by Bridge Street on the west, Bonner Street on the east, 2nd Street on the North, and the federal channel of the Pamlico River on the south (private single-family residences within the outlined area are exempt from these restrictions);
 - b. Festival Park;
 - c. Haven's Garden;
 - d. Veterans Park; and
 - e. Boardwalk along Pamlico River.

- (4) Certain individuals and/or groups may be exempt from the prohibitions of this section, provided they provide the following information to City Council and receive such exempt status from City Council on an annual basis. Exemption from the prohibitions may be withdrawn by City Council at any time and for any reason.
- a. Overall program description and purpose of program;
 - b. Locations where animals are to be fed;
 - c. Times that feeding will occur – times shall be limited to no more than one hour per day;
 - d. List of individuals with up-to-date contact information that will be overseeing the feeding;
 - e. Disposition of animals fed and/or caught, including, but not limited to, number of animals, locations animals caught and released, and medical procedures or vaccines given; and
 - f. Any other information, plan, and/or requirement that City Council may impose or require from said individuals or groups.

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

Section 4. Should any provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Section 5. This ordinance shall take effect and be enforced from and after the date of its adoption.

This the 13th day of February 2012.

ATTEST:

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

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

(MOVED FROM CONSENT AGENDA) APPROVE – PURCHASE ORDERS FOR LOAD MANAGEMENT SWITCH INSTALLATIONS (\$20,000)

Councilman Mercer expressed concern with an apparent price escalation in the cost of the switches. Keith Hardt, Electric Director explained the average cost per switch installation price is \$110-\$120 depending on the number of appliances that it operates. The quoted price is being followed and additional funds are needed to be transferred inside the current budget to cover the expenses. The funds will come from maintenance accounts in the substation budget.

By motion of Councilman Pitt, seconded by Mayor Pro tem Roberson, Council approved the purchase order for load management switch installation in the amount of \$20,000 to Buck Electric, Washington, NC. Councilman Mercer voted against the motion and the motion carried 4-1.

AUTHORIZE & APPROVE – CITY MANAGER TO TENTATIVELY AWARD A CONTRACT TO STEP CONSTRUCTION, INC. OF LAGRANGE, NC FOR THE CONSTRUCTION OF A NEW SEWER LIFT STATION SOUTH OF THE INTERSECTION OF MAIN AND RESPESS STREETS AND APPROVE PURCHASE ORDER (\$438,401.45)

AND

ADOPT – CAPITAL PROJECT AMENDMENT, BUDGET ORDINANCE AMENDMENT, AND A LOAN OFFER RESOLUTION FOR THE MAIN & RESPESS LIFT STATION PROJECT

City Manager, Josh Kay explained that staff advertised to receive bids for this project on January 26, 2012 and received six (6) bids. The low bid was submitted by Step Construction, Inc. from LaGrange, NC. As shown on the attached bid tab, their base bid was \$418,401.45. This bid included Fairbanks-Morse submersible pumps. We currently do not have any of these brand pumps in use. Over

70% of the submersible pumps we have at our sewer lift stations are manufactured by Flygt, thus the bid alternate in the bid package. The difference between the base bid and the amount we are requesting the contract to be tentatively awarded for is the difference, of \$20,000. There is also an action item for a Capital Project Ordinance Amendment and Budget Ordinance Amendment to cover these additional costs, as well as a Loan Resolution. The reason for the “tentative award” is to allow staff time to thoroughly review the contractor’s qualifications and safety program and to allow the loan agency the opportunity to review the bid package with the above mentioned Loan Resolution.

CONTRACTOR	TOTAL BASE BID	BASE BID W/ALT
Step Construction, Inc.	\$418,401.45	\$438,401.45
Centurion Construction Company, Inc.	\$466,675.00	\$466,675.00
W. O. White	\$467,617.25	\$467,617.25
T.A. Loving Company	\$473,780.00	\$473,780.00
Trader Construction Company	\$510,575.00	\$510,575.00
FIG. Reynolds	\$818,388.00	\$823,338.00

Mr. Kay summarized the Capital Project stating it was initially established for \$600,000. The project was recently bid and the revised estimate is \$659,241.45. We have been approved for a 15 year State Revolving loan at 2.455% interest in the amount of \$646,321.45. Loan closing cost of \$12,930 are not eligible for the loan and will be provided from local funds(reserves in the Sewer Fund). A Capital Project amendment is necessary to adjust the project to the revised cost. A budget Ordinance amendment provides for the local fund contribution.

Two Options are included for consideration:

Option 1- accept maximum allowable loan of \$646,321.45 with local funds of \$12,930

Option 2- accept loan of \$600,000 with local funds of \$58,321.45 (loan closing cost \$12,000)

By motion of Councilman Pitt, seconded by Councilman Brooks, Council authorized the manager to tentatively award a contract to Step Construction, Inc. of LaGrange, NC for the construction of a new sewer lift station just south of the intersection of Main and Respass Streets at a cost of \$438,401.45, subject to funding approval, verifying qualifications and safety program, and approve the corresponding purchase order. Mayor Pro tem Roberson opposed, motion carried 4-1

Councilman Mercer expressed reluctance in spending an additional \$900 in closing cost and borrowing an additional \$46,000 for this project while paying interest on the additional amount for 15 years. He would prefer to proceed with the original loan amount and pull the needed funds from the reserve amount.

