

The Washington City Council met in a regular session on Monday, August 11, 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; Archie Jennings, Councilman; Gil Davis, Councilman; Jim Smith, City Manager; Reatha B. Johnson, Acting City Clerk; and Franz Holscher, City Attorney.

Councilman Darwin Woolard arrived at 4:45 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; Lynn Lewis, Washington Tourism Director, Gloria Moore, Library Director; Ray Midgett, IT Director; Mike Voss, of the Washington Daily News; and Jay Niver with Beaufort Observer.

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

APPROVAL/AMENDMENTS TO AGENDA

Mayor Jennette added a closed session under G.S. 143-318.11(a)(6) Personnel.

Under Roman number X. - Councilman Jennings added a Resolution in support of a program to Reduce Energy Practices and Policies within the City of Washington. Also, Mayor Pro tem Mercer added discussion on proposed changes in the Personnel Policy.

Franz Holscher, City Attorney, requested to move item VI. A. 6 to closed session under G.S. 143-318.11(a)(5) negotiation of Harvey Street Property. Council agreed to take this up in closed session.

On motion of Councilman Jennings, seconded by Councilman Davis, Council unanimously approved the agenda, as amended.

APPROVAL OF MINUTES

On motion of Councilman Jennings, seconded by Councilman Brooks, Council unanimously approved the minutes of July 14, 2008, as submitted.

PRESENTATION – CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING

Mayor Jennette asked Ms. Anita Radcliffe, Acting Finance Director, to please come forward to accept this great accomplishment. Mayor Jennette acknowledged that Ms. Carol Williams, Finance Director during that time, claims part of the recognition. Mayor Jennette stated this was a group effort, everyone in that Department works very hard and efficient.

PRESENTATION – ELECTRIC DEPARTMENT LINEMEN CAREER DEVELOPMENT ADVANCEMENT

Mayor Jennette stated the Electric Department is amazing. These guys put their lives on the lines, especially during storms, and now we can express our appreciation to them. Mr. Keith Hardt, Electric Director, stated this certification is for one of four levels these men have obtained. This is an apprenticeship program for the State of North Carolina and when they reach level four they will

be listed as a journeyman. He stated each level takes about 1,000 hours of on the job training and 100 hours of classroom training.

APPROVAL OF CONSENT AGENDA

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

- A. Approve – Washington Park Contract between the City of Washington and the Town of Washington Park

NORTH CAROLINA BEAUFORT COUNTY

THIS CONTRACT is made and entered into effective the first day of July 1, 2008, by and between the **TOWN OF WASHINGTON PARK**, a municipal corporation organized under the laws of the State of North Carolina (hereinafter referred to as "**TOWN**"), and the **CITY OF WASHINGTON**, a municipal corporation organized under the laws of the State of North Carolina (hereinafter called the "**CITY**").

WITNESSETH:

WHEREAS, North Carolina General Statute § 160A-11, 160A-461, 160A-274, 160A-277 and 153A-250 authorize a municipality to contract for fire protection as well as emergency medical services, including ambulance services.

WHEREAS, the **TOWN** has negotiated with the **CITY** to obtain fire protection and emergency medical services under the terms and conditions contained herein.

NOW THEREFORE, pursuant to said relevant statutory authority, and for and in consideration of the mutual covenants and agreements hereinafter contained and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties hereto do hereby covenant and agree as follows.

- A. **EMERGENCY SERVICES.** The **CITY** agrees to provide fire, rescue, and emergency medical services (hereinafter collectively referred to as "emergency services") to the extent of the certifications of the responding crew(s) to those areas within the corporate limits of the **TOWN**. Upon receipt of a request for emergency services in the aforementioned area, the **CITY** shall dispatch the appropriate resources, if available. The dispatched crew(s) shall render said emergency services to the limit of their certifications and, in the event further medical treatment is required, transport those patients requiring further medical treatment via the EMS vehicle to the nearest hospital.

All obligations of the **CITY** to respond to requests for emergency services hereunder and to continue rendering emergency services hereunder in said **TOWN** shall be secondary and subordinate to the **CITY's** duties to furnish such services to the residents and property owners of the **CITY**.

- B. **INCIDENT COMMAND.** Upon receipt of a request by or on behalf of the **TOWN**, the **CITY** shall dispatch to the premises and there utilize such apparatus, equipment, and personnel as the Chief of Department, Washington Department of Fire-Rescue-EMS Services, or his/her designee, deems, in his/her sole and absolute discretion, to be necessary and available under the circumstances. From the moment any personnel of Washington Department of Fire-Rescue-EMS Services arrive on premises in response to such a call, the senior Departmental representative shall assume absolute and exclusive command over the

incident, all activity being carried on upon the premises, and all resources made available to the incident. All personnel and resources assigned to the incident shall be subject to the incident commander's absolute and exclusive direction and control. The incident commander shall have sole discretion as to the manner in which such emergencies, as may exist, are mitigated and what personnel as well as equipment are to be committed thereto.

- C. **EMS TRNASPORT FEE.** There shall be a transport fee for each person transported by the EMS vehicle to a hospital. Said fee shall be subject to change and approval by the Washington City Council. Transport fee charges shall be billed and collected by the **CITY** through its standard medical billing procedure. All funds collected by the **CITY** for services rendered shall be retained by the **CITY**.
- D. **PAYMENT FOR EMERGENCY SERVICES.** The **TOWN** shall pay the **CITY** \$25,042.00 for the first year of this Contract, \$27,496.00 for the second year of this Contract, and \$29,950.00 for the third year of this Contract. Said payments shall be made no later than October 31st of each fiscal year in which this Contract remains in effect.
- E. **CANCELLATION.** Either party may cancel this Contract with a ninety (90) day written, cancellation notice signed by the Mayor of the **CITY** or **TOWN** desiring cancellation and delivered to the Mayor of the other. In the event either party cancels this Contract effective on a date other than a Contract anniversary date (July 1), the payment for emergency services required hereunder for that particular year 1) if not already paid, shall be pro-rated and paid by the **TOWN** to the **CITY** on the date the cancellation is effective, or 2) if already paid, shall be pro-rated and the **CITY** shall reimburse the **TOWN** accordingly on the date cancellation is effective.
- F. **EFFECT.** Upon acceptance and execution of this Contract by both parties, all previous emergency services contracts between the **CITY** and the **TOWN** shall be null and void.

IN WITNESS THEREOF, after due authority given, the **TOWN** this Contract to be signed in its name by its Mayor, and attested by its Clerk, and the **CITY** has caused this Contract to be signed in its name by its Mayor, and attested by its Clerk.

PRE-AUDIT CERTIFICATE

This contract has been pre-audited per North Carolina General Statute 159-28 in the manner required by the Local Government Budget and Fiscal Control Act.

s/Tom Richter
TOM RICHTER
MAYOR

ATTEST:

s/Walter Bowen
WALTER BOWEN
CLERK

s/Judy Jennette
JUDY JENNETTE
MAYOR

ATTEST:

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

PRE-AUDIT CERTIFICATE

This contract has been pre-audited per North Carolina General Statute 159-28 in the manner required by the Local Government Budget and Fiscal Control Act.

s/Anita C. Radcliffe

ANITA C. RADCLIFFE
INTERIM FINANCE DIRECTOR

- B. Accept – Library Services and Technology Act (LSTA) Grant and Adopt Budget Ordinance Amendment (\$12,636)

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

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

Section 1. That the Estimated Revenues in the General Fund be increased in the amount of \$12,636 in the account Library Grant - LSTA, account number 10- 40-3611-3305.

Section 2. That account number 10-40-6610-7400, Capital Outlay, Library portion of the General Fund appropriations budget be increased in the amount of \$12,636 to provide funds for equipment purchases.

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 11th day of August, 2008.

s/Judy Jennette
JUDY JENNETTE
MAYOR

ATTEST:

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

- C. Accept – Cornerstones of Science Grant and Adopt Budget Ordinance Amendment (\$200)

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

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

Section 1. That the Estimated Revenues in the General Fund be increased in the amount of \$200 in the account Library Grant - Cornerstone, account number 10- 40-3611-3302.

Section 2. That account number 10-40-6610-5600, Materials, Library portion of the General Fund appropriations budget be increased in the amount of \$200 to provide funds for books and audiovisual purchases.

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 11th day of August, 2008.

s/Judy Jennette
**JUDY JENNETTE
MAYOR**

ATTEST:

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

LUCKY WARREN – INCREASE TAXI CAB RATES

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

AUSTIN WEEKS – PRIVILEGE LICENSE

Mr. Austin Weeks, a citizen from Chocowinity, stated he was here tonight to address the license fee for people who set up and sale things in the City of Washington. Mr. Weeks stated the application fee is \$250 and then \$50 every 90 days and a \$1,000 cash bond. Mayor Jennette stated something Council realized during this process is that this is a complicated issue and they should step back and find a fairer way. It is not quite as equitable as it should be. Mr. Weeks said he also did not understand why it cost \$25 to get a peddler's license and why it was complicated. Mayor Jennette said it is complicated because of the way it is structured. Every City has a different structure and everybody bases it on different things.

SKIP SMITH – PRIVILEGE LICENSE

Mr. Skip Smith, representing XS Smith, brought his concerns to Council concerning the privilege license fee increase.

Mr. Smith said he has little, if any, confidence in the accuracy of the survey the City performed while investigating privilege license fees in other Cities and Towns. Mr. Smith stated they took similar towns and did their own survey and their figures did not agree with the local community. Mr. Smith stated in "no way approximate what the surroundings towns are". Mr. Smith understood that the City has not had a tax increase in seven years and are to be commended for that, but this is a 500% increase. Mr. Smith said the increase in the maximum fee could result in businesses laying-off workers during an already sour economy. James Smith, City Manager, accepted Mr. Smith's offer of the survey done by XS Smith.

JOHN LOGELFO – DISCONNECT FEE

Mr. Logelfo was not present to speak.

JAMES CHESNUTT – PRIVILEGE LICENSE

Mr. James Chesnutt, representing National Spinning, stated he was here tonight to ask Council to reconsider the privilege license fees they have placed upon the business community. Mr. Chesnutt stated National Spinning employs 160 people in Washington and there are other communities they do business in that would love to have those 160 people working. If Council would like National Spinning to continue to be here and employ people who contribute to this community, then Council needs to go back and take a look at this. He said National Spinning operations in other areas either don't have to pay a fee for a privilege license or pay maximum fees ranging from \$50 to \$125.

Mayor Pro tem Mercer stated Mr. Chesnutt indicated they were paying zero in a number of communities and it is zero because you do not attribute your sales to those communities and attribute it to Washington. Mr. Chesnutt said "no" they do not have a privilege license in the two plants located in Beulaville and Whiteville.

JACK MITCHELL – PRIVILEGE LICENSE

Mr. Jack Mitchell, representing Mitchell Tractor and Equipment Co., first would like to thank Council for all they do for the City and he knows it is a hard job and would like to express his appreciation. Mr. Mitchell is also concerned with the privilege license fees. Mr. Mitchell said while the City was charging him the \$500 maximum fee in previous years, the company was paying from \$50 to \$60 a year for privilege licenses in other Cities and Towns. Mr. Mitchell said he has paid more than \$20,000 in fees during the years he's been in business. He said he has a problem with some businesses being exempt from the privilege license fee or paying low fees; citing that some business such as automobile dealers and doctors "pay hardly anything". Mr. Mitchell stated "I know the City needs to make revenue...we just think we're being grossly overcharged with this fee."

CATHERINE GLOVER – PRIVILEGE LICENSE

Catherine Glover, Executive Director of the Washington Beaufort County Chamber of Commerce, stated she was here to say the exact same thing everyone else has said. Ms. Glover asked Council to reconsider and look into the privilege license fees.

DOT MOATE – PRIVILEGE LICENSE

Ms. Dot Moate stated she was representing herself as a taxpayer. Ms. Moate stated she supports the comments the individuals have made, and in this day and age we need to do something to keep the retailers and businesses that are providing for our community and it is very bad timing on Council's part to raise the rates.

Ms. Moate had another issue to speak on. That issue was the City does not require licenses within a service business for the City, especially contractors. Mayor Pro tem Mercer informed Ms. Moate that if his book is correct, a service organization does pay a privilege license. Also, Mr. Smith responded that contractors are required to have a state license. Chief Davis stated up to a certain level they have to be a licensed contractor. If they are not a licensed contractor and the citizen makes the Inspection Department aware they are doing the work, they will follow up with a proper investigation. Chief Davis asked Mr. Roberson for his input and Mr. Roberson said they did a survey and added the % of the amount for all building contractors on the building permit fee.

JEFF MASSENGILL – QUAIL RIDGE APARTMENTS (PAVING OFF HODGES STREET)

Jeff Massengill, Member Manager of Quail Ridge Apartments, was here tonight to request paving Hodges Avenue. He said it is the dirt road connecting Maple Street to Hwy 264 and included a map for presentation.

Mr. Massengill stated Quail Ridge was purchased back in January 1998, since that time they have invested a lot of time and money. The apartments have been improved physically by adding central heat and air, new paved parking areas, re-siding the buildings, fixed electrical, plumbing, and cosmetic items.

Mr. Massengill said the schools are recommending them to new prospective teachers as a nice place to live and they are using the educator special as part of their pitch to bring in new teachers with CARE (Community Aiding Recruiting Educators).

Mr. Massengill believes it will help divert some traffic away from the entrance to the school and also traffic off Pennsylvania Ave. Many days he has seen retired people in wheelchairs using that road and feels it would help improve their safety.

The City put out quite a large expenditure to install the power substation on this road and he understands the dust from traffic isn't good for the substation. Mr. Massengill stated Quail Ridge voluntarily gave up an easement on their property so the substation could route the lines there, rather than having to take up a portion of the school play area to gain access.

Mr. Massengill believes it will benefit everyone and has a signed petition by Mr. Massengill, Bob Rich, and 110 other concerned taxpayers.

Mayor Jennette complimented Mr. Massengill and everyone at Quail Ridge for cleaning that area up. It is as different as night is from day. Mayor Jennette asked Mr. Massengill if he had spoken to Public Works about this. The current policy states that if someone wants a road paved, they get all property owners together and they are required to pay 60% and the City pays 40%. Mayor Jennette stated there were a lot of residents here tonight but she did not know about the property owners. Mr. Massengill stated the City makes up half or more land ownership along the strip he is speaking of. Mr. Massengill said in speaking with Mr. Keith Hardt, Keith felt it would be a big benefit for the City and a cost saving to protect the City investment there.

Mayor Jennette asked Mr. Allen Lewis how hard it would be to come up with a rough estimate and Mr. Lewis said about two weeks. Mayor asked Mr. Lewis to have this information by the Committee of the Whole meeting on 8-25-08.

REPONSE FROM COUNCIL ON PRIVILEGE LICENSE FEES

Councilman Jennings stated what Council tried to do was amend or approve upon a bad idea to begin with. This is something that has been on the books for a long time and had a clear intention in its original state but he has been in Ms. Carol Williams's office arguing about the same thing before he became a Councilman. Some of the speakers brought up very good points and they were:

- Number of exemptions that exist inside
- How a large scale organizations reports it sales

Councilman Jennings requested to see a “full-scale review” and would like for the Chamber to work with staff on fashioning something that stretches out beyond the current situation. Mr. Smith suggested someone from the Committee of 100 to work with staff as well.

Councilman Jennings would like the public to know this was not implemented as some sort of budget fix. The Council’s intention was to “create some parity and equity on the top end of the scale,” where you had the largest corporation that do business within our community paying the same thing as some of our small size businesses.

Mayor Pro tem Mercer stated he proposed the fee changes after careful review of the fee books. Mayor Pro tem Mercer stated some of our fees had not been changed for 20-plus years. Mayor Pro tem Mercer said he believed an increase was needed to address “a great inequity in what was in the scale.” Mayor Pro tem Mercer said even within the system they have proposed, there is still a tremendous inequity because the smaller business is still carrying a larger fraction of the load. Mayor Pro tem Mercer said he had some suggestions and solutions for Council and they could be addressed later. He has no problem with going back and looking at this whole issue.

Mayor Jennette asked if Council would like to come back and address privilege license the fourth Monday in September and Council agreed.

ECONOMIC DEVELOPMENT COMMISSION

Councilman Jennings stated several projects were in the works, and some are very interested in the New Shell Building. There was a good move that took place at Fountain Power Boats and that was the benefit of a lot of hard work from the EDC and the State officials.

Mayor Jennette stated two weeks ago Fountain Power Boats announced they were receiving a grant from the State to add Baja Boats to there manufacturing and increase their jobs by 300. They have already produced a couple of boats and that is very good news for our community.

TOURISM DEVELOPMENT AUTHORITY

Mayor Jennette stated there was an article in the papers saying Tourism had increased their revenue by 5.2% in Beaufort County. Also, they will be a meeting Wednesday at the Tourism Authority Building. The market study of Beaufort County has been delayed because the lady in charge has come down with an illness.

HUMAN RELATIONS COUNCIL

Mayor Jennette informed Council that a date has not been set for Rabbi Kirschner. There will be a presentation tomorrow night on the Hispanic Forum and Festival during the Human Relations Council meeting. Council will be receiving more information on this later.

DOWNTOWN WASHINGTON ON THE WATERFRONT – INCLUDING LETTER REGARDING APPOINTMENTS TO WATERFRONT MANAGEMENT PLAN ADVISORY BOARD

Ross Hamory, President, Downtown Washington on the Waterfront, updated Council on the Waterfront and Harbor Management Plan. At the last public hearing that was held on this, Council voted to accept the establishment of an Advisory Review Group which will provide segments of the plan’s implementation.

Downtown Washington on the Waterfront proposes the following five (5) individuals to serve the Advisory Review Group and two (2) City representatives:

- Bill Sykes
- David Norwood
- David Emerling
- John Tate
- Austin Smithwick
- Phillip Mobley
- Bobby Roberson

Mr. Hamory stated these individuals will serve at Council's pleasure and will endorse any participation by any member of Council.

Councilman Jennings asked Mr. Hamory if the Advisory Review Group had a name and Mr. Hamory said "yes" Citizens for Revitalization. Mr. Hamory stated they had a meeting with the expanded group that Councilman Jennings brought before Council and Mr. Chris Furlough was elected chair person of that group. Also, Mr. Hamory reminded Council of Pickin on the Pamlico.

Mayor Jennette stated the advisory group had submitted a list of names and if they are to be approved she would like for Council to consider adding at least one Council member to that group. Mayor Pro tem Mercer stated he would like to see more Council participation as well. Council agreed that Mayor Pro tem Mercer and Councilman Jennings would serve on the Citizens for Revitalization group.

Mayor Jennette requested the Citizens for Revitalization be added to the monthly reports.

On motion of Councilman Woolard, seconded by Councilman Brooks, Council unanimously approved the Citizens for Revitalization group including Mayor Pro tem Mercer and Councilman Jennings.

WARREN FIELD AIRPORT

Mr. Jim Smith, City Manager, stated they were working with the engineering firm to move forward on the self service aviation fuel. They are replacing fencing and awning. A request will be coming in from a group of people involved in gardening including the Master Gardner. They will be submitting a letter in September asking to create a committee on gardening opportunities.

ANNEXATION REPORT

Councilman Jennings stated the only report they have is the moratorium on involuntary annexation that was set aside during the past legislature. The plan of the Annexation Committee is to prioritize three opportunities for annexation whether voluntary or involuntary. They plan to move forward once the legislation has been resolved. Hopefully the committee will be ready to bring something before Council in September, which should include an overall strategy. Mayor Jennette and Councilman Jennings tasked Mr. Roberson with setting this up.

HAVEN'S GARDEN REPORT

Mr. Phil Mobley, Parks and Recreation Director, stated Coastal Planning and Design will do the design which will cost approximately \$10,000. Also, a survey needs to be done and Mr. Mobley spoke to the surveyor who did the last one. He stated it will cost about \$2500. Mr. Mobley stated there is \$10,500 budgeted. The things they are looking at are a review of all the roads, repair of

the bulkhead, and repair of both shelters. Mr. Mobley expressed his concerns about trying to do something and not being sure what DOT is going to do at Haven's Garden.

Mayor Jennette asked if anyone from DOT had contacted him or Mr. Lewis to talk about purchasing right-of-ways and Mr. Mobley said "no". Councilman Jennings asked if they had heard back from Mr. Ed Eatmon stating we need to engage with DOT and keep the line of communication open. Once Mr. Eatmon was here, that was our opportunity to have a partner in this design. Councilman Jennings stated he would like to see a drawing reflecting what Mr. Eatmon said would be going there, including the two sidewalks and two bike lanes. Mayor Jennette stated Mr. Eatmon had met with her and the City Manager and maps were passed out to Council that Mr. Eatmon had given them. Mayor Jennette felt the maps were pretty technical also. Mr. Lewis offered to take the map and color code them to show what is there. Councilman Jennings reiterated Mr. Eatmon offered a great deal of cooperation and while he is offering, we need his home phone, cell phone, and office phone.

Mayor Pro tem Mercer requested he be notified when the DOT sub-committee has meetings. The sub-committee consists of the Mayor, Mayor Pro tem, and the City Manager.

**FINANCIAL REPORTS (JUNE/END OF YEAR FINANCIAL
REPORTS WILL BE PRESENTED WHEN FY 08 BOOKS ARE
CLOSED)**

**APPOINTMENTS – TO THE BOARD OF COMMISSIONERS OF
THE NORTH CAROLINA EASTERN MUNICIPAL POWER
AGENCY**

On motion of Councilman Jennings, seconded by Councilman Davis, Council unanimously appointed Mayor Pro tem Mercer as First Alternate Commissioner to the NCEMPA Board of Commissioners.

On motion of Councilman Jennings, seconded by Councilman Davis, Council unanimously appointed James C. Smith as Second Alternate Commissioner to the NCEMPA Board of Commissioners.

Councilman Jennings added, as complicated and up to our elbows as we are in the business of electricity, he believes it is a good idea to encourage and enhance Council's level awareness of the issues.

**ADOPT – RESOLUTION TO LEASE PROPERTY ON SPRINGS ROAD TO
HARRY MEREDITH JR. AND AUTHORIZE THE CITY MANAGER TO ENTER
INTO A LEASE AGREEMENT WITH MR. HARRY MEREDITH, JR.**

Mr. Smith stated last year the City acquired two parcels of land to keep clear at the end of the runway and the approach zone. A contractor was paid to come in and take down the trees and Mr. Meredith would like to lease the land from the City and graze some farm animals on the land. Mr. Meredith agrees to plant it as pasture and keep it maintained. Mr. Smith said the City has no immediate need for the land and it's in the best interest of the City to keep the land clear of any trees which might serve as an obstruction to aviation. Mr. Meredith's proposal would benefit the City.

On motion of Mayor Pro tem Mercer, seconded by Councilman Woolard, Council unanimously approved the amended version of the lease and authorized the City Manager to enter into a lease of 19.87 acres and 13.5 acres to Mr. Harry Meredith, Jr.

Councilman Jennings stated as a point of clarification this agreement is with Mr. Harry Meredith, Jr. (the son) and not Mr. Harry Meredith (the father). This is important to him because he have a problem with entering what he considers a favorable agreement with one party if we are in litigation.

On motion of Mayor Pro tem Mercer, seconded by Councilman Brooks, Council unanimously adopted a resolution to lease property on Springs Road and authorized the manger to enter into a lease agreement with Harry Meredith Jr.

**RESOLUTION TO LEASE PROPERTY ON SPRINGS ROAD TO
HARRY W. MEREDITH, JR.**

WHEREAS, the City of Washington ("City") owns the Warren Field Airport, including that certain real property located generally on the north side of Springs Road and as more specifically described 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 use for; and

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; and

WHEREAS, Lessee desires to lease said premises in order to utilize the same for the purpose of feeding, pasturing, and grazing farm animals; and

WHEREAS, Lessor desires to lease said premises as it finds the proposed use to be acceptable and will reduce the City's maintenance responsibilities; and

WHEREAS, North Carolina General Statute § 160A – 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; and

WHEREAS, this proposed Early College High School will offer both parents and students in Washington and Beaufort County another education option; and

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

**THEREFORE, THE CITY COUNCIL OF THE CITY OF WASHINGTON
RESOLVES THAT:**

The City Council hereby approves the proposed lease of said premises owned by the City to Harry W. Meredith, Jr. for ten years and authorizes the City Manager to further negotiate, if necessary, and execute said lease.

Adopted this 11TH DAY OF August, 2008.

s/Judy M. Jennette
JUDY M. JENNETTE
MAYOR

ATTEST:

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

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:

Tract 1: BEING all of that 19.87 acres, more or less, as shown on that survey for the City of Washington Warren Field Airport Land Acquisition Map dated November 21, 2006 by Waters Surveying, Inc. of record in Plat Cabinet H, Slide 3-6, Beaufort County Registry to which reference is herein made for a more complete and adequate description.

Tract 2: BEGINNING at a point, said point being located in the northeasterly right-of-way line of Springs Road and said point being a common point in the line dividing property owned by the City of Washington and Lot Number 3 as shown on that certain survey of Samuel T. Moore, Jr. and Elizabeth Ann Moore recorded in Plat Cabinet G, Slide 97-2 of the Beaufort County Registry thence leaving the northeastern right of way line of Springs Road and then north 33 degrees 24 minutes and 07 seconds east approximately 96.85 feet to a point located in an old road bed said point being a common corner between Lots 3 and 10 shown on the survey above referred to and continuing thence north 33 degrees 24 minutes and 07 seconds east 166.00 feet to a point thence north 54 degrees 00 minutes 00 seconds west 146.00 feet to a point thence north 18 degrees 30 minutes 10 seconds east 121.18 feet to a point thence north 18 degrees 30 minutes 10 seconds east 698.93 feet to a point thence north 75 degrees 06 minutes 22 seconds west 472.44 feet to a point thence continuing north 75 degrees 06 minutes 22 seconds west 21.14 feet to a point said point being in the line of that certain easement that was condemned by the City of Washington in that certain condemnation proceeding filed in the Beaufort County Clerk of Superior Court's Office and bearing the number 08-CVS-105 thence with the line of said easement as described in the above referenced proceeding south 31 degrees 37 minutes 29 seconds west 520.06 feet to a point continuing thence with the line dividing the property between the City of Washington and the land now or formerly owned by Anne F. Meredith to a point in the northwestern right-of-way line of Springs Road thence with the northwestern and northeastern right-of-way lines of Springs Road on a curve to a point the said point of beginning above referred to. Reference is herein made to various maps recorded in the Beaufort County Registry in Plat Cabinet G, Slide 97-2 and Book 1626 Page 454 in the Beaufort County Registry.

**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 11th day of August, 2008, by and between the **CITY OF WASHINGTON**, a municipal corporation of the State of North Carolina (hereinafter referred to as "Lessor") and Harry W. Meredith, Jr., having an address of 102 Anne Drive, Washington, North Carolina (hereinafter referred to as "Lessee").

WITNESSETH

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

WHEREAS, Lessor has found said premises to be surplus to its current needs; and

WHEREAS, Lessee desires to lease said premises in order to utilize the same for the purpose of feeding, pasturing, and grazing farm animals; and

WHEREAS, Lessor desires to lease said premises as it finds the use proposed to be acceptable and will reduce the City's maintenance responsibilities; and

WHEREAS, after proper, legal 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 Ten Dollars (\$10.00) 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 north side of Springs Road and as more specifically described in 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 ten years and shall commence as of the 11th day of August, 2008, and shall expire on the 10th day of August, 2018. This Agreement may be terminated prior to the expiration of the term upon mutual consent of the parties. In order to effectuate said early termination by mutual consent, either party must give the other party written notice of its desire to terminate this Agreement at least 60 days prior to any such termination, in which case this Agreement shall terminate on the date contained in said notice if the other party provides written consent to such termination within the applicable time period. In addition, notwithstanding anything herein to the contrary, upon 60 days written notice given by Lessor to Lessee, 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, to expand or improve the Warren Field Airport, including but not limited to its runways, facilities, hangars, and other amenities, in any manner. In the event this Agreement is terminated unilaterally by Lessor prior to the expiration of the term provided for herein, the boundaries of the premises are reduced such that it becomes impractical for Lessee to realize the intended use, or, after complying with all requirements of North Carolina General Statute § 160A-272, Lessor does not enter a new, second lease for a term of ten years or a new, third lease for a term of five years despite Lessee's desire and willingness to enter the same, then, as a result of any of those specific events, 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).
4. **Rental**. Rent for the first year of this term shall be One Hundred Thirty Dollars (\$130.00) and shall be payable simultaneously with the execution hereof. Thereafter, annual rent shall be in the amount of Ten Dollars (\$10.00) and shall be payable annually not less than 10 days in advance of each anniversary date.
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.

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 the purpose of feeding, pasturing and grazing farm animals owned by Lessee. The number of farm animals on the premises at any one time shall not exceed the number of farm animals allowed per acre as established by the North Carolina Agricultural Extension Service. No enterprise, including but not limited to commercial enterprise or enterprise for profit, will be operated on the premises. 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.

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 requirements. In any event, 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 must make certain preparations to the premises in order to use the premises as hereinbefore provided. Lessee shall submit a written plan for such preparations for approval from the City Manager prior to beginning such preparations. Other than the care and maintenance provided for hereinabove, Lessee shall make no 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 the City 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 the removal of any obstruction in the runway approach zone of any adjoining property, including the avigation easement held by Lessor over Lessee's adjoining property.

10. **Insurance.** Lessee shall maintain general liability insurance with coverage and in an amount which is acceptable to Lessor (initially in the amount of One Million Dollars), which names Lessor as co-insured under said policy. Lessee agrees to deliver a copy of said policy to Lessor upon execution of this Agreement and will provide Lessor a current copy of the same as well as any notices of termination or change in coverage during the term hereof.

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. **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, release, hold free and harmless, indemnify and defend 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 and Lessee's occupancy as well as use of said premises, including use by invitees or guests of Lessee. 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.

13. **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. Lessee further agrees to indemnify and hold the City harmless for any and all damage of any kind arising from Lessee's failure to comply with the aforementioned rules and regulations, including, but not limited to, the cost of clean-up, restoration fees, mitigation costs, and attorney's fees caused or occasioned by Lessee.

14. **Reports**. If requested by the City Manager, Lessee shall provide a report of such matters involving the premises as may be required by the City Manager.

15. **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.

16. **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.

17. **Surrender of Possession, 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). 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.

18. **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.

19. **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 as of the date first above written.

PRE-AUDIT CERTIFICATE

This contract has been pre-audited per North Carolina General Statute 159-28 in the manner required by the Local Government Budget and Fiscal Control Act.

s/Anita Radcliffe
ANITA RADCLIFFE
INTERIM FINANCE DIRECTOR

LESSOR:

CITY OF WASHINGTON

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

ATTEST:

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

LESSEE:

s/Harry w. Meredith, Jr.
HARRY W. MEREDITH, JR

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:

*Description from Resolution above:

APPROVE – AMENDED TRANTERS CREEK RV PARK AGREEMENT

Mr. Smith stated this is an amendment to an agreement that Council approved a few months back. The amendment is in the form of a refinement.

Franz Holscher, City Attorney, stated he had a red line revision if the Council would like to see it. One main revision was on page 2 where they are not requiring a title opinion or subordination. There is a requirement in the agreement for a letter of credit to stand in the place of the security we ordinarily take. The other revision was an in-house inspector did the work instead of going outside and this was at the request of Mr. Furlough.

Councilman Jennings suggested the main issue in going over this agreement was the way the capacity utilization would be staged in over time. Mr. Smith stated this satisfied Mr. Furlough concern.

Mayor Pro tem Mercer stated it appears on page 58 that Mr. Furlough or the developer was going to totally pay for the installation of the line from his property to the tie end point, but yet on page 60 the agreement states when the line is completed the title will go to the City and the City can allow other parties in the future to be served by the developer's sewer line if the service connection does not restrict the developer flow.

Mayor Pro tem Mercer stated he does not feel the City should ask Mr. Furlough to give up part of his capacity without his mutual consent. Mr. Smith said it is actually mute in this particular case and he had spoken with Mr. Furlough on the matter and Mr. Furlough understood he will not lose any capacity. Mayor Pro tem suggested language to be added to the effect that the City should not allow other property in the future to be served by this line without the mutual consent of the developer. It seems the man is spending all the money to install the lines and the City will ultimately become the owner. At some point down the line the City may feel, here is a big developer and we will tap in into your lines. Mr. Holscher stated he questioned the language and how it needs to be revised to reflect the conversation of the parties. Mr. Holscher had a conversation with the Manager and understood the Manager had discussed it with Mr. Furlough and decided to leave it where it was.

Mayor Pro tem Mercer had another question for Mr. Holscher from page 62 regarding the letter of credit. It states that if the owner or developer should fail to meet their obligation to subscribe to the City specification, then the City should give the owner/developer 30 days to commence and 90 days to complete. Mayor Pro tem suggested the language should read 90 days or an acceptable time that is established by both parties. Mr. Smith said again he thinks we have the option should anything occur to give an extension in writing. Mr. Smith asked Council to remember this is an area that was never part of the City plan to pursue in the first place. We are assisting the present owner of the RV Park in giving that capacity to land which will never be taxable to the City. Mr. Smith stated the City needs to stay in control of this project. Mayor Pro tem Mercer felt the language should still give them some flexibility.

On motion of Councilman Woolard, seconded by Councilman Brooks, Council unanimously approved the Mayor to execute an amended Sewer Extension Agreement with Tranters Creek Recreational Vehicle Park.

STATE OF NORTH CAROLINA
SERVICE
COUNTY OF PITT
AGREEMENT

SANITARY SEWER
AND EASEMENT

THIS SANITARY SEWER SERVICE AND EASEMENT AGREEMENT (the "Agreement") is entered into and made as of the 11th day of August, 2008, by and between the **CITY OF WASHINGTON, NORTH CAROLINA**, a municipal corporation (hereinafter referred to as the "City"), and **F&R Properties, L.L.C. of P.O. Box 818, Washington, North Carolina 27889**. (hereinafter referred to as the "Owner/Developer").

W I T N E S S E T H

WHEREAS, Owner/Developer warrants that it holds legal title to the property described in Paragraph 2 below (the "Subject Property"); and

WHEREAS, Owner/Developer intends to develop the Subject Property as a Recreational Vehicle Park (the "Development"); and

WHEREAS, the Subject Property is in Pitt County, North Carolina; and

WHEREAS, Pitt County and/or the City, as the case may be, will condition or have conditioned, as the case may be, the issuance of their respective development approvals and other assistance, as more specifically provided for herein, for the Subject Property on Owner/Developer entering into an agreement whereby the City supplies sanitary sewer service to the Subject Property; and

WHEREAS, Owner/Developer desires that the City provide sanitary sewer service to the Subject Property, in compliance with the laws and regulations of the City, and of all other governmental authorities; and

WHEREAS, the City may provide sanitary sewer service outside its corporate limits and is authorized to enter into contracts for providing as well as making improvements to sanitary sewer service pursuant to Article 16 of Chapter 160A of the North Carolina General Statutes; and

WHEREAS, it is the purpose of this Agreement to clearly set forth the understanding and agreement of the parties concerning the matters contained herein.

NOW THEREFORE, in consideration of Ten Dollars (\$10.00) and other valuable considerations, the receipt and legal sufficiency of which are hereby acknowledged, the parties hereto do agree as follows:

Incorporation. The recitals herein contained are true and correct and are incorporated herein by reference.

Ownership. Owner/Developer represents that it is the present owner of the Subject Property which is described on **Exhibit "A"** attached hereto and incorporated herein by reference.

Title Opinion/Certification. Not applicable.

Subordination/Joinder. Not applicable.

Sewer Improvements and Sewer Service.

5.1 Flow System. Owner/Developer will design and install a pressure flow sanitary sewer line ("Development Sewer Line") as approved by the Inspecting Engineers (as provided for hereinafter) from the Development to the Stanadyne Pump Station [which is located approximately 1,800 feet south and west of the intersection of West Fifth Street (U.S. 264) and Clark's Neck Road (S.R. 1403)] which will provide sanitary sewer service for the Development.

5.2 General Construction Requirements. The Development Sewer Line shall be constructed or caused to be constructed (i) at the sole cost and expense of Owner/Developer and its successors; (ii) pursuant to engineering plans and specifications which are to be reviewed and approved by the City's selected engineers (the "Inspecting Engineers"); and (iii) in accordance with all applicable local, state and federal environmental and public health laws, ordinances and regulations. Notwithstanding anything contained herein to the contrary, for the purposes of this particular Agreement, Inspecting Engineers shall mean and refer to the City of Washington Public Works Director or his designee and Owner/Developer shall not be responsible for any expenses incurred as a result of the City of Washington Public Works Director or his

designee performing the obligations of the Inspecting Engineers as set forth hereinafter. Owner/Developer shall be responsible, at its sole cost and expense, for obtaining all required construction and operational permits as well as all easements as may be necessary to allow the location, installation, operation, maintenance or repair and replacement of the Development Sewer Line. Owner/Developer will provide any easements required for the placement of all necessary, related facilities to be owned by the City which will be in form and substance reasonably satisfactory to the City and will contain an express provision providing that such easements may be assigned to the City in its sole discretion and that, whether assigned or not, the City has the right to utilize such easements for the purposes for which they were granted. All costs incurred in connection with such easements shall be borne by the Owner/Developer.

Prior to the initiation of any construction under this Agreement, Owner/Developer or its successors in interest shall obtain all necessary approvals and permits required by the State of North Carolina and Pitt County in connection with the Development Sewer Line and provide true copies of such to the City. Owner/Developer shall be responsible for obtaining and providing written verification of any and all permission or authority required from Pitt County or any other governmental entity or regulatory body necessary to allow the City to provide sanitary sewer service to the Development. The indemnification provisions of Paragraph 8 herein shall include and encompass any failure by Owner/Developer to perform said obligations.

5.3 Inspections. Owner/Developer shall provide reasonable access at all times to Inspecting Engineers to permit thorough inspections of all work contemplated by this Section 5 in order to ensure that the work is being done in accordance with the approved plans and specifications as well as all applicable laws, ordinances and regulations.

5.4 Completion of Construction. All improvements for the Development Sewer Line will be constructed within five years of the execution hereof and sufficiently in advance of the issuance of a certificate of occupancy for the structures to be served to allow testing and approval, but in no case less than 30 days before issuance of any certificate of occupancy.

5.5 Ownership, Maintenance, and Repair of Sewer Improvements. Upon completion of the Development Sewer Line, said Line and all necessary, related facilities, except those located on the property of the Development, will be conveyed to the City, together with any easements associated therewith, for the sum of One Dollar (\$1.00). From and after the date of such conveyance, the City will be responsible for all maintenance, repair and replacement obligations with respect to the Development Sewer Line so conveyed, except within the property of the Development. Owner/Developer and/or its successors will remain responsible for all maintenance, repair and replacement obligations with respect to the Development Sewer Line and necessary, related facilities located within the property of the Development.

It is agreed that, should the City allow other parties in the future to be served by the Development Sewer Line, the Owner/Developer's capacity to serve the Subject Property's sanitary discharges from the equivalent of a six inch (6") sewer service connection shall not be restricted.

5.6 Rights and Charges. Owner/Developer will be required to pay all customary impact fees, connection fees, customer charges, and service charges based upon the following schedules.

Upon completion of construction of all improvements for the Development Sewer Line necessary for the City to begin providing sanitary sewer service to the Development as contemplated hereby ("Commencement Date"), Owner/Developer shall pay a partial impact fee of \$3,000 within ten (10) days of said Commencement Date. At such time as Owner/Developer has 100 units in the Development in place and capable of receiving sanitary sewer services hereunder or two years from said Commencement Date, whichever is earlier, Owner/Developer shall pay a partial impact fee of \$3,000 within ten (10) days of such triggering date. At such time as Owner/Developer has 150 units in the Development in place and capable of receiving sanitary services hereunder or four years from said Commencement Date, whichever is earlier,

Owner/Developer shall pay the balance of the impact fee, \$3,000, within ten (10) days of such triggering date, which payment shall satisfy, in full, the customary impact fee associated with this type of development that is based upon service through the equivalent of a three inch (3") metered water service connection.

Owner/Developer shall also be responsible for the Sewer Connection Fee attributable to a six inch (6") sewer service connection and monthly Customer Service Charges attributable to a two inch (2") metered water service connection outside the City in effect at the time of billing from the Commencement Date until such time as Owner/Developer has 100 units in the Development in place and capable of receiving sanitary sewer services hereunder or two years from said Commencement Date, whichever is earlier. After which triggering date, Owner/Developer shall thereafter be responsible for the monthly Customer Service Charges attributable to a three inch (3") metered water service connection outside the City in effect at the time of billing.

If, at a future date, the sewer service demand by the Development should be increased as a consequence of connection attributable to a larger than three inch (3") metered water service connection, Owner/Developer shall pay the Impact Fee and any other charges associated with or based upon the enlarged service(s).

6. Obligations. Owner/Developer shall obtain an estimate for the total cost to construct the Development Sewer Line and submit said estimate to the City for approval. Upon approval of said estimate by the City, Owner/Developer shall obtain a letter of credit satisfactory to the City in an amount equal to said estimate. Said letter of credit shall expire when the Development Sewer Line has been constructed to the satisfaction of the City, including approval from its Inspecting Engineers, and Owner/Developer has furnished the City with evidence satisfactory to the City that all construction costs have been paid. Should the Owner/Developer fail to undertake and complete its obligations as described in this Agreement, to the City's specifications, then the City shall give the Owner/Developer thirty (30) days written notice to commence and ninety (90) days to complete said required obligation. If the Owner/Developer fails to complete the obligations within the ninety (90) day period, then the City, without further notice to the Owner/Developer or its successors in interest, may, without prejudice to any other rights or remedies it may have, perform any and all of the obligations described in this Agreement and draw down said letter of credit as necessary to reimburse the City for its performance of said obligations.

Should, at any future date, the Owner/Developer or its successors in interest sell or otherwise subdivide the Subject Property, this Agreement shall be subject to renegotiation at the discretion of the City.

7. Enforcement. In the event that enforcement of this Agreement by the City becomes necessary and the City is successful in such enforcement, the Owner/Developer shall be responsible for all costs and expenses, including attorneys' fees, whether or not litigation is necessary and, if necessary, both at trial and on appeal, incurred in enforcing or ensuring compliance with the terms and conditions of this Agreement.

8. Indemnification. Owner/Developer shall indemnify and hold harmless the City from and against all claims, demands, disputes, damages, costs, expenses (to include attorneys' fees whether or not litigation is necessary and if necessary, both at trial and on appeal), incurred by the City as a result, directly or indirectly, of the use or development of the Subject Property including the City's provision of sanitary sewer services as contemplated by this Agreement, by the City or by third parties, except those claims or liabilities caused by or arising from the gross negligence of the City, or its employees or agents.

9. Notices. Where notice is herein required to be given, it shall be by certified mail return receipt requested, hand delivery or by reputable overnight courier service. Any notice given pursuant to provisions hereof shall be deemed given on the date such notice is received if delivered by hand or by reputable overnight courier service and on the second business day after it is mailed if sent by certified mail, return receipt requested. Said notice shall be sent to the following, as applicable:

OWNER/DEVELOPER'S REPRESENTATIVES:

F&R Properties, L.L.C.
Chris W. Furlough, Manager
P.O. Box 818
Washington, N.C. 27889

CITY'S REPRESENTATIVES:

Washington City Manager
P. O. Box 1988
102 East Second Street
Washington, N. C. 27889

Should any party identified above change, it shall be said party's obligation to notify the remaining parties of the change in a fashion as is required for notices herein.

10. Captions. The captions used herein are for convenience only and shall not be relied upon in construing this Agreement.

11. Binding Effect. This Agreement shall run with the land and shall be binding upon and inure to the benefit of the Owner/Developer and its assigns and successors in interest including, without limitation, any individual owners and their assigns and successors in interest of units, parcels, or sites, however the same shall be denominated, in the Development, as well as any homeowners association or such similar entity and their assigns and successors in interest which exists or may be formed as a result of the Development, and the City and its assigns and successors in interest. This Agreement does not, and is not intended to, prevent or impede the City from exercising its legislative authority as the same may affect the Subject Property.

12. Severability. If any part of this Agreement is found invalid or unenforceable in any court, such invalidity or unenforceability shall not affect the other parts of this Agreement, if the rights and obligations of the parties contained herein are not materially prejudiced and if the intentions of the parties can be affected.

13. Construction of Agreement. This Agreement concerns property situated in the State of North Carolina and shall be deemed to be a contract made under the laws of said State and interpreted in accordance with said laws.

14. Amendment and Waiver. This Agreement may not be amended or modified in any way except by instrument in writing executed by all parties hereto. Notwithstanding anything to the contrary herein, Owner/Developer may assign its rights, interests, liabilities and obligations under this Agreement in full with the prior consent of the City, which consent shall not be unreasonably withheld.

15. City Legal Fees. Owner/Developer agrees to pay the cost of recording this document in the Public Records of Pitt County, North Carolina. Owner/Developer also shall be responsible for all of the reasonable fees and expenses of counsel for the City incurred in connection with the negotiation and preparation of this Agreement up to an amount equal to \$5,000. The City estimates said fees and expenses of its counsel will be around \$3,500, but Owner/Developer acknowledges said amount will be a direct product of the expenses incurred and the time required by the City's counsel to complete this Agreement.

16. Authorization. The undersigned representatives of the public bodies and the corporate entities entering this Agreement hereby represent and warrant that they are authorized to enter into this Agreement and that any appropriate or necessary resolution or other authorization allowing such persons to execute this Agreement has been duly passed and/or obtained and that this Agreement shall be the legal, valid and binding obligation of such parties.

The remainder of this page intentionally left blank.

IN WITNESS WHEREOF, Owner/Developer and the City have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

s/Anita Radcliffe
ANITA RADCLIFFE
INTERIM FINANCE OFFICER

OWNER/DEVELOPER
F&R PROPERTIES, L.L.C.

s/Chris W. Furlough
CHRIS W. FURLOUGH

CITY OF WASHINGTON

s/Judy M. Jennette
JUDY JENNETTE
MAYOR

ATTEST:

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

EXHIBIT "A"

Legal Description

LYING AND BEING IN PITT COUNTY, NORTH CAROLINA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING ALL OF TRACTS 1, 1A AND 2 AS SHOWN ON THAT MAP OF SURVEY OF JARVIS ASSOCIATES, PA DATED MARCH 7, 2000 WHICH IS RECORDED IN THE PITT COUNTY REGISTRY IN PLAT CABINET 53, SLIDE 43. THIS BEING THE SAME AS CONVEYED TO WILLIAM HARVEY WILLIAMSON, JR. BY DEED RECORDED IN PITT COUNTY REGISTRY IN BOOK P-39, PAGE 566.

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

ACCEPT – RECOMMENDATION OF THE WASHINGTON PLANNING BOARD AND ADOPT AN ORDINANCE TO RENEW THE TEMPORARY MORATORIUM ON ANY DEVELOPMENT LOCATED IN THE PROPOSED HIGHWAY INTERCHANGE OVERLAY DISTRICTS FOR A PERIOD OF 3 MONTHS (90 DAYS)

Mr. Roberson stated they had met with the legal counsel and advertised and is now in a position to come forward to adopt the ordinance to extend the developmental moratorium. Mr. Steve Moler of the sub-committee was present to answer any questions Council had and explain what they need to do over the next 90 days.

Mr. Moler shared the status of the Overlay District by stating the planning effort goes on and they have finished the zoning that Council approved. They

are now working on perpetual guidelines for the construction of buildings, shops, and houses within the district. Most all of these items have been reviewed and Mayor Pro tem Mercer has met with Mr. John Rodman and Mr. Moler to discuss some of the issues regarding architectural design. He feels they will be able to work an agreement at the end of the period (November 08). They will have a product Council will be proud of.

Mayor Jennette opened the Public Hearing.

There were no comments from the audience.

Mayor Jennette closed the Public Hearing.

Councilman Brooks asked when they were meeting (day and time). Mr. Moler stated the sub-committee meets every 2nd Tuesday at 9:00 a.m.

Councilman Jennings asked if the possibility of having it done inside of 90 days still possible and Mr. Roberson answered "yes".

On motion of Councilman Woolard, seconded by Councilman