

The Washington City Council met in a regular session on Monday, April 14, 2008 at 4:30 p.m. in the Council Chambers at the Municipal Building. Present were: Judy Jennette, Mayor; Doug Mercer, Mayor Pro tem; Richard Brooks, Councilman; Gil Davis, Councilman; Jim Smith, City Manager; Reatha B. Johnson, Acting City Clerk; and Franz Holscher, City Attorney.

Councilman Jennings arrived at 4:50 p.m. and Councilman Woolard arrived at 5:20 p.m. and was made a part of the minutes.

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

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

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

Mayor Jennette replaced the Closed Session under G.S. 143-318.11(a) (3) and added V1. B. 1. - Authorization to fill vacant Treatment Plant Operator Position.

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

### **APPROVAL OF MINUTES**

Jim Smith, City Manager, suggested he had made arrangements with Ms. Rita Thompson and Ms. Thompson has agreed to come back and give us part time assistance, if Council would mark up the correction to the minutes and we will get them to her when she comes back to make corrections.

On motion of Mayor Pro tem Mercer, seconded by Councilman Davis, Council unanimously approved the minutes of March 31, April 14, and April 28, 2008.

### **PRESENTATION**

Mayor Jennette recognized the generous gift of our trees on the waterfront by presenting a plaque to Mr. and Mrs. Lindsey and Jamison Griffin.

### **PRESENTATION**

Mayor Jennette recognized Keith Hardt, Electric Utilities Director, Allen Lewis, Public Works Director (several divisions), and Phil Mobley, Parks & Recreation Director for receiving Gold Awards at the annual Safety Awards Banquet sponsored by the NC Department of Labor's OSHA Division for having no lost time or light duty accidents during calendar year 2007. A second award was presented to the Electric Utilities Department from ElectriCities of North Carolina for continued safety record and experiencing no reportable lost time accidents for calendar year 2007.

### **APPROVAL OF CONSENT AGENDA**

Mayor Pro tem Mercer asked to make a clarification on page #60 changing the wording of in favor in to in favor of and have the Manager to check the word initial and if not needed delete it on page 62,63, and 64. On motion of

Councilman Brooks, seconded by Councilman Davis unanimously approved the Consent Agenda, as amended.

- A. Approve – Contract to provide a wetlands delineation survey for the property proposed as the Tar River Nature Park and Adopt a budget amendment for the appropriation (\$2,990)

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE  
OF THE CITY OF WASHINGTON, N.C.  
FOR THE FISCAL YEAR 2007-2008**

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

Section 1. That the Estimated Revenues in the General Fund be increased in the amount \$2,990 in the account Fund Balance Appropriated, account number 10-00-3991-9910.

Section 2. That account number 10-10-4910-0400, Professional Services, Planning/Economic Development Department portion of the General Fund appropriations budget be increased in the amount of \$2,990 to provide funds for a wetland survey of the Tar River Nature Park.

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

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

Adopted this the 12<sup>th</sup> day of May, 2008

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

ATTEST:

s/Reatha B. Johnson  
**REATHA B. JOHNSON**  
**ASSISTANT CITY CLERK**

- B. Request – Allow sale and consumption of alcohol at DWOW's 3<sup>rd</sup> annual Pickin' on the Pamlico
- C. Adopt – Resolution fixing date for public hearing on the contiguous annexation of the Harvest Church property

**RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION  
OF ANNEXATION PURSUANT TO G.S. 160A-31**

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

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

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

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

Section 1. A public hearing on the question of annexation of the contiguous area described herein will be held at the City Council Chambers on the 2<sup>nd</sup> floor of the municipal building located at 102 East 2<sup>nd</sup> Street at 6:00 p.m. on Monday, June 9, 2008.

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

All that certain tract of parcel of land lying and being situated in the Washington Township, Beaufort County, North Carolina and being described by metes and bounds as follows:

Beginning at an existing concrete monument set in a sight triangle located at the northwest corner of the intersection of S.R. 1404, Whispering Pines Road and 15<sup>th</sup> Street. Thence N 43° 04' 33" W 507.71 feet to an existing concrete monument located in the northeastern right-of-way of 15<sup>th</sup> Street; thence 44° 27' 28" W 383.21 feet to an existing concrete monument located in the northeastern right-of-way of 15<sup>th</sup> Street; thence N 60° 11' 13" W 392.02 feet to an existing iron pipe located in the northern right-of-way of 15<sup>th</sup> Street, the southeastern corner of the Harvest Church property, the TRUE POINT OF BEGINNING. Thence N 77° 39' 59" W 199.99 feet to an existing iron pipe located in the northern right-of-way of 15<sup>th</sup> Street, the southwest corner of the Harvest Church property; thence leaving 15<sup>th</sup> Street N 09° 39' 11" E 671.40 feet to an existing iron pipe; thence N 45° 32' 45" E 628.65 feet to an existing iron pipe located in a canal; thence cornering and continuing along the canal S 50° 15' 01" E 152.05 feet; thence S 26° 40' 41" E 210.04 feet; thence S 50° 51' 12" E 307.69 feet; thence cornering and leaving the canal S 50° 47' 06" W 60 feet to an existing concrete monument; thence S 50° 47' 58" W 493.17 feet to an existing concrete monument; thence S 50° 46' 15" W 499.77 feet to an existing iron pipe located in the northern right-of-way of 15<sup>th</sup> Street the point of beginning. Being 13.349 acres located on the north side of 15<sup>th</sup> Street.

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

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

ATTEST:

s/Reatha B. Johnson  
**REATHA B. JOHNSON**  
**ASSISTANT CITY CLERK**

Annexation #08-A-01  
Harvest Church

- D. Adopt – Resolution regarding the Financing of Electric System Projects having No Material Adverse Effect on Revenues or Operations

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

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

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

1. Install Automated Meter Reading (AMR) electric meters to register the energy consumed at customer premises and read such meters via an automated radio signal. The installation of these meters will improve the accuracy of meter reading and reduce cost associated with manually read meters.
2. Relocate an existing peak shaving generator to a newly expanded industrial facility. The installation of this generator will reduce the industrial customer's retail energy charges and benefit all the City's 13,000 customers by reducing our wholesale charges.
3. Replace a vacuum circuit breaker in the City's Forest Hills Substation to improve the reliability of the substation infrastructure.

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

**WHEREAS**, the provisions of Section (6) (d) (2) of the Project Power Sales Agreement dated as of 1 May 1978, between the City of Washington and the North Carolina Eastern Municipal Power Agency provides, in part, that the City of Washington may encumber a portion of its electric system upon making a determination that; taking into account past and current operating results of the City's electric system, the encumbrance proposed to be placed on the improvements to secure the financing of the construction of the improvements will not have a material adverse effect on the revenues or the operation of the City's electric system, or materially increase the operating and maintenance expenses of its electric system and;

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

1. After thoroughly reviewing the details of the projects and financing thereof, and after reviewing the recommendation and opinions of the City's Electric Director concerning these projects, the City Council hereby finds and determines that, taking into account past and current operation results of the City's electric system, the encumbrance proposed to be placed on the property and equipment that will comprise these projects will not have a material effect on the revenues or operating and maintenance expense of its electric system, or materially increase the operating and maintenance Expense of its electric system.
2. The City Council hereby directs the City Manager to provide a copy of this Resolution to the North Carolina Eastern Municipal Power Agency with the request that the North Carolina Eastern Municipal Power Agency concur in the determination made by City Council.

On motion of Councilman Mercer, seconded by Councilman Jennings, the foregoing resolution was adopted on the 12<sup>th</sup> day of May 2008.

s/Judy Jennette  
**JUDY JENNETTE**

ATTEST:

s/Reatha B. Johnson  
**REATHA B. JOHNSON**  
**ASSISTANT CITY CLERK**

- E. Acknowledgement – The reallocation of funding – Electric Fund (\$7,733)
- F. Adopt – Budget Ordinance Amendment for Equipment Services Division of Public Works (\$1,376)

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE  
OF THE CITY OF WASHINGTON, N.C.  
FOR THE FISCAL YEAR 2007-2008**

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

Section 1. That the Estimated Revenues in the General Fund be increased in the amount \$1,376 in the account Miscellaneous Revenue, account number 10-00-3839-8900.

Section 2. That account number 10-20-4250-7400, Capital Outlay, Equipment Services portion of the General Fund appropriations budget be increased in the amount of \$1,376 to provide funds for panel box.

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 12<sup>th</sup> day of May, 2008

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

ATTEST:

s/Reatha B. Johnson  
**REATHA B. JOHNSON**  
**ASSISTANT CITY CLERK**

**ECONOMIC DEVELOPMENT COMMISSION**

Councilman Jennings stated there are several projects in the works, but with his short tenure, not sure what he can or cannot speak to. Councilman Jennings said there is a lot of activity around the Shell building. Most of the meeting addressed concern to sewer, planning and strategy for the County. Councilman Jennings stated he will give a more comprehensive report following the next meeting.

**TOURISM DEVELOPMENT AUTHORITY**

Lynn Lewis, Tourism Development Director, asked to make a presentation. Ms. Lewis stated this week is National Tourism Week and there will be open house at the Visitors Center all week. They will be giving away some door prizes and will have treats. Ms. Lewis passed out T-shirts to Council

and stated they have the website printed on them, she is asking Council to wear them proudly so people will know to check Washington out online.

### **HUMAN RELATIONS COUNCIL**

Mayor Jennette informed Council that Mr. James Johnson, a professor from UNC Chapel Hill, is coming in to talk about the impact of Hispanic immigration on our economy. This event is open to the public and all are welcome.

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

Ross Hamory, DWOW Director, thanked the Council for approving sale and consumption of alcohol at the Pickin' on the Pamlico. This is one of their major fundraisers. Mr. Hamory reported on the continuing work of the committee for the Waterfront Harbor Master Plan. The committee has essentially agreed on their report and will be passed to the Planning Board.

### **WARREN FIELD AIRPORT**

Jim Smith, City Manager, reported we had some damage from the windstorm last month to the awning on the north side of the terminal building. Replacement of the awning is on the way now. Mr. Smith said they still had not heard from the State in terms of the Rural Airport funding.

Allen Lewis, Public Works Director, introduced Mr. Eddy Gurganus. Mr. Smith stated we have reorganized the Public Works Department and Mr. Gurganus will be responsible for the physical part (limited to building and grounds, making sure the contractors do what they are supposed to do) of the Airport.

### **WASHINGTON ELECTRIC UTILITIES ADVISORY COMMISSION**

Mayor Pro tem Mercer asked to briefly report on the Electric Advisory Commission. The Washington Electric Utilities Advisory Commission met last night, (5-07-08), for the first time, all board members were present, and during the meeting, the group elected John Shelton as chair, Richard Miller, vice chair, William Pitt as recording secretary. The group will be meeting once a quarter.

### **FINANCIAL REPORTS (WILL BE PROVIDED AT THE COMMITTEE OF THE WHOLE MEETING, MAY 27<sup>TH</sup>)**

Mayor Jennette stated the City Manager had said we will be provided with those at the end of the month.

### **ADDITIONAL REPORTS**

Mayor Jennette asked if it would be helpful for Council to have monthly reports on the following:

- Annexation Study sub-committee
- Haven's Garden
- Hotel gathering

### **ANNEXATION STUDY SUB-COMMITTEE**

Councilman Jennings believes it is better to have quarterly meetings, until you actually engage in an annexation then a monthly meeting, would probably be more meaningful. Mayor Jennette asked if the committee could make a recommendation if we should proceed or not and if we do which area would be the most likely.

Mayor Pro tem Mercer felt Mr. Bobby Roberson was correct that we need to move a little slower with everything going on at the legislature level. Mayor Pro tem Mercer stated if they put a moratorium on annexation we don't really need to do anything. Councilman Jennings stated they would give a June report.

### **HAVEN'S GARDEN REPORT**

Mayor Jennette asked if we could have someone to give us an update on Haven's Garden. Maybe Phil Mobley, Parks and Recreation Director, and Bobby Roberson, Planning and Development Director could see what we come up with and have a report in June. Councilman Davis suggested they could get together and June would be a good date to report.

### **DOWNTOWN RESEARCH – HOTEL**

Mayor Jennette asked Councilman Jennings if he had a chance to meet with his group and Councilman Jennings said he had not. Councilman Jennings stated he would not like to do that until the budget is complete. Mayor Jennette stated that we will work toward August and Councilman Jennings agreed.

### **ACCEPT – MULTIPLE RELEASES OF FUNDS FROM PROPOSED MOSS DEVELOPMENT**

Mayor Jennette brought attention to the new council action item that was passed out. Mayor Jennette asked Council to note the first document had reference to Powell Bill Funds and this one does not. It was determined that Powell Bill Funds cannot be used for the improvements to Water Street.

Jim Smith, City Manager stated that Moss is now prepared to release the final portion of the purchase price of \$240,000. Mr. Smith said they have assured us they will give the City a set of plans marked final for both the condominium and the marina area. In addition, it says the City now has an obligation to perform weekly inspections and regular periodic maintenance of the constructed stormwater wetlands. The final issue – the City will pay \$125,000 towards the improvements towards Water Street. Mr. Smith stated we had been operating under the impression that since that was our share of street improvement that we could use Powell Bill Funds. However, through research by the City Attorney, the City did not bid the improvements and we can't use Powell Bill Funds. Finance Department will go back and have a close look at revenues and expenditures for the current year, to see whether we have enough revenues in excess of expenditures and if we don't, we may have to go into the fund balance. Mr. Smith stated a final report will be presented to Council at the June meeting to pay out the \$125,000.

Councilman Jennings asked that we have \$240,000 in escrow and we have committed to paying \$125,000 to them, if we have to dip into the fund balance we would in turn be reimbursed from the escrow release. Mr. Smith stated, no, this will go to Electric Funds. Mr. Smith stated that in 2003 money was transferred from the Electric Fund into the Economic Development Fund then when the property is purchased as the money has been paid to the City; it goes back into the Economic Development Fund then back into the Electric Fund.

Mayor Pro tem Mercer asked to be provided with a document on how they spent the \$125,000. Mr. Smith stated the agreement just says we will pay the first \$125,000 and clearly they will spend much more than that on those improvements and he had asked for copies of the same thing, that we have copies of invoices, they basically said that their contractor didn't give them a separate price for the work they are doing to Water Street compared to all the

other streets. They did provide invoices but it doesn't separate out what was spent on the internal roads versus Water Street.

Mayor Pro tem Mercer stated his second concern with the Council Action Item is that it requires that we perform a weekly inspection of the wetlands and a regular monthly clean-up and to provide a written report. Mayor Pro tem Mercer stated that the written report that goes to their attorney bothers him. Mr. Smith said we do a weekly inspection anyway and they felt it would be simple enough to give them a couple of their weekly work log.

Mayor Jennette asked if the \$125,000 improvements were within the site and not on Water Street. Mayor Jennette wanted to know if they were doing that kind of work out there now. Mr. Smith stated they had done a lot of the work on the South side of the street in terms of grading, putting in the sub base, base, curb and sidewalk (etc.) Mr. Smith said they had not started with the pump station and that will probably be more than a \$125,000.

Councilman Jennings stated he was in favor of fulfilling the agreement. If these turns are in our tolerance level, then let's move on.

Mayor Pro tem Mercer stated Franz Holscher, City Attorney, had just passed him a piece of paper and it satisfied his concerns.

On motion of Councilman Jennings, seconded by Councilman Davis, Council unanimously moved to accept the proposal as written for the multiple releases of funds from proposed Moss Development.

**ACCEPT – ESCROW AGREEMENT BETWEEN THE CITY OF  
WASHINGTON AND NORTHGATE DEVELOPMENT**

Franz Holscher, City Attorney stated an amendment to the escrow agreement that was previously adopted. Council conceptually gave permission to amend the escrow amendment in the manner that he had done it and he is asking Council to ratify the agreement.

On motion of Councilman Jennings, seconded by Councilman Davis, Council unanimously moved to accept the recommendation of City Attorney Franz Holscher and approve the amendment to the escrow agreement.

**NORTH CAROLINA  
BEAUFORT COUNTY**

**AMENDMENT TO ESCROW AGREEMENT**

This Amended Escrow Agreement is made and entered into as of the 30<sup>th</sup> day of April, 2008, by and between Northgate Development, LLC ("Developer"), the City of Washington ("Recipient"), and James A. Nelson, Jr. ("Escrow Agent" or "Trustee").

**WITNESSETH**

**WHEREAS**, the parties hereto require an Amendment to the original Escrow Agreement entered into by the parties hereto on February 6, 2008 in return for the release of Lots 116, 144, 145, 146, 147 and 148 of Northgate Subdivision from the lien and effect of that Deed of Trust of record in Deed Book 1287, Page 218, Beaufort County Registry, as re-recorded in Deed Book 1296, Page 125, Beaufort County Registry; and

**WHEREAS**, Recipient released said six lots from the lien and effect of said Deed of Trust under the condition that Developer deliver the additional sum of \$60,000 to the original Escrow Deposit (hereinafter sometimes referred to as the "Escrow

Deposit") to Escrow Agent, which additional \$60,000 Escrow Deposit shall be held by Trustee in trust as additional collateral and security for the payment of sums due from Developer to Recipient pursuant to the obligations described in said Deed of Trust, the related Agreement for Crisis Housing Assistance Infrastructure Funds between the Recipient and Developer dated October 29, 2002, the related Grant Agreement between the North Carolina Department of Crime Control and Public Safety and the Recipient, and the related Grant Application (collectively "Grant Documents"), all of which are incorporated herein by reference as if fully set forth, and disbursed consistent herewith.

**NOW THEREFORE**, in consideration of the mutual covenants herein and other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, Developer and Recipient agree to or acknowledge the following.

1. Developer has deposited an additional \$60,000 with the Escrow Agent, who has deposited said sum into a FDIC insured deposit account ("Escrow Deposit"), naming himself as Trustee, which Escrow Deposit may be interest bearing.
2. Recipient has furnished Developer a release, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference, in recordable form, releasing the six (6) lots described therein from the lien and effect of said Deed of Trust.
3. The additional \$60,000 Escrow Deposit, along with the original \$80,000.00, including any interest that might accrue thereon, shall be held by the Escrow Agent as Trustee until disbursement consistent herewith. The Trustee shall make any and all disbursements from said account only in accordance with the following.
  - a) Upon the delivery of a written release of all or part of said Escrow Deposit from Recipient to Trustee, the Trustee shall disburse to Developer the amount authorized by Recipient in said written release.
  - b) Upon the satisfaction, in Recipient's sole discretion which discretion shall be exercised in good faith, of all obligations of the Developer under the terms of said Grant Documents, which satisfaction shall be indicated by the canceling of said Deed of Trust or the filing of a Notice of Satisfaction of said Deed of Trust in the Beaufort County Registry by Recipient, the Trustee shall disburse any amount then remaining in the Escrow Deposit to the Developer.
  - c) Upon the provision of alternate security or collateral by Developer to Recipient and found by Recipient, in its sole discretion which discretion shall be exercised in good faith, to be acceptable in lieu of said Escrow Deposit in whole or in part, the Trustee shall disburse to Developer the amount of the Escrow Deposit authorized by the Recipient, in its sole discretion which discretion shall be exercised in good faith, to be released as a result of said substitution of alternate security or collateral.
  - d) In the event Recipient provides Trustee with a notice or other communication from the North Carolina Redevelopment Center or other State agency having regulatory authority over CHAF Infrastructure Project/Grant #00-D-133 indicating that any amount up to \$320,000 is required to be recaptured and/or repaid by Recipient to said Center, other State agency or State of North Carolina under said Project/Grant and/or pursuant to the Grant Documents; then, in that event, the Trustee shall disburse to Recipient within ten (10) days of the date of any such notice or other communication so much of the Escrow Deposit as may be required

to satisfy, in full or in part, said amount set forth in such notice or other communication as being required to be recaptured and/or repaid.

e) Upon the receipt by Trustee of an Order or Judgment of a Court of competent jurisdiction directing the Trustee to disburse the Escrow Deposit, the Trustee shall disburse the Escrow Deposit as directed in said Order or Judgment.

4. This Escrow Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina.

5. Developer hereby ratifies said Deed of Trust and all other Grant Documents in all respects and confirms that there are no offsets, counterclaims, or defenses thereto, and agrees that the same shall remain in full force and effect with respect to any and all amounts now or hereafter due and owing by Developer to Recipient with respect thereto.

6. Any and all notices, elections, or demands permitted or required to be made under this Escrow Agreement shall be made in the manner specified hereafter.

a) Name and address of Developer:

Northgate Development, LLC  
c/o Jason D. Briley, Manager  
4471 U.S. 264 East  
Greenville, N.C. 27834

b) Name and address of Recipient:

City of Washington  
c/o Franz Holscher, City Attorney  
Rodman, Holscher, Francisco & Peck, PA  
P.O. Box 1747  
Washington, N.C. 27889

c) Name and address of Escrow Agent:

James A. Nelson, Jr., Trustee  
Owens & Nelson, PLLC  
P.O. Box 36  
Greenville, N.C. 27835

7. Escrow Agent hereby waives and releases any claim to the Escrow Deposit and, with respect thereto, any right of deduction, setoff or offset that Escrow Agent may now or hereafter possess against either Developer or Recipient, and Escrow Agent agrees to disburse monies from the Escrow Deposit in accordance with the terms hereof free and clear of any claim thereto whatsoever on the part of the Escrow Agent.

8. Developer shall pay the Escrow Agent's reasonable fees and expenses incurred in connection with the Escrow Agent's performance of its duties under this Escrow Agreement. The Developer agrees to indemnify and hold harmless the Escrow Agent against any loss, cost, claim, damage, or expense resulting from the Escrow Agent's performance of its duties hereunder, except any loss, claim, damage or expense resulting from Escrow Agent's gross negligence or willful misconduct.

9. In all other respects, except for the Amendments herein, the Escrow Agreement dated February 6, 2008, shall remain in full force and effect.

IN TESTIMONY WHEREOF, Developer and Recipient have caused this instrument to be duly executed in triplicate original counterparts in their corporate names, each by its duly authorized representative, and Escrow Agent has hereunto set his hand and seal, as of the day and year first written.

s/Jason D. Briley  
**JASON D. BRILEY**  
**MANAGER**

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

ATTEST:

s/Reatha B. Johnson  
**REATHA B. JOHNSON**  
**ASSITANT CITY CLERK**

**ACKNOWLEDGE – RESOLUTION FROM THE TOWN BOARD  
OF WASHINGTON PARK RE: RUNYON CREEK BRIDGE**

On motion of Councilman Jennings, seconded by Councilman Brooks, Council unanimously voted not to acknowledge / accept the resolution from Washington Park's Town Board regarding placement of the bridge replacing the existing N.C. Highway 32 Bridge over Runyon Creek.

Discussion that followed the motion:

Councilman Jennings stated he felt this was DOT's business and that Council should not give fuel to the idea this is still open. Councilman Jennings stated first and foremost he appreciated the Manager's work on this. A lot has been made of a plan that has been printed in the papers and has been circulating through the public; Councilman Jennings said although Council will consider as many of those features as possible, the Manager was instrumental in pointing out the relocation of those business building cannot come to rest inside that Park area so that plan is not possible.

Councilman Jennings stated the unanimous decision "puts to rest" the location of the replacement bridge – as far as the Council is concerned. Councilman Jennings said he had determined that no one supporting the group's plan had contacted the business owners who would be affected by its implementation. Also, Councilman Jennings has concerns that those pushing the plan aren't willing to help pay for implementing it; in which expenses in excess of \$1 million will be left to the citizens of Washington to cover.

Mayor Pro tem Mercer said to his knowledge Washington Park has not "sent anything" to the N.C. Department of Transportation in regards to changing the location of the replacement bridge and that they have the same authority as the City has in contacting North Carolina Department of Transportation. Mayor Pro tem Mercer also stated the traffic concerns could be addressed by persuading DOT to install a traffic signal at the intersection of Brick Kiln Road and US 264.

Mayor Jennette stated Ed Eatmon, a construction engineer with DOT's highways division, is aware of the plan to locate the replacement bridge north of the existing bridge's location. Mayor Jennette stated that Mr. Eatmon had spoken with her and Jim Smith and said "the bridge has to go where it is."

**AUTORIZATION TO FILL VACANT TREATMENT PLANT OPERATOR POSITION**

Mayor Pro tem Mercer asked if this position is actually vacant. Mr. Lewis stated the effective date of the resignation is May 25<sup>th</sup> and it will take some time to advertise for the position and actually place someone in the position. Another concern of Mayor Pro tem Mercer is the statement "licensed operators are required at all times". Mr. Lewis stated all of the operators have to carry certification but the likelihood of finding a certified operator is not likely, but the City allows eighteen (18) months to get that certification. The point Mayor Pro tem Jennings is trying to make is if the regulations had changed to require a licensed operator on site at all time and not a certified operator in charge. Glenn Cushing clarified the statement to say desired and not required.

On motion of Councilman Brooks, seconded by Councilman Woolard, Council unanimously voted to unfreeze this position.

**REPORT – JIM SMITH ON FINANCING WITH BANK OF AMERICA**

Mr. Smith, City Manager, stated about three (3) years ago the City put out for bid its banking services and it was put out for a three year period. Mr. Smith understands it has been seventeen years since the City banking services has been put out for proposals. Bank of America was selected for that three year period and that three year period is expiring. Mr. Smith felt that with the transition the City is not in a position to go back out and re-bid it all. We are extending the contract for two years with Bank of America and Bank of America is going to discount their services by 10% of what they are presently charging us.

Council convened for a break and reconvened at 6:00 p.m.

On motion of Mayor Pro tem Mercer, seconded by Councilman Jennings, Council by the way of three votes, Mayor Pro tem Mercer, Councilman Jennings, and Councilman Woolard, Council reconvened at 6:00 pm.

**ACCEPT – RECOMMENDATION ON THE CLOSE OUT OF PROGRAM ACTIVITIES FOR AN URBAN REDEVELOPMENT GRANT FROM THE DIVISION OF COMMUNITY ASSISTANCE**

Bobby Roberson, Planning and Community Development Director, informed Council they had actually received a letter from the State of North Carolina about the \$750,000 and he has with him tonight, Mr. Don Harvey to summarize what the City has completed on the \$250,000 and to talk a little on what we have to do with the \$750,000.

Mr. Don Harvey with the Wooten Company quickly summarized the activity completed for the project. The main thing done with the project was Façade Improvements; there were nine (9) businesses downtown to receive façade improvements, there were three (3) businesses undertaking additional improvements to their property and created jobs with the Wooten Company. Also in relation to the façade improvements, architectural grants (three) and signage grants (four) made to date. Those improvements totaled \$130,483.75 and there are some funds with this project that will need to be de-obligated that were related to the George (the \$750,000).

Mayor Jennette stated this is a public hearing.

There were no comments from the audience.

Mayor Jennette closed the public hearing.

On motion of Councilman Woolard, seconded by Councilman Davis, Council unanimously voted to accept the recommendation of the Director of Planning and Development and close the grant out under the Urban Redevelopment Grant from the Division of Community Assistance.

Councilman Jennings asked Mr. Roberson how he would summarize our standing with the State. Mr. Roberson explained the downside and Councilman Jennings said he felt this was a shame. Mayor Jennette along with Councilman Davis agreed.

**CONTINUE - ADOPT – THE COMPREHENSIVE PLAN UPDATE**

Bobby Roberson, Planning and Community Development Director, stated they had received comments from members of the Council, specifically Mayor Pro tem Mercer and the plan has been amended and Mr. Dale Holland is with us tonight to summarize how to look at the documents concerning corrections, deletions once Council receives it.

Mr. Holland with Holland Consulting Planners stated they had responded to best of his knowledge addressing the comments Mayor Pro tem Mercer had made and submitted to them concerning the draft of the Comprehensive Plan. Council have before them this evening a revised draft and everywhere a change was implemented to respond to comments, the items have been screened and Mr. Holland provided examples of the changes. Some cases sections have been highlighted such as the information on page 5, housing summary. That information for housing summary was previously in the revision of the plan that you initially received, they have separated it out as a separate section and that is why the heading has been screened and not the whole section. In some cases they actually deleted wording and where you see screening word or words with a line through it, it means they have deleted word or words. All of the references to improvise surfaces have been deleted. Also, we have deleted one map and there is a page included in the revised draft to simply state the map has been deleted.

Mr. Holland explained that the intention tonight was to pass out the draft for Council's review so they will have proper time to look over the draft before June.

Councilman Brooks asked if anytime another Council take over, would they have a right to change the plan and Mr. Holland stated yes.

Mayor Jennette asked if City Council have any additional comments to please pass them along to the Planning Department and Holland will endeavor to get those taken care of immediately so Council will be able to see them before any action.

Mr. Holland stated that once Council decides to adopt the plan, the final copy Council will have and the one for distribution will be a clean copy.

Councilman Jennings asked Mr. Holland for his opinion on the Moors Fields since he is our resident land use expert and since this plan allows for the formation of Mooring Field. Mr. Holland stated he would like to be clear in stating his opinion but he felt they are still pretty accurate; and expressed his views on the subject.

On motion of Mayor Pro tem Mercer, seconded by Councilman Davis, Council unanimously agreed to continue the Comprehensive Plan Up-date to June 9, 2008.

**COMMENTS FROM THE PUBLIC**

Gary Tomasulo stated he was a little confused about the \$750,000 that we just gave back to the state. Mr. Tomasulo asked if there was any way we could keep the \$750,000 or come up with a plan because it's a shame to give that much money back and a loss to the City of Washington. Mr. Tomasulo stated he was a little upset that DWOW wasn't here complaining because he felt they should have been on top of it. Mayor Pro tem Mercer stated the \$750,000 had to be spent on the George and if you didn't spend it there, you couldn't spend it unless you got a modification to the grant. Mayor Jennette stated the City had looked at a lot of options to try to save the grant but it just wasn't possible.

Mayor Jennette stated that Michael Overton, Chairman of the Historic District, was here tonight and asked if he had any comments. First, let's get an update from Bobby Roberson on Demolition by Neglect. Mr. Roberson stated that Mr. Rodman is handling this matter and he has notified the people and he believes they will have to contact the Attorney because those individuals will not allow them to go into the building. Once everything has been handled through the Attorney's office, they will be looking for City Council to appropriate the money for those houses. Listed are the houses Mr. Roberson is speaking of:

- One on Water Street on the left hand side
- The one behind the Tattoo Parlor on 2<sup>nd</sup> Street

Councilman Jennings asked if the City goes in and make the repairs, will a lien be placed on the property and Mr. Roberson said yes. Mayor Jennette asked if the repairs we make are minimum housing code and Mr. Roberson said yes. Mayor Jennette asked that we get this moving and get it done because we have buildings downtown that are falling in and we need to get those going as well. Mr. Roberson suggested in the budget process for the upcoming year, Council would need to go ahead and appropriate \$100,000 for the two dwellings (looking at \$50,000 each).

Mr. Michael Overton stated we had four houses that were actually put on the Demolition by Neglect.

- One this side of the Baptist Church (the big white one)
- Three on Water Street

Mr. Overton feels like we need to be committed to improving it and to clean-up the two houses, then these dwellings will become our example. Mr. Overton feels for future building or some of the downtown building of huge concern (the George being one of them, Fowle Building and others that are literally falling to pieces) if they know we have been through a lawsuit and forced the issue then we stand a better chance of people responding in the future. Mr. Overton also expressed his regrets over losing the \$750,000 for the George.

On motion of Councilman Woolard, seconded by Councilman Brooks, Council unanimously adjourned the meeting at 6:25 pm, until Monday, May 19, 2008 at 4:30 p.m. in the Council Chambers at the Municipal Building.

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**Reatha B. Johnson  
Assistant City Clerk**