Mayor Pro tem Roberson inquired as to the length of time we have been working on this project. Allen Lewis, Public Works Director explained that the City pursued ARRA funds in 2009 and we were not awarded the 100% grant. In 2010 we pursued a 50% grant/50% loan and we were not funded again. In late 2010, early 2011, we pursued another 100% loan and were tentatively awarded the loan in the spring of 2011.

By motion of Councilman Mercer, seconded by Councilman Pitt, Council adopted a Capital Project Amendment, Budget Ordinance Amendment and a Loan Offer Resolution for the Main and Respass Lift Station Project by accepting the original loan amount of \$600,000 with local funds (sewer reserves) of \$58,321.45, which includes \$12,000 in loan closing cost.

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2011-2012**

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

Section 1. That account number 32-90-6610-9279, Transfer to Wastewater CPF, Miscellaneous portion of the Sewer Fund appropriations budget be increased in the amount of \$58,322.

Section 2. That account number 32-90-9990-9900, Contingency, Contingency portion of the Sewer Fund appropriations budget be decreased in the amount of \$31,598.

Section 3. That account number 32-90-3991-9910, Fund Balance Appropriated of the Sewer Fund revenue budget be increased in the amount of \$26,724.

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 13th day of February, 2012.




MAYOR

**AN ORDINANCE TO AMEND THE CAPITAL PROJECT ORDINANCE FOR
THE MAIN & RESPESS LIFT STATION UPGRADE
CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2011-2012**

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

Section 1. That the following appropriation accounts in the Main & Respass Capital Project be increased or decreased by the following amounts:

73-90-8000-0400	Grant/Loan Administration	\$	12,000
73-90-8000-4500	Construction		62,002
73-90-8000-9900	Contingency		(15,680)
	Total	\$	58,322

Section 2. That the following revenue accounts in the Main & Respass Capital Project be increased by the following amounts:

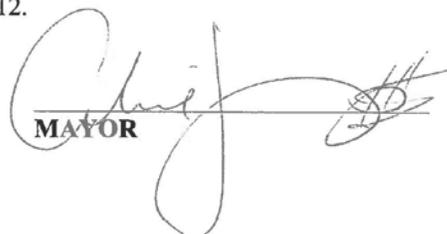
73-90-3490-0001	Transfer from Sewer Fund	\$	58,322
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Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

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

Adopted this the 13th day of February, 2012.




MAYOR

RESOLUTION BY GOVERNING BODY OF APPLICANT

WHEREAS, The North Carolina Clean Water Revolving Loan and Grant Act of 1987 and the Education, Clean Water, and Parks Bond Act of 1993 have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems, water supply systems, and water conservation projects, and

WHEREAS, The North Carolina Environmental Management Commission has offered a State Revolving Loan in the amount of \$600,000 for the construction of the Main & Respass Pump Station, and

WHEREAS, The City of Washington intends to construct said project in accordance with the approved plans and specifications,

NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF WASHINGTON:

That the City of Washington does hereby accept the State Revolving Loan offer of \$600,000.

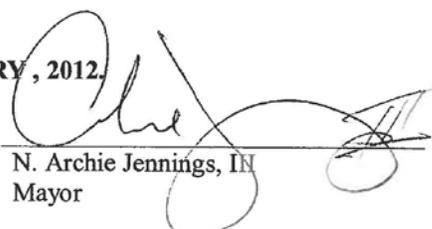
That the City of Washington does hereby give assurance to the North Carolina Environmental Management Commission that all items specified in the loan Offer, Section II – Assurances will be adhered to.

That N. Archie Jennings, III, Mayor, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the City of Washington has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.



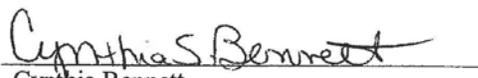
ADOPTED THIS 13th DAY OF FEBRUARY, 2012.


N. Archie Jennings, III
Mayor

CERTIFICATE OF RECORDING OFFICER

The undersigned duly qualified and acting City Clerk of the City of Washington does hereby certify:

That the above/attached resolution is a true and correct copy of the resolution authorizing the acceptance of the State Revolving Loan offer with the North Carolina Environmental Management Commission, as regularly adopted at a legally convened meeting of the City of Washington duly held on the 13th day of February, 2012; and further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of February, 2012.


Cynthia Bennett

CITY CLERK
Title

**STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WATER QUALITY**

State Loan or Grant Offer and Acceptance

This Offer must be accepted, if at all, within forty-five (45) days of receipt.
This Offer is made subject to the attached Standard Conditions and Assurances

Legal Name and Address of Award Recipient

City of Washington
P.O. Box 1988
Washington, NC 27288

Account

Clean Water State Revolving Fund (SRF)
State General Loan (SRL)
State Emergency Loan (SEL)
High Unit Cost Grant (SRG)
Technical Assistance Grant

State Project Number: E-SRF-T-11-0273
Federal Project Number: CS370521--05
CFDA Number: 66.458

Project Description:

Main and Respass Pump Station

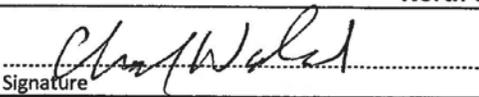
Total Financial Assistance Offer: **\$600,000** **Interest Rate:** 2.455% Per Annum
Total Project Cost: \$600,000 **Maximum Loan Term:** 20 Years
Closing Fee (2%): \$12,000 (Actual invoiced closing costs will be calculated based on bids)

Consideration having been given by the Department of Environment and Natural Resources to the application submitted by the applicant pursuant to North Carolina General Statute 159G, (1) the applicant is an eligible unit of government, (2) the project meets the eligibility criteria for a State Loan or Grant, and (3) the project has been approved and certified by the Department of Environment and Natural Resources as being entitled to priority for State financial assistance,

The Department of Environment and Natural Resources, acting on behalf of the State of North Carolina, hereby offers the financial assistance described in this document.

For The State of North Carolina:

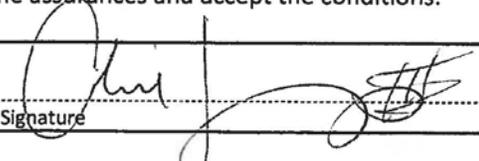
Dee Freeman, Secretary
North Carolina Department of Environment & Natural Resources

Signature:  Date: 4/20/12

On Behalf of:

Name of Representative in Resolution: City of Washington
Title (Type or Print): N. Archie Jennings III
Mayor

I, the undersigned, being duly authorized to take such action, as evidenced by the attached CERTIFIED COPY OF AUTHORIZATION BY THE APPLICANT'S GOVERNING BODY, do hereby accept this State Loan or Grant offer and make the assurances and accept the conditions.

Signature:  Date: 2/13/2012

(REMOVED FROM AGENDA) AUTHORIZE – CITY MANAGER TO CONTRACT WITH MID-EAST COMMISSION TO COMPILE NCDOT BICYCLE MASTER PLAN AND APPROVE CORRESPONDING PURCHASE ORDER (\$35,000))

APPROVE – BUDGET ORDINANCE AMENDMENT FOR THE ELECTRIC FUND (\$25,000)

Mr. Kay explained the funds referenced in the budget ordinance amendment are an increase in the account 35-90-3350-8002, Miscellaneous Revenue Jobbing and an increase in the account 35-90-8390-4502, Contract Services- Jobbing Reimbursable, Power Line Construction. These accounts are utilized when requests are made for construction or relocation of the City's electric plant and the cost of said work will be reimbursed by the requestor. Expenditures are not made out of this budget code unless there is offsetting revenue for the request. The current appropriation for expenditures and revenue has been exceeded and we have additional requests for work. The account levels are requested to be increased so as to account for the requested work.

By motion of Councilman Moultrie, seconded by Councilman Brooks, Council adopted a budget ordinance amendment in the amount of \$25,000 for the electric fund.

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE
OF THE CITY OF WASHINGTON, N.C.
FOR THE FISCAL YEAR 2011-2012**

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

Section 1. That account number 35-90-3350-8002, Miscellaneous Revenue Jobbing, portion of the Electric Fund revenue budget be increased in the amount of \$25,000.

Section 2. That account number 35-90-8390-4502, Contract Services- Jobbing Reimbursable, Power Line Construction portion of the Electric Fund appropriations budget be increased in the amount of \$25,000.

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

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

Adopted this the 13th day of February, 2012.

ATTEST:

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

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

**APPROVE – PURCHASE ORDERS FOR GENERATOR COMPLIANCE WITH EPA
NESHAPS REGULATIONS ~~\$162,307~~ \$124,487**

(memo)Included in the fiscal year 2011-2012 budget is a project for EPA NESHAPS regulation compliance on five of the City’s peak shaving generators.

The purchase requests are:

- Requisition #10678; Industrial Park Generator \$30,166
- Requisition #10692; Stanadyne Generator #2 \$29,338
- Requisition #10693; Stanadyne Generator #3 \$29,338
- Purchase Order #48288; Stanadyne Generator #1 \$18,016
- Purchase Order #48290; Weir Valves \$17,629

This project will install catalytic reduction modules and associated monitoring on each of the units. The preferred vendor is PowerSecure, Inc. for this peak shaving generator catalyst installations to meet EPA requirements. Requests were solicited and PowerSecure, Inc. was the only vendor to respond to the request and provide a proposal. Electricities did have a joint bid opening on behalf of the cities. The cost to accept this bids would be a total of \$188,813 for the five (5) units included in this request.

Five units for a total of \$125,000 are budgeted in account 35-90-8370-7403. The current estimated cost for the remaining seven (7) generating units is \$162,307 which will be included in the upcoming FY 2012-13 budget request. All applicable generation units must be in compliance with the RICE NESHAPS regulations by 3 May 2013. (end memo)

Councilman Mercer expressed concern with the EPA NESHAPS regulations and there is no way to benefit from the new regulations.

By motion of Councilman Pitt, seconded by Councilman Brooks, Council approved the purchase orders for generator upgrades to comply with EPA NESHAPS regulations.

**AUTHORIZE – PURCHASE OF A VERMEER TRENCHER THROUGH THE PIGGYBACK
OF THE CITY OF HUTCHINSON BID AND AUTHORIZE THE ISSUANCE OF THE
RESPECTIVE PURCHASE ORDER (\$69,400)**

<u>Vendor</u>	<u>Cost Per Unit</u>	<u>Delivery</u>	<u>Less Trade-In</u>
Vermeer	\$69,400	60 days	N/A

Mr. Kay reviewed the item with Council, explaining that the 2007 General Assembly approved G.S. 143-129(e)(9a) as an exception which allows purchases of apparatus, supplies, materials, or

equipment from contracts established by the United States of America or any federal agency, if the contractor is willing to extend to a political subdivision of the State the same or more favorable prices, terms, and conditions as established in the federal contract if bid in the past 12 months. The Electric Department will be reducing its fleet by one trencher. Two used trenchers will be sold on GovDeals, vehicles #611 & #622. Keith Hardt, Electric Director explained that currently there are three trenchers in the Electric Department and two of them were approved to be sold on GovDeals. With the purchase of the new trencher, there will be a total of two trenchers in the Electric Department.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council authorized the purchase of a Vermeer Trencher through the piggyback of the City of Hutchinson's bid and authorized the issuance of the respective purchase order.

AWARD – AUDIT CONTRACT FOR FISCAL YEAR 2011-2012 TO MARTIN STARNES AND ASSOCIATES, CPA, PA (\$33,000)

Mr. Kay reviewed the item and noted that last year the Finance Department went out to bid for an independent auditor to perform the fiscal year 2010-2011 audit and Martin Starnes was awarded the bid. The Request for Proposal stated that the City intended to continue the relationship with the auditor for 5 years on the basis of annual negotiation after the completion of the first year's audit. The contract is consistent with the bid submitted and we are recommending that Council award the audit contract for fiscal year 2011-2012 to Martin Starnes, & Associates, CPA, PA in the amount of \$33,000.

Councilman Mercer expressed concern with substantial errors with the audit report from Martin Starnes & Associates. The company should be put on notice that if they come in with the same quality of work that they have been producing in the last three years, then next year the Council will review their contract.

By motion of Mayor Pro tem Roberson, seconded by Councilman Brooks, Council awarded the audit contract for fiscal year 2011-2012 to Martin Starnes and Associates, CPA, PA located in Hickory, NC at a cost of \$33,000.

BOYCE, FURR & COMPANY, LLP
CERTIFIED PUBLIC ACCOUNTANTS

SAMUEL A. BOYCE, PARTNER
BOBBIE W. FURR, PARTNER

SANDY P. NEWELL, CPA
JO ELLEN B. LOY, CPA
DAVID E. BOYCE, CPA
PATRICIA T. WAGNER, CPA
CHERYL W. GAZALEH, CPA

May 5, 2009

Martin Starnes & Associates, CPAs, PA and the
Peer Review Committee, North Carolina Association
of Certified Public Accountants

We have reviewed the system of quality control for the accounting and auditing practice of Martin Starnes & Associates, CPAs, PA (the firm) in effect for the year ended December 31, 2008. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review. The nature, objectives, scope, limitations of, and the procedures performed in a System Review are described in the standards at www.aicpa.org/prsummary.

As required by the standards, engagements selected for review included engagements performed under the *Government Auditing Standards* and audits of employee benefit plans.

In our opinion, the system of quality control for the accounting and auditing practice of Martin Starnes & Associates, CPAs, PA in effect for the year ended December 31, 2008, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Martin Starnes & Associates, CPAs, PA has received a peer review rating of *pass*.

Boyce, Furr & Company, LLP
BOYCE, FURR & COMPANY, LLP

LGC-205 (Rev. 2011)

CONTRACT TO AUDIT ACCOUNTS

of City of Washington, NC
Governmental Unit

On this 18th day of January, 2012, Martin Starnes & Associates, CPAs, P.A.

Auditor

730 13th Avenue Drive SE, Hickory, NC 28602

Mailing Address

, hereinafter referred to as

the Auditor, and City Council of City of Washington, NC, hereinafter referred
Governing Board Governmental Unit
to as the Governmental Unit, agree as follows:

1. The Auditor shall audit all statements and disclosures required by generally accepted accounting principles and additional required legal statements and disclosures of all funds and/or divisions of the Governmental Unit for the period beginning July 1, 2011, and ending June 30, 2012. The non-major combining, and individual fund statements and schedules shall be subjected to the auditing procedures applied in the audit of the basic financial statements and an opinion will be rendered in relation to (as applicable) the governmental activities, the business-type activities, the aggregate discretely presented component units, each major governmental and enterprise fund, and the aggregate remaining fund information (non-major government and enterprise funds, the internal service fund type, and the fiduciary fund types).
2. At a minimum, the Auditor shall conduct his/her audit and render his/her report in accordance with generally accepted auditing standards. The Auditor shall perform the audit in accordance with *Government Auditing Standards* if required by the State Single Audit Implementation Act, as codified in G.S. 159-34. If required by OMB Circular A-133 and the State Single Audit Implementation Act, the auditor shall perform a Single Audit. This audit and all associated workpapers may be subject to review by Federal and State agencies in accordance with Federal and State laws, including the staffs of the Office of State Auditor (OSA) and the LGC. If the audit and/or workpapers are found in this review to be substandard, the results of the review may be forwarded to the North Carolina State Board of CPA Examiners.
3. This contract contemplates an unqualified opinion being rendered. If financial statements are not prepared in accordance with generally accepted accounting principles (GAAP), or the statements fail to include all disclosures required by GAAP, please provide an explanation for that departure from GAAP in an attachment.
4. This contract contemplates an unqualified opinion being rendered. The audit shall include such tests of the accounting records and such other auditing procedures as are considered by the Auditor to be necessary in the circumstances. Any limitations or restrictions in scope which would lead to a qualification should be fully explained in an attachment to this contract
5. If this audit engagement is subject to the standards for audit as defined in *Government Auditing Standards*, July 2007 revisions, issued by the Comptroller General of the United States, then by accepting this engagement, the Auditor warrants that he has met the requirements for a peer review and continuing education as specified in *Government Auditing Standards*. The Auditor agrees to provide a copy of their most recent peer review report regardless of the date of the prior peer review report to the Governmental Unit and the Secretary of the Local Government Commission prior to the execution of the audit contract. (See Item 21) If the audit firm received a peer review rating other than pass, the auditor shall not contract with any Local Government Units without first contacting the Secretary of the Local Government Commission for a peer review analysis that may result in additional contractual requirements.

If the audit engagement is not subject to *Government Accounting Standards*, the Auditor shall provide an explanation as to why in an attachment.
6. It is agreed that time is of the essence in this contract. All audits are to be performed and the report of audit submitted to the SLGFD within four months of fiscal year end: October 31, 2012. If it becomes necessary to amend this due date or the audit fee, an amended contract along with a written explanation of the delay must be submitted to the Secretary of the Local Government Commission for approval.
7. It is agreed that generally accepted auditing standards include a review of the Governmental Unit's systems of internal control and accounting as the systems relate to accountability of funds, adherence to budget requirements, and adherence to law requirements. In addition, the Auditor will make a written report, which may or may not be a part of the written report of audit, to the Governing Board setting forth his findings, together with his recommendations for improvement. That written report must include all matters defined as "significant deficiencies and material weaknesses" in AU 325 of the *AICPA Professional Standards*. The Auditor shall file a copy of that report with the Secretary of the Local Government Commission.
8. All local government and public authority contracts for audit or audit-related work require the approval of the Secretary of the Local Government Commission. This includes annual or special audits, agreed upon procedures related to Internal Control, bookkeeping or other assistance necessary to prepare the Unit's records for audit, financial statement preparation, any finance-related investigations, or any other audit-related work in the State of North Carolina. Invoices for services rendered under these contracts

Contract to Audit Accounts (cont.)

City of Washington, NC

(Name of unit)

shall not be paid by the Governmental Unit until the invoice has been approved by the Secretary of the Local Government Commission. (This also includes any progress billings.) [G.S. 159-34 and 115C-447] The process for invoice approval has changed. All invoices for Audit work must be submitted by email in PDF format to the Secretary of the Local Government Commission for approval. The invoices must be emailed to: lge.invoice@nctreasurer.com Email Subject line should read "unit name – invoice." The PDF invoice marked approved with approval date will be returned by email to the Auditor for them to present to the Local Government Unit for payment. Approval is not required on contracts and invoices for system improvements and similar services of a non-auditing nature.

9. In consideration of the satisfactory performance of the provisions of this agreement, the Governmental Unit shall pay to the Auditor, upon approval by the Secretary of the Local Government Commission, the following fee, which includes any cost the Auditor may incur from work paper or peer reviews or any other quality assurance program required by third parties (Federal and State grantor and oversight agencies or other organizations) as required under the Federal and State Single Audit Acts:

Year-end bookkeeping assistance – [For audits subject to Government Auditing Standards, this is limited to bookkeeping services permitted by revised Independence Standards] Standard hourly rates ranging from \$75-\$250 per hour

Audit \$27,850

Preparation of the annual financial statements \$5,150

10. The auditor working with a local governmental unit that has outstanding revenue bonds will include in the notes to the audited financial statements, whether or not required by the revenue bond documents, a calculation demonstrating compliance with the revenue bond rate covenant. Additionally, the auditor should be aware that any other bond compliance statements or additional reports required in the authorizing bond documents need to be submitted to the Local Government Commission simultaneously with the local government's audited financial statements unless otherwise specified in the bond documents.
11. After completing the audit, the Auditor shall submit to the Governing Board a written report of audit. This report shall include but not be limited to the following information: (a) Management's Discussion and Analysis, (b) the financial statements and notes of the governmental unit and all of its component units prepared in accordance with generally accepted accounting principles, (c) supplementary information requested by the client or required for full disclosure under the law, and (d) the Auditor's opinion on the material presented. The Auditor shall furnish the required number of copies of the report of audit to the Governing Board as soon as practical after the close of the accounting period.
12. If the audit firm is required by the NC CPA Board or the Secretary of the Local Government Commission to have a pre-issuance review of their audit work, there must be a statement added to the engagement letter specifying the pre-issuance review including a statement that the Unit of Government will not be billed for the pre-issuance review. The pre-issuance review must be performed prior to the completed Audit being submitted to the Local Government Commission. The pre-issuance report must accompany the audit report upon submission to the Local Government Commission.
13. The Auditor shall electronically submit the report of audit to the Local Government Commission when (or prior to) submitting the invoice for services rendered. The report of audit, as filed with the Secretary of the Local Government Commission, becomes a matter of public record for inspection and review in the offices of the Secretary by any interested parties. Any subsequent revisions to these reports must be sent to the Secretary of the Local Government Commission. These audited financial statements are used in the preparation of Official Statements for debt offerings (the auditors' opinion is not included), by municipal bond rating services, to fulfill secondary market disclosure requirements of the Securities and Exchange Commission, and other lawful purposes of the government, without subsequent consent of the auditor. If it is determined by the Local Government Commission that corrections need to be made to the unit's financial statements they should be provided within three days of notification unless, another time frame is agreed to by the Local Government Commission.

The Local Government Commission's process for submitting audit reports is subject to change. Auditors should use the submission process in effect at the time of submission.

In addition, if the North Carolina Office of the State Auditor designates certain programs to be audited as major programs, a turnaround document and a representation letter addressed to the State Auditor shall be submitted to the Local Government Commission.

14. The auditor can be reached for matters concerning this contract at the following email address: ccostner@martinstarnes.com

The finance officer or other responsible employee/official can be reached for matters concerning this contract at the following email address: mrauschenbach@washingtontnc.gov

15. Should circumstances disclosed by the audit call for a more detailed investigation by the Auditor than necessary under ordinary circumstances, the Auditor shall inform the Governing Board in writing of the need for such additional investigation and the additional compensation required therefore. Upon approval by the Secretary of the Local Government Commission, this agreement

Contract to Audit Accounts (cont.)

City of Washington, NC

(Name of unit)

may be varied or changed to include the increased time and/or compensation as may be agreed upon by the Governing Board and the Auditor.

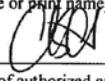
- 16. If an approved contract needs to be varied or changed for any reason, the change must be made in writing, signed and dated by all parties and pre-audited if the change includes a change in audit fee. This document and a written explanation of the change must be submitted by email in PDF format to the Secretary of the Local Government Commission for approval. Email address is lge.contract@nctreasurer.com. No change shall be effective unless approved by the Secretary of the Local Government Commission, the Governing Board, and the Auditor.
- 17. Whenever the Auditor uses an engagement letter with the client, Item 18 is to be completed by referencing the engagement letter and attaching a copy of the engagement letter to the contract to incorporate the engagement letter into the contract. In case of conflict between the terms of the engagement letter and the terms of this contract, the terms of this contract will control. Engagement letter terms are deemed to be void unless the conflicting terms of this contract are specifically deleted in Item 23 of this contract. Engagement letters containing indemnification clauses will not be approved by the Local Government Commission.
- 18. Special provisions should be limited. Please list any special provisions in an attachment.
- 19. A separate contract should not be made for each division to be audited or report to be submitted. A separate contract must be executed for each component unit which is a local government and for which a separate audit report is issued.
- 20. The contract must be executed, pre-audited, physically signed by all parties and submitted by email in PDF format including unit and auditor signatures to the Secretary of the Local Government Commission. The email address is lge.contract@nctreasurer.com. Electronic signatures are not accepted at this time.
- 21. The contract is not valid until it is approved by the Local Government Commission. The staff of the Local Government Commission shall notify the unit and auditor of contract approval by email. The audit should not be started before the contract is approved.
- 22. There are no other agreements between the parties hereto and no other agreements relative hereto that shall be enforceable unless entered into in accordance with the procedure set out herein and approved by the Secretary of the Local Government Commission.
- 23. All of the above paragraphs are understood and shall apply to this agreement, except the following numbered paragraphs shall be deleted: (See Item 17.)

Audit Firm Signature:

Firm Martin Starnes & Associates, CPAs, P.A.

By Chris S. Costner, Audit Director

(Please type or print name)



(Signature of authorized audit firm representative)

Email Address: ccostner@martinstarnes.com

Date January 18, 2012

Unit Signatures (continued):

By N/A

(Chair of Audit Committee- please type or print name)

(Signature of Audit Committee Chairperson)

Date N/A

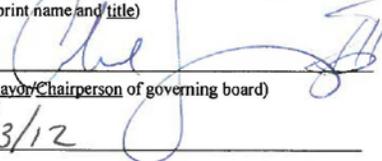
(If unit has no audit committee, this section should be marked "N/A.")

Email address N/A

Unit Signatures:

By N. Archie Jennings, III, Mayor

(Please type or print name and title)



(Signature of Mayor/Chairperson of governing board)

Date 2/13/12

Email Address _____

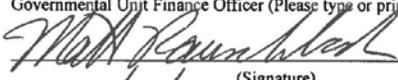
Date Governing Body Approved Audit Contract

2/13/12

This instrument has been preaudited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act. Additionally, the following date is the date this audit contract was approved by the governing body.

Matt Rauschenbach, Chief Financial Officer

Governmental Unit Finance Officer (Please type or print name)



(Signature)

Date 2/13/12

(Preaudit Certificate must be dated.)

Email address mrauschenbach@washingtonnc.gov

ADOPT – RESOLUTION IN OPPOSITION TO THE STATE TOLLING THE FERRY(S) IN NORTH CAROLINA

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council adopted the resolution in opposition to the state tolling the ferries in North Carolina.

Mayor Jennings also noted that the Beaufort County Mayor’s Association adopted a similar resolution.

Resolution Opposing Ferry Fees

WHEREAS, the State of North Carolina has proposed imposing or increasing fees on those who utilize the ferry system in North Carolina; and

WHEREAS, the ferries in question are essential to transportation not only for residents but to

the economic well-being of the coast which is, in general, much poorer than the Piedmont area of the State; and

WHEREAS, the State of North Carolina has invested heavily in economic development projects in other areas of the State, e.g. the Microelectronics Center, the Biotechnology Center, the Research Triangle Park, and the Global Transpark, just to name a few; and

WHEREAS, road construction in the Piedmont areas of the State is consuming immense quantities of transportation funding to alleviate traffic congestion caused by vigorous economic growth there; and

WHEREAS, the ferries exist in many cases in the East because of a lack of investment in bridge construction in eastern North Carolina; and

NOW, THEREFORE, BE IT RESOLVED, that the City of Washington does hereby join with our sister counties, cities, and organizations in eastern North Carolina in protesting this egregious use of State power which is in direct opposition to the economic well being of this region and the welfare of its citizens.

This 13th day of February, 2012.

s/Cynthia S. Bennett, CMC
City Clerk

s/N. Archie Jennings, III
Mayor

ADOPT – RESOLUTION CELEBRATING THE TRICENTENNIAL OF BEAUFORT COUNTY

By motion of Mayor Pro tem Roberson, seconded by Councilman Pitt, Council adopted a resolution celebrating the Tricentennial of Beaufort County.

A RESOLUTION TO CELEBRATE BEAUFORT COUNTY'S 300th YEAR: 1712-2012

WHEREAS, Beaufort County (originally Beaufort Precinct) was formed out of Pamptecough Precinct in 1712, during the turmoil of the armed conflict with the Tuscarora Indians. It was so named to honor Henry, Duke of Beaufort, Palatine of Carolina, one of the Lords Proprietors.

WHEREAS, the troubled beginning of Beaufort County and its unique geography made it a crossroads for interacting with some of the most notorious pirates in history, and

WHEREAS, Beaufort County became a valuable royal colony as a supplier of naval stores, and

WHEREAS, Beaufort County and its citizens were active participants in all of our national wars and conflicts, from the Revolutionary War for Independence to the War Between the States to our World Wars and the conflicts that followed, sometimes at significant sacrifice locally, and

WHEREAS, Beaufort County has always relied on a spiritually strong population, evidenced in part by the first Anglican/Episcopal Church, the first Catholic Church and the many and diverse other churches and congregations prominent and active in every corner of our County, and

WHEREAS, Beaufort County has gloried throughout its history in the strength and accomplishments of its citizens of all races and backgrounds, acknowledging the difficulties of those such as its hard-working subsistence farmers, and its African-American population that rose from slavery to community leadership, and

WHEREAS, Beaufort County is proud of its renown for its forestry products, and its agricultural products such as tobacco, cotton, potatoes, flower bulbs and grains, and

WHEREAS, Beaufort County celebrates the historical industry of its citizens in areas and essential products such as lumber, boats, mining, textiles, automotive, and seafood, and

WHEREAS, Beaufort County has been an important crossroads in maritime shipping and travel, railroads and highways, and shall continue to be so in the future,

NOW, THEREFORE, BE IT RESOLVED, that the citizens of the City of Washington are justly proud of and wish to celebrate the accomplishments of the first 300 years of Beaufort County's history, with all its human warts and blemishes, and wish, with divine guidance, for another 300 years of progress.

LET 2012 BE RECOGNIZED AND CELEBRATED AS BEAUFORT COUNTY'S
TRICENTENNIAL YEAR WITH ALL APPROPRIATE CEREMONY
AND SHARING OF THE LESSONS OF OUR PAST.

Adopted this the 13th day of February, 2012.

s/Cynthia S. Bennett, CMC
City Clerk

s/N. Archie Jennings, III
Mayor

**UPDATES – NCLM GENERAL GOVERNMENT LEGISLATIVE ACTION COMMITTEE
(reviewed by Councilman Pitt)**

General Government

- Transportation: Funding, utility relocation, DOT communication and processes, transit improvements, equity formula (12)
- Economic development: Downtown & small town revitalization and restoration, industrial recruitment and site development, additional incentives (11)
- Public safety: Crime prevention and reduction, funding for drug enforcement officers, equipment funding (6)
- Regionalism, intergovernmental cooperation (3)
- ABC system: Defense of current system, local input (2)
- Electronic notification of meetings (1)
- Sweepstakes (1)
- Hurricane preparation & recovery (1)

Tax & Finance

- Water and wastewater infrastructure
- Economic/downtown development
- Parks and recreation funding
- Potential for sales tax reductions by the state

Planning & Environment

- Minimum housing code enforcement
- Clean energy/ sustainability
- Water and wastewater infrastructure
- Parks and recreation funding
- Zoning/land use authority & ETJ
- Municipal growth post-annexation reform

Issues for Consideration

The League has not yet adopted a position on the following goals, but the committee may wish to recommend that it does so due to the potential for legislative action.

- Billboards — Legislation passed last year that impacted the regulations regarding billboards on state highways, including increasing the vegetation removal areas surrounding them. A rulemaking process to determine further changes in regulation is currently ongoing, and the potential for further legislative action remains. The League worked to limit the impact of this legislation during the last session and may need to continue to do so in the short session.
- Public-private partnerships—There has been ongoing discussion at legislative committee meetings about the potential privatization of various government services. Legislative language has yet to be presented, so it is currently unclear as to what extent the General Assembly might wish to pursue this matter.

General Government

- Seek legislation enhancing the authority of cities to own and operate broadband systems for their citizens, and providing incentives for last mile public-private partnerships. Include authority for cities that currently have operating broadband systems to continue.
- Seek legislation to protect the privacy of municipal residents by limiting public access to lists of email addresses submitted by citizens to municipalities.
- Support legislation to promote the reporting of criminal activity to 911 centers by protecting the confidentiality of callers through the use of either transcripts or alteration of voices on recordings to prevent caller recognition, and making appropriate amendments to public records

laws.

- Seek legislation to allow municipalities to establish vacant housing receivership programs for the purpose of rehabilitating structures not meeting minimum housing standards and transferring them to responsible ownership.
- Seek legislation to ban all Internet sweepstakes operations.
- Support a system of liquor sales that maintains a local referendum about the decision to sell liquor, preserves local control over the location and density of liquor outlets, preserves the local revenue stream from liquor sales, and increases the authorized local permit fees statewide.
- Seek legislation to strengthen the role of municipalities in the approval, renewal and revocation of ABC permits.
- Support legislation permitting a governmental entity to seek an order of abatement where a property may have some legitimate use, but is also the source of regular criminal nuisance activity.
- Seek legislation to grant more flexible authority for local public safety officers to enforce ABC related laws.
- Seek legislation to allow Powell Bill funds to be used for sidewalks and walking paths that are adjacent to, but not located within, the right-of-way of State-maintained roads.
- Seek legislation ensuring significant municipal decision-making authority and respect for local ordinances in the design of transportation projects across all NCDOT Divisions, to lower congestion, enhance quality of life, improve aesthetics, improve public safety and bolster public health for city residents, regardless of the city's financial participation in a project.
- Seek legislation to give municipalities the option to use electronic legal public notices in lieu of publication in a newspaper.
- Support legislation maintaining the fiscal integrity of the Local Government Employees' Retirement System and its defined benefit structure, which promotes reasonable pension reforms that are prospective in nature, and tailored to meet the needs of local employees and retirees.
- Seek legislation to mandate that counties share state-collected E911 revenue with municipalities, providing existing E911 dispatch centers functioning as Primary or Secondary Public Safety Answering Point (PSAP) contingent upon all jurisdictions (county or municipal receiving funding meet levels of service requirements and use highly trained personnel and modern technology.
- Support legislation to authorize local governments to award contracts to local bidders under specified circumstances.

Tax & Finance

- Seek legislation to revise the local land transfer tax so that: 1) it can be adopted without a referendum; and 2) municipalities receive a share of the revenues.
- Support legislation to expand the sales tax base to include services.
- Seek legislation to allow all municipalities to adopt a prepared meals and beverage tax.
- Seek legislation to: 1) require that counties conduct a public hearing before approving a resolution choosing the method of sales tax distribution; 2) delay the implementation of a change in method until July 1 of the calendar year following the adoption of the change; and 3) phase in the change in method over four years.
- Seek legislation to allow all municipalities to adopt impact fees to pay for growth-related infrastructure and services.
- Support legislation to reform the municipal business privilege license tax by: 1) eliminating exemptions and caps for specific categories of businesses; 2) specifying the appropriate bases for the tax; 3) requiring municipalities to adopt a rate schedule that applies to all types of businesses within a municipality; 4) limiting the amount of taxes paid by businesses that have business activity within a municipality but no business location within it; and 5) capping the amount of tax that can be imposed on any single business location.
- Support legislation providing municipalities with the authority to impose a fee to recover the costs of vehicle accident and fire response from at-fault drivers and parties responsible for fires, up to a statutory maximum amount.
- Seek legislation to increase the existing municipal vehicle fee for public transportation from \$5 to a maximum of \$20, and allow it to also be used for pedestrian and bicycle projects.
- Support legislation to increase funding for the State Mobility Fund in order to support regional congestion mitigation projects, interstate maintenance and a Powell Bill supplement; and to provide additional funding sources for State transportation projects.

- Support legislation to maintain funding for Historical Black Colleges! Universities (HBCU5) and **Community Colleges**
- Support study of the Economic Development Tier system and how it applies to all municipalities in terms of funding and or services.

Planning & Environment

- Seek legislation reforming annexation laws that ensures the ability of a city to grow in a reasonable manner, while providing quality municipal services on a timely basis.
- Seek legislation to allow municipal creation or extensions of extra-territorial jurisdictions (ETJ) without county approval.
- Seek legislation creating a state bond program for upgrades to water and wastewater treatment systems, expansion of stormwater programs and assured water supplies.
- Support the equal application of water quality management rules that impact cities to N.C. municipalities, counties, state agencies and private operations, require payment of city stormwater fees by all state agencies, and require maintenance of all stormwater structures by permitted entities.
- Support legislation establishing a water permitting system that protects existing municipal withdrawals, allows for future growth, includes all withdrawers and accounts for all downstream users.
- Support legislative and regulatory efforts for efficiencies in water, wastewater and stormwater permitting processes.
- Seek legislation to classify reclaimed water as a resource water, and study the injection of treated water into aquifers.

Councilman Mercer also indicated the discussions regarding NCDOT projects and the local costs of those projects and asked Councilman Pitt to review this item with the Legislative Committee. Mayor Pro tem Roberson inquired about the fuel tax cap. Councilman Pitt noted this will be discussed in the short session of the Legislation as well.

**CLOSED SESSION – UNDER § NCGS 143-318.11(A)(4) ECONOMIC DEVELOPMENT;
NCGS § 143-318.11(A)(6) PERSONNEL; AND NCGS § 143-318.11(A)(3)
ATTORNEY/CLIENT PRIVILEGE**

By motion of Councilman Pitt, seconded by Councilman Moultrie, Council entered into closed session under § NCGS 143-318.11(A)(4) Economic Development; NCGS § 143-318.11(A)(6) Personnel; and NCGS § 143-318.11(A)(3) Attorney/Client Privilege.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council excused Councilman Pitt from the meeting at 8:45pm allowing him to return to work.

ADJOURN

By motion of Councilman Brooks, seconded by Mayor Pro tem Roberson, Council adjourned the meeting at 9:00pm until February 27, 2012 at 5:30pm in the Council Chambers at the Municipal Building.

Cynthia S. Bennett, CMC
City Clerk