

The Washington City Council met in a regular session on Monday, May 11, 2009 at 4:30 p.m. in the Council Chambers at the Municipal Building. Present were: Judy Jennette, Mayor; Doug Mercer, Mayor Pro tem; Richard Brooks, Councilman; Darwin Woolard, Councilman; Archie Jennings, Councilman; Gil Davis, Councilman; Jim Smith, City Manager; Cynthia Bennett, City Clerk; and Franz Holscher, City Attorney.

Also present were: Matt Rauschenbach, Chief Financial Officer; Jimmy Davis, Fire Chief; Allen Lewis, Public Works Director; Bobby Roberson, Planning Director; Philip Mobley, Parks & Recreation Director; Sandy Blizzard, Police Department; Ray Midgett, Information Technology Director; and Mike Voss, of the Washington Daily News.

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

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

Mayor Jennette suggested adding item #7 under Old Business: Ordinance Suspending the No-Wake Zone on the Pamlico River between the North Carolina Estuarium and the Norfolk Southern Railroad trestle between the hours of 8:00am – 5:00pm on June 20, 2009. It was further suggested adding item #8 under Old Business: Authorizing the Vacant Lot Offer to Purchase and Contract for the Mayo Property. Mayor Jennette stated that item #2 under New Business: Preliminary Subdivision plat of Keys Landing should be removed as that item is not ready for Council presentation.

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

#### **\* HEATHER DECK WITH PAMLICO TAR RIVER FOUNDATION (RIVER KEEPER) PRESENTATION OF CERTIFICATE OF APPRECIATION TO CITY OF WASHINGTON FOR INVOLVEMENT AND HIGHEST VOLUNTEER PARTICIPATION IN CLEAN UP OF RIVER**

#### **APPROVAL OF CONSENT AGENDA**

On motion of Councilman Woolard, seconded by Councilman Jennings, Council unanimously approved the consent agenda, as presented.

- A. Declare – Surplus/Authorize Electronic Auction of Vehicles through GovDeals

#### **DAVID NORWOOD – LITTLE WASHINGTON SAILING CLUB**

David Norwood came forward representing DWOW's Little Washington Sailing Club. They are requesting to use the piece of City property between the boardwalk and Builder's First Source. He explained there will be six 14' dinghies that will be launched at that location. This will be used as a temporary location until a permanent location behind the Estuarium can be utilized. Council members voiced concern over using that area for children as there is an unsubstantial base due to the amount of sawdust at that location. Mr. Norwood explained the children will be required to wear shoes for safety reasons. The bottom is fairly level and firm. Volunteers will be cleaning up that area and debris will be removed to make it safer.

By motion of Councilman Jennings seconded by Councilman Davis, Council authorized the Little Washington Sailing Club to use the area between the boardwalk and Builder's First Source as a temporary location for launching the six 14' dinghies for the youth sailing program.

#### **DAVID GOSSETT – DOCK DOG COMPETITIONS**

David and Sandra Gossett presented information regarding dock dog competitions to coincide with the Wildlife Show during the weekend of February 4-7, 2010. The cost of bringing the event is \$10,500 plus motel rooms for 3 Dock Dog employees for a total cost of \$11,500. He is requesting the City assist the guild by sharing in the cost and is requesting a 50:50 split of cost. We have a signed contract with Dock Dog Competitions and they will be here for the event in February 2010. Mr.

Gossett requested \$5,750 reimbursement to the East Carolina Wildfowl Guild. Plans are to hold the event at Kugler Field and they have a signed agreement with the Beaufort County Board of Education to use this location for the event.

By motion of Councilman Jennings, seconded by Mayor Pro tem Mercer, Council committed \$5,750 from the current budget for the addition of the Dock Dog Competition to the Wildlife Show for the weekend of February 4-7, 2010.

**FRED WATKINS, III & GARY TOMASULO - PARKING ON MAIN STREET**

Gary Tomasulo thanked Fred Watkins for taking an interest in downtown Washington. He also thanked Jim Smith, Jimmy Davis and Judy Jennette for viewing the demonstration held this morning regarding angled parking. The demonstration showed diagonal parking would not work on Main Street because there would not be enough room for the fire apparatus according to the current Fire Code. They had hoped to have parallel parking on the south side and diagonal/angle on the north side of Main Street. Mr. Tomasulo explained that we need to make it easier for people to shop and park downtown. They have asked Chief Jimmy Davis to contact the State Fire Marshal's Office regarding the possibility of a waiver from the Fire Code regarding the width of the road being 26' wide for fire apparatus.

**JEFF HUNNINGS – REQUEST FOR AN EASEMENT**

Council agreed to add Jeff Hunnings as a part of the scheduled public appearance portion of the meeting. Mr. Hunnings explained he is requesting an easement to install a grease trap next to the McQuay Building and to remove a concrete pad and re-pour a more appropriate concrete pad. He would also like to install landscaping around the building. He is hoping to open a restaurant in the building and plans to be open prior to Summer Festival. Franz Holscher, City Attorney noted that they really need a survey showing the location of the proposed easement. Bobby Roberson, Director of Planning and Development explained that Harbor Street Grille had an easement as well and those documents could be used to start the documentation for this project.

By motion of Mayor Pro tem Mercer, seconded by Councilman Davis, Council agreed to grant the necessary easement/license/lease to allow the installation of the grease trap and to square off concrete and allow an easement/license/lease to square off that portion of concrete. A survey will be required for this process.

Franz Holscher expressed concern regarding approaching the existing right-of-way of the old Stewart Parkway. Mr. Holscher explained they can work from the Harbor Street Grille documents and possibly a prior request for an easement for this property to get this process started.

**ECONOMIC DEVELOPMENT COMMISSION**

Councilman Jennings will present a full report at next month's meeting.

**TOURISM DEVELOPMENT AUTHORITY**

Mayor Jennette explained the TDA is underway in re-pointing the bricks at the Civic Center.

**HUMAN RELATIONS COUNCIL**

Mayor Jennette noted the Human Relations Council will meet on Tuesday.

**DOWNTOWN WASHINGTON ON THE WATERFRONT**

Ross Hamory noted there was nothing to report at this time.

**CITIZENS FOR REVITALIZATION**

Chris Furlough explained in March the Citizens for Revitalization (C4R) Committee agreed that a detailed urban design should be commissioned to cover Areas 1, 2 and 3 (Gladden to Respass, Respass to Market to Bonner – all areas boarded by Main Street on the North and the river to the South). The C4R members believe that such a design is needed to begin implementing the development of underutilized

properties in the Downtown as well as a Performance Park (outdoor space). A subcommittee was formed to: refine the scope of work, interview design firms to determine their capability and estimate costs.

To begin the search the Subcommittee reviewed those firms who had responded to the Water Street RFQ in 2007. Eight firms had made submissions and an additional firm was added for consideration. Three firms were interviewed and two were determined to have the capability and required track record. One of the two firms has already given a cost estimate and the other estimate should be received by midweek (5/14/09). Once the second estimate is received the design committee will finalize its recommendation and cost estimate.

**Development Considerations In A  
Central Business District Urban Design**

1. Link Main Street to the river
  - a. Retail and commerce
  - b. Pedestrian alleyways
2. Public and private parking for the expanded retail and commerce activity.
3. Create the opportunity for 70 to 90 million dollars new tax paying construction, including adaptive reuse of existing buildings.
4. A premier space for public use and assembly.
  - a. Performance venue
  - b. Possible interaction with the river
    1. Pier, indention like Renaissance Plan
5. Circulation plan that minimizes public expense but provides for connectivity.
6. To "Brand" Washington's downtown as a "Central Business District on the River".
7. Implementation strategy
  - a. Realistic
  - b. Financing strategy
  - c. Zoning overlay district
  - d. Urban design guidelines

Citizens for Revitalization request that the Washington City Council

- A. Strongly endorse the above considerations in the development of a Central Business District Urban Design Plan
- B. Enable the Citizens for Revitalization to begin a phase 2 of this process with the following goals:
  1. Have more structure to the group while being representative of the stakeholders and perspectives.
  2. Endorse and fund the use of an Urban Design Team to assist the group in creating a transparent, consensus driven Central Business District Urban Design Plan.
  3. Assist stakeholders, businesses, developers, residents and City Government in the implementation of the plan.

By motion of Councilman Jennings, seconded by Councilman Woolard, Council endorsed and adopted the summary report from Citizens for Revitalization as the City's official position in regards to this group's progress. Voting for the motion: Councilman Jennings, Councilman Woolard, Councilman Brooks, and Councilman Davis; against: Mayor Pro tem Mercer.

**WARREN FIELD AIRPORT**

Jim Smith, City Manager noted they met with the three engineers regarding work to be completed at the Airport and bids will be due May 21, 2009.

### HAVEN'S GARDEN REPORT

Philip Mobley, Parks and Recreation Director will be meeting with CAMA on Tuesday regarding expediting the CAMA permit. He further explained our representative will be meeting with members of the Wildlife Commission regarding our boat ramp at Haven's Gardens.

### FINANCIAL REPORTS

Chief Financial Officer, Matt Rauschenbach presented the financial reports to Council. Council commended the Finance staff for getting the financial reports up-to-date and current.

#### **Projection vs. Budget -** 5/11/09

#### **General Fund**

(\$246,000) Net Loss

1. Sales tax in Other Taxes & Licenses off 10% or \$284,000.
2. Building permits in Permits & Fees up \$35,000
3. Salaries & fringes \$121,000 better than budget (Unfilled Finance Dept. positions)
4. Transfer In from Electric Fund reduced \$420,000 to offset delay in rate increase

#### **Water Fund**

(\$67,000) Net Loss

1. Revenue down \$27,000
2. Budget loss of \$40,000 without full Fund Balance Appropriation

#### **Sewer Fund**

(\$86,000) Net Loss

1. Revenue down \$180,000
2. Other Operating cost \$58,000 better than budget
3. Installment Note Capital Outlay \$10,000 better than budget

#### **Storm Water Fund**

\$4,000 Net Income

#### **Electric Fund**

(\$39,000) Net Loss

1. Loss would have been \$458,000 without \$420,000 Transfer Out to General Fund reduction.

#### **Airport Fund**

\$23,000 Net Income

1. Grant Revenue vs. Grant Expenses \$16,000 better than budget

#### **Solid Waste Fund**

\$64,000 Net Income

1. Revenue \$44,000 better than budget

#### **Total**

(\$347,000) Net Loss

### **APPROVE 2<sup>ND</sup> READING – PIEDMONT NATURAL GAS FRANCHISE RENEWAL ORDINANCE (REQUIRES 2 READINGS AND 2 VOTES)**

Franz Holscher, City Attorney updated Council and reminded them that at the last meeting Council passed the ordinance with the exception of Section 2.05. Mr. Holscher discussed the revised ordinance with Mr. Monaghan (Piedmont Natural Gas) and they will not agree to the ordinance if Section 2.05 is deleted. They also did not agree to other changes Council requested.

By motion of Mayor Pro tem Mercer, seconded by Councilman Woolard, Council agreed to table this item to allow the City Attorney to research this topic more thoroughly.

**ADOPT – ORDINANCE TO AMEND THE GRANT PROJECT ORDINANCE AND TENTATIVELY AWARD THE CONSTRUCTION CONTRACT FOR SEWER LINE WORK ALONG PENNSYLVANIA AVE**

Allen Lewis, Public Works Director stated the Public Works Department advertised to receive bids on April 16, 2009 for the Pennsylvania Avenue Sewer Improvements. There were ten bids and W.O. White, LLC was the low bidder with a bid price of \$348,305.00. Due to limited funds they are attempting to negotiate the price down to \$330,305.00. The project will consist of approximately 900 LF of 24" sewer line along Pennsylvania Avenue between James Drive and Havens Street. This line will replace existing 10" and 12" sewer lines which are undersized. Completion of this project will greatly reduce sanitary sewer overflows and thus eliminate public health and environmental concerns associated with overflows.

By motion of Mayor Pro tem Mercer, seconded by Councilman Woolard, Council adopted the ordinance amending the grant project ordinance and tentatively awarded the construction contract to W.O. White, LLC for the Pennsylvania Avenue Sewer Improvements.

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

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

Section 1. That account number 71-90-8000-4500, Construction portion of the CDBG Grant Project Fund appropriations budget be decreased by \$5,695 to provide funds for easement acquisition.

Section 2. That account number 71-90-8000-9900, Contingency portion of the CDBG Grant Project Fund appropriations budget be decreased by \$6,805 to provide funds for easement acquisition.

Section 3. That account number 71-90-8000-4501, Easement Acquisition portion of the CDBG Grant Project Fund appropriations budget be increased by \$12,500 to provide funds for easement acquisition.

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 11<sup>th</sup> day of May, 2009.

**s/Cynthia Bennett, City Clerk**

**s/Judy Jennette, Mayor**

**Council convened for a break at 5:55pm and reconvened at 6:00pm**

**CONSIDER – ZONING CHANGE CONSISTING OF 12(+) ACRES OF PROPERTY LOCATED ON CLARKS NECK ROAD**

Dot Moate, Planning Board Chairman explained that on April 28, 2009 Jason Briley came before the Planning Board and requested a zoning change. Mr. Briley requested the property be rezoned from RA-20 (Residential Agriculture) to R-15S (Residential). The original request was to rezone to RMF (Residential Multi-family), but the Planning Board felt that rezoning the property to R-15S was more in keeping with the Land Use Plan. Jason Briley came forward to answer any questions from Council.

Mayor Jennette opened the Public Hearing. There being no one to speak, Mayor Jennette closed the Public Hearing.

By motion of Councilman Woolard, seconded by Councilman Brooks, Council accepted the recommendation of the Planning Board and approved the rezoning of 5 tracts of property located on Clark's Neck Road containing 12(+) acres from RA-20 (Residential Agricultural) to R-15S (Residential).

**CONSIDER – ZONING CHANGE CONSISTING OF 3.7 ACRES OF PROPERTY  
LOCATED AT 231 EAST 7<sup>TH</sup> STREET (511 North Harvey Street) FORMER  
BEAUFORT COUNTY ED TECH CENTER**

Dot Moate, Planning Board Chairman explained that on April 28, 2009 the Washington Planning Board received the petition submitted by Michael Lowe, representing Health Plus Therapeutics Services to rezone approximately 3.7 acres of property located at 231 East 7<sup>th</sup> Street (511 North Harvey Street). The property is currently zoned R-6S (Residential) and the request was to change the zoning classification to O & I (Office and Institutional). During that meeting Bobby Roberson, Planning Director came forward and presented a handout from David Owens, who is an attorney at the Institute of Government specializing in land use controls and zoning matters. Mr. Roberson read from the chapter entitled "Adopting and Amending a Zoning Ordinance" from the book Introduction to Zoning. Mr. Roberson read from pages 35, 38, 42 and 44 of the book. (Page 35) "The staff, planning board and governing board need to carefully evaluate the policy implications of a proposed zoning change. Is the change consistent with the adopted plan for the area? What impact will it have on public services such as roads, schools, police, fire, water and sewer? What impact will it have on the property owners and the neighbors? What policy precedent does it set for future requests for amendments?" (Page 38) "The planning board report must address whether the proposed amendment is consistent with the comprehensive plan and any other officially adopted plans that are applicable." (Page 42) "The board is not required to follow its adopted plans in zoning decisions, but it must carefully consider the plan and lay out for public inspection its reasons for deciding to follow the plan or not." (Page 44) "As a general rule, the courts give legislative zoning decisions a presumption of validity as to the substance of the decision – the court will not second guess the policy decisions of elected officials. Only those decisions that are clearly unreasonable or abusive of discretion, those that violate constitutional protections, and those that were made using improper procedures will be set aside."

Several adjoining property owners came forward and voiced opposition to the proposed zoning change. During the discussion official plans adopted by the City Council were discussed which are: The Recreation and Parks Master Plan as well as the CAMA Land Use Plan. After a lengthy discussion a motion was made to deny the rezoning petition and the motion was unanimous. The decision to deny the request was based on discussion that the zoning change would not be compatible with the surrounding properties, which are zoned R-6S. The Recreation and Parks Master Plan suggested the property should be used for recreation and open space.

Mayor Jennette opened the Public Hearing. Mayor Jennette reminded Council they are not discussing a specific use, only the rezoning request.

Hardy Ray Corey, 209 East 7<sup>th</sup> Street came forward and voiced opposition to the rezoning request.

Michael Lowe, Health Plus Therapeutic Services stated that a protest petition has not been filed. Mr. Lowe stated most of the discussion at the Planning Board meeting was regarding a specific use, not the rezoning issue. He feels the ruling from the Planning Board should be set aside as they did not follow proper procedure. His proposed use will have far less impact on traffic, than the previous use. He assured Council that proper development will enhance surrounding properties by creating a buffer between high traffic areas, commercial properties and residential neighborhoods. The proposed zoning will not interfere with any schools and will not increase traffic. He stated that in 2007 the Land Use map calls for this area to be O & I zoning. The O & I district allows for a compatible mix of business, professional and institutional uses as well as providing a buffer between commercial and low density residential properties. With the current R6-S zoning he is limited to approximately four permitted uses: common area/recreational facility, emergency shelter, single family detached dwellings and gardens. The historic use of property was O & I. The current and historic use of adjacent properties is O & I. There is existing O & I property across the street. The

rezoning of this property will allow him to develop the property and create jobs. There will be a buffer yard installed regardless of use or zoning of that property.

Mayor Pro tem Mercer questioned if he didn't get the property rezoned will he still be able to use the property? Mr. Lowe stated he could use the property, but not the building. What is permitted with the current zoning is not desirable uses for him. Jim Smith, City Manager asked when the property was purchased. Mr. Lowe stated he purchased the property on April 13, 2009. Mr. Smith asked if the purchase was a conditional sale. Mr. Lowe stated, "No" he purchased the property and thought it was O & I due to the current use. Once he found out it was zoned R-6S he requested the zoning change.

Lois Corey voiced opposition to this request as it adjacent to a residential area.

Matt Herrod came forward and stated if Council denies this request, then they are denying 30-40 full time jobs in Washington.

Michael Addison, Health Plus Therapeutic Services supports this request due to the job potential this could bring. Jim Smith, City Manager asked if this is the only location this facility could be located? Mr. Addison stated this is the property Mr. Lowe purchased and planned to use.

Billie Mallison questioned the use of the property. Mayor Jennette stated Council is not at liberty to discuss the proposed use, only the requested zoning change.

Rose Lowe stated she is in support of the zoning change and for creating jobs. Mr. Lowe is not asking for any money from the City or local taxpayers.

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

Mr. Roberson stated the Planning Board relied on the Parks and Recreation Master Plan for their recommendation for this request. Mr. Roberson stated the property has been zoned R-6S since the 1960's and schools are an allowed use in that zoning classification.

By motion of Mayor Pro tem Mercer seconded by Councilman Brooks, Council accepted the recommendation of the Planning Board and denied the rezoning of the property located at 231 East 7<sup>th</sup> Street containing 3.7 acres, from R-6S(Residential) to O & I(Office and Institutional) based on the following findings of fact presented by the Planning Board.

1. The subject parcels are located in an area that is included within an adopted Comprehensive Land Use Plan and the Washington Parks and Recreation Master Plan.
2. The rezoning request is not consistent with the stated goals and objectives of the City of Washington's adopted Parks and Recreation Master Plan, which designates this parcel as an area for un-programmed open space and as an area to meet the City's unmet needs.
3. A number of the allowed uses within the proposed zoning district are not compatible to the surrounding area and the adjacent zoning districts.
4. As a result, the adoption of the proposed rezoning of this parcel from R-6S to O&I is unreasonable and not in the public interest.

**AUTHORIZE – CHIEF OF POLICE TO APPLY FOR EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT FORMULA PROGRAM: LOCAL SOLICITATION (\$40,234)**

Sandy Blizzard reminded Council that on February 17, 2009, the landmark American Recovery and Reinvestment Action of 2009 was signed into law. The Recovery Act provides the US Department of Justice with funding for grants to assist local law enforcement agencies (including support for hiring). The Edward Byrne Memorial Justice Assistance Grant Program is the primary provider of federal criminal justice funding to state and local jurisdictions and supports all components of the criminal justice system.

Through this program, the Washington Police Department has been directly allocated funds in the amount of \$40,234. The Washington Police Department would like to use those funds to fund a position of Temporary Law Enforcement Development Planner. The LE Development Planner would assist the Washington Police Department and the City of Washington in identifying and applying for grants to assist with the funding of the new police facility; as well as other CIP items for the City. This requires no local match, but requires a public comment period during a City Council meeting.

Mayor Jennette opened the public comment period. There being no one to speak regarding this item, the public comment period was closed.

By motion of Councilman Davis, seconded by Councilman Jennings, Council authorized the Chief of Police to apply for grant funds in the amount of \$40,234 to fund the position of Temporary Law Enforcement Development Planner with the City of Washington for one year and approved the grant application.

#### **COMMENTS FROM THE PUBLIC**

Gary Tomasulo came forward and requested an update on the proposed bathrooms for downtown. John Rodman noted that an application was submitted and we have not heard anything back regarding this application. Mr. Tomasulo asked Council to not spend money on another plan, specifically the one being presented by Citizens for Revitalization. He said we did not need to spend money if the plan just sat on a shelf and was never going to be implemented.

#### **AUTHORIZE – CITY MANAGER TO ENTER AUDIT AGREEMENT WITH TAC FOR DETAILED ENERGY AUDIT**

Robert Williams with TAC presented a proposal to Council regarding a Detailed Energy Audit Agreement. Mr. Williams explained that TAC has been working with Allen Lewis, Public Works Director and Keith Hardt, Electric Utilities Director for the last eight months. The goal is to save money by saving energy in the City's buildings. This is an energy efficient building improvement program. The selected buildings are: City Hall, Aquatic Center, Fire Station #1, Peterson Building, Recreation Center, Civic Center, Brown Library and Communications Center. Some potential energy conservation measures are: lighting retrofit, solar pool heating, new mechanical equipment, new building controls, ventilation upgrades and water conservation measures. This is a facility improvement program and is financed over a period of time. The savings are created by energy conservation measures and the savings are guaranteed by TAC. The detailed energy audit consists of: a detailed final scope of work; provides final project cost and guaranteed energy savings amounts; further explorations of conservation measures including solar; selection of final energy conservation measures; and completed financing plan (third party and/or grant application).

Jim Smith, City Manager explained the City advertised a Request for Proposals on Wednesday, October 8, 2008. A mandatory pre-proposal meeting was held October 15, 2008 with responses due by November 24, 2008. Three firms attended the pre-proposal meeting. Two firms, TAC of Raleigh, NC and Johnson Controls of Raleigh, NC responded with complete proposal to the City's advertisement.

TAC's proposal included a firm profile, the project team, references, a need analysis, an outline of training to be provided to City employees, a description of how the project would be managed, a financial benefits projection, code compliance requirements, standards of facility comfort, warranty information, financing source, guarantee documents, standards of service, a performance monitor guarantee, a statement regarding prior projects non-performance, and a description of TAC's relationship to ElectriCities. It also included six appendices.

Johnson Controls' proposal included a profile of their firm, description of the project team, references, a needs analysis, site survey data, a preliminary scope of work, a description of training to be provided to the City's employees, an outline in project management, an estimate of financial benefits and cash flow, code compliance

requirements, standards of facility comfort, warranty information, financing source, guarantee documents, standards of service, and a statement regarding performance guaranteed monitoring. Their submission contained four appendices.

The City's Electric Utilities Director, Public Works Director, Parks and Recreation Director, and Water Resources Superintendent and I met with representatives of TAC and Johnson Controls on two occasions for formal presentations. In addition, both firms inspected City facilities accompanied by various City representatives in order to develop a proposed program of guaranteed energy savings. Subsequently, the Department Heads and Superintendents met to formulate a recommendation regarding a qualified provider from among the two proposals. In considering which qualified provider would be determined to best meet the needs of the City, staff considered the quality of the products proposed, the estimated amounts of energy savings, the general reputation and performance capabilities of the qualified providers, conformity with the specifications and conditions set forth in the request for proposals, and the times specified in the proposals for performance of the contract. The prices offered for the detailed energy audit were not specified in the responses nor was the proposed cost of construction, financing, maintenance, and training, in as much as these factors will be determined after the qualified provider which best meets the need of the City is established. Based upon the statutory criteria and upon the recommendation of Electric Director, Keith Hardt, who is a qualified electrical engineer, the firm TAC of Raleigh, NC was selected.

Subsequent to the selection of TAC, the City negotiated a Detailed Energy Audit Agreement with the company. The Audit Agreement provides that TAC will analyze eight (8) buildings belonging to the City for appropriate energy conservation measures, determine the financial cost and benefits of the energy conservation measures, project a price for turn-key installation of the proposed energy conservation measures, and guarantee that the measures will save sufficient energy to defray their cost of installation within a ten (10) year period. TAC will perform the energy audit of 105,223 gross square feet at a cost of \$18,940. The City will not be required to pay this amount, however, unless TAC demonstrates a projected annual energy savings of at least \$30,000 each year over a ten (10) year period and the City, nonetheless, fails to enter a Guaranteed Energy Savings Contract within sixty (60) days of its receipt of the audit.

After the audit is conducted and if TAC finds, demonstrates, and guarantees that the proposed energy conservation improvements will be self-funding over a ten (10) year period, a Guaranteed Energy Savings Contract with the City in accordance with NCGS § 143-64.17B will be proposed for adoption.

By motion of Councilman Brooks, seconded by Councilman Woolard, Council authorized the City Manager to enter into an agreement with TAC of Raleigh, NC for a Detailed Energy Audit.

**(This contract is hereby incorporated into the minutes.)**

#### **AUTHORIZE – CITY MANAGER TO SIGN CONTRACT WITH TEKCOLLECT**

Matt Rauschenbach, Chief Financial Officer came forward and introduced Susan Rackcliff and Dana Rushing with TekCollect. Mr. Rauschenbach noted that three companies were requested to quote services and two submitted proposals. Susan Rackcliff explained that a binary collection system will be used on account balances that are less than three years old. This is a fixed fee system that a certain number of accounts are purchased with the fixed fee varying based on the tier of account balance. We will be purchasing 325 accounts at a cost of \$9,150. The annual computer maintenance fee is \$300. TekCollect will receive remittances and disperse to the City weekly. TekCollect guarantees 400% return on investment. Additional accounts may be purchased after the initial 325 have been utilized. A secondary phase will be used for accounts that are greater than three years old. TekCollect's fee is 30% of the recovery and legal representation is provided. Reference checks were excellent. The aging of the receivables is as follows:

Less than 3 years: \$88,000

3 – 7 years: \$61,000  
7 – 10 years: \$16,000  
Greater than 10 yrs. \$53,000

By motion of Councilman Woolard, seconded by Councilman Brooks, Council authorized the City Manager to sign a contract with TekCollect, Charlotte, NC for collection services on delinquent accounts receivable. Voting in favor of the motion: Councilman Brooks, Councilman Woolard, Councilman Davis, and Councilman Jennings. Voting against the motion was Mayor Pro tem Mercer.

**DISCUSSION – WAY FINDING PLAN (DOCUMENTS DISTRIBUTED ON 4-27-09)**

Jim Smith, City Manager noted prior discussions with Lynn Lewis, TDA Director regarding the Way Finding Plan and signage for the City. Council discussed this topic and by consensus agreed to have the Tourism Development Authority move forward on this project.

**ORDINANCE SUSPENDING THE NO-WAKE ZONE ON THE PAMLICO RIVER BETWEEN THE NORFOLK SOUTHERN RAILROAD TRESTLE AND THE WASHINGTON/BEAUFORT COUNTY CHAMBER OF COMMERCE BETWEEN THE HOURS OF 8:00AM – 5:00PM ON JUNE 20, 2009.**

Mayor Jennette reminded Council they approved this item at the last meeting and Council needs to adopt an ordinance regarding lifting the no-wake zone. Councilman Jennings explained a concerned citizen suggested that there needs to be an intermission during this event to allow boaters waiting to travel through this area to pass thorough. There also needs to be a fair assessment of the wake produced by this event.

By motion of Councilman Brooks, seconded by Councilman Woolard, Council adopted an Ordinance suspending the no-wake zone on the Pamlico River between the Norfolk Southern Railroad trestle and the Washington/Beaufort County Chamber of Commerce between the hours of 8:00am – 5:00pm on June 20, 2009.

**An Ordinance Suspending the No-Wake Zone on the Pamlico River between the Norfolk Southern Railroad trestle and the Washington/Beaufort County Chambers of Commerce between the hours of 8:00 a.m. -5:00 p.m. on June 20, 2009**

**WHEREAS**, the North Carolina Legislative Session Laws of 1993, Chapter 434: Section 2 provides that "it is unlawful to operate a vessel at greater than no-wake speed in the Pamlico River between the US 17 Bridge and the Norfolk Southern Railroad trestle"; and

**WHEREAS**, the said session law was amended in 1994 by House Bill 2024 to allow the City of Washington to "declare its no wake law inapplicable during certain special" events"; and

**WHEREAS**, the Washington Tourism Development Authority has requested that the no-wake zone be suspended between the hours of 8:00 a.m. -5:00 p.m. on June 20, 2009, so that a water skiing and wake boarding exhibition may be conducted; and

**WHEREAS**, the City Council finds that such an exhibition will benefit commerce in Downtown Washington; and

**NOW THEREFORE BE IT ORDAINED** that so much of the no-wake zone in Washington Harbor between the Norfolk Southern Railroad trestle and the Washington/Beaufort County Chambers of Commerce shall be suspended during the hours of 8:00 a.m. -5:00 p.m. on June 20, 2009.

Adopted and Signed This 11<sup>th</sup> Day of May, 2009

**s/Cynthia Bennett, City Clerk**

**s/Judy Jennette, Mayor**

**AUTHORIZING THE VACANT LOT OFFER TO PURCHASE AND CONTRACT  
FOR THE MAYO PROPERTY**

City Attorney, Franz Holscher updated the Council regarding the vacant lot offer to purchase and contract with Annie Mayo. Council had previously given Mr. Holscher the authority to attempt to meet with the Mayo's and arrive at an agreement. The purchase price is \$67,150 for approximately 3.5 acres of land adjacent to the McConnell Sports Complex.

The only contingency is on page 3 paragraph 14: Other Provisions and Conditions (b)The Closing is contingent upon and the closing date may be extended by the Buyer until such time as Buyer received "waiver approval" from the National Parks Service for this purchase.

By motion of Councilman Davis, seconded by Mayor Pro tem Mercer, Council authorized the City to enter into a contract to purchase this property contingent upon receiving waiver approval from the National Parks Service.

**(This contract is hereby incorporated into the minutes.)**

**ACCEPT - CONVEYANCE OF OLD CITY HALL**

City Manager, Jim Smith noted the Beaufort County Commissioners at a meeting held on March 2, 2009 voted unanimously to move forward with the transfer of the Old City Hall property to the City of Washington. This is pursuant to the provisions of NCGS 160A-274 with the following stipulations:

Item (1): A general description of the survey boundaries of what the County would convey to the City. The City would then take responsibility for surveying the boundaries and provide an easement for maintenance purposed along the northerly boundary for the sidewalk that forms the side property line. The rear boundary will include three parking places currently owned by the County.

Item (2): A specific understanding of the consideration from the City to the County in exchange for the property to be conveyed. The property will be conveyed at no cost to the City under the following condition. In the event the City should sell the property within the City's first twenty years of ownership, the City may take such action independent of input from the County provided that (a) the County would receive one half of the sales price from the City and (b) the sales price is no less than \$60,000. Should the City wish to convey the property for a sum less than \$60,000, the City must first seek the County's permission to sell the property at a lesser sales price.

By motion of Councilman Woolard, seconded by Councilman Brooks, Council accepted the Conveyance from Beaufort County of Old City Hall in accordance with the terms spelled out by the Commissioners excepting that the division of any future sales price be net of any amount invested by the City.

**SET – PUBLIC HEARING TO AMEND THE HISTORIC PRESERVATION DESIGN  
GUIDELINES TO INCLUDE REVISED GUIDELINES ON THE USE OF FENCES AND  
WALLS IN THE LOCAL HISTORIC DISTRICT**

Planning Administrator, John Rodman updated Council on the proposed changes to the Historic Preservation Commission(HPC) Design Guidelines. The HPC met on February 3, 2009 and appointed a sub-committee to consider the use of fences and walls in the historic district. The sub-committee met twice and drafted revised guidelines on fences and walls. At the May 2009 the Historic Preservation Commission discussed and reviewed the amendments. A public hearing will be scheduled for the June 2, 2009 HPC meeting and a public hearing will be scheduled for City Council on June 15, 2009. Dee Congleton came forward and noted that the Washington Area Historic Foundation endorses these changes.

By motion of Councilman Jennings, seconded by Mayor Pro tem Mercer, Council accepted the recommendation of the Historic Preservation Commission and scheduled

a public hearing for Monday, June 15, 2009 to amend the Historic Preservation Commission Design Guidelines to include revised guidelines on the use of fences and walls in the local historic district.

**AWARD – BID ON 59 MONTH INSTALLMENT NOTE FOR THE ELECTRIC FUND  
AND ADOPT A RESOLUTION APPROVING THE FINANCING TERMS**

Councilman Jennings requested to be recused from this topic due to a conflict of interest with his employer. By motion of Councilman Davis, seconded by Councilman Woolard, Council recused Councilman Jennings from this item.

Matt Rauschenbach, CFO stated that in FY 2008-2009 budget, Council authorized the City to borrow \$2,154,000 in the Electric Fund through a 59 month installment note to purchase vehicles and equipment. The items to be financed are as follows:

Electric Fund Vehicles (35-90-8390-7401)

Replace line truck #602 - \$170,000  
Replace pick-up truck #615 - \$25,000

Electric Fund Power Line Construction (35-90-8390-7401)

\*Circuit line rebuild Phase II, 1 mile - \$80,000 (no lien by bank)  
\*Bath circuit rebuild, Back Creek Bore 1,100", 4-4" Pipes and labor - \$97,000  
Vaults - \$63,000 and materials - \$154,500 (no lien by bank on \$314,500)

Electric Fund Substation Improvements (35-90-8370-7401)

Replace 2 system transformers - \$1,530,000  
Replace 35 KV circuit vacuum breaker - \$35,000

Grand Total: \$2,154,500

\*The City of Washington desires that the lending financial institution not include security lien holdings on the noted projects totaling \$394,500.

By motion of Councilman Woolard, seconded by Councilman Brooks, Council awarded the \$2,154,000 fifty-nine month installment note bid to BB&T and adopt a resolution approving the financing terms of the loan.

**APPROVE - RETAIL RATE ADJUSTMENTS**

Jim Smith, City Manager reminded Council of the January discussion regarding the pending NCEMPA rate increase that occurred in February. At that time, Council unanimously voted to defer installment note capital expenditures in the electric fund through June 30, 2009, consume the electric fund contingency, and decrease the transfer to the General Fund from the Electric Fund in FY08-09 in the appropriate amounts that would allow us to forestall the proposed rate increase through the rest of the fiscal year.

Based upon the most recent estimates from our rate consultants, Booth and Associates, the impact of the February wholesale power cost increase and the delayed expenses for deferring implementation to June with collection in July will be increased cost of \$1,928,270 for budget year 2009-2010. A 5% retail rate increase for all classes of customers will raise approximately \$1,790,000 in additional revenue. We recommend the increase be limited to 5% effective June 1, 2009, though it will leave a remaining shortfall of approximately \$140,000. Each month the rate is delayed increases the overall rate increase by ½%, so if we delay implementation until July the increase would be 5 ½%.

Mayor Pro tem Mercer reminded Council that in January, Council voted to absorb the increase through the current fiscal year. Councilman Mercer also noted that we have not discussed the Electric Department proposed budget for next fiscal year and we should wait to discuss the rate increase until after that budget is discussed. Council

further discussed this issue. Jim Smith reminded Council that this will add \$150,000 shortfall.

By motion of Mayor Pro tem Mercer, seconded by Councilman Jennings, Council voted not to approve the rate increase until the budget deliberations are complete. Voting in favor of the motion: Mayor Pro tem Mercer, Councilman Jennings, Councilman Davis; voting against the motion: Councilman Woolard and Councilman Brooks. Motion carried.

**CLOSED SESSION –UNDER G.S. 143-318.11(A)(3) ATTORNEY/CLIENT PRIVILEGE WHICH WILL INCLUDE DISCUSSION OF A CASE REGARDING HEALTH PLUS THERAPEUTICS INC. VS. CITY OF WASHINGTON AND G.S. 143-318.11 (A)(6) PERSONNEL**

By motion of Councilman Woolard, seconded by Councilman Jennings, Council agreed to go into closed session under G.S. 143-318.11(A)(3) Attorney/Client Privilege which will include discussion of a case regarding Health Plus Therapeutics Inc. vs. City of Washington and G.S. 143-318.11 (A)(6) Personnel.

By motion of Councilman Brooks seconded by Councilman Woolard, Council unanimously agreed to come out of closed session at 9:20pm.

**ADJOURN**

By motion of Councilman Brooks, seconded by Councilman Woolard, Council adjourned the meeting, until Monday May 18, 2009 at 4:30 p.m. in the Council Chambers at the Municipal Building.

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**Cynthia S. Bennett**  
City Clerk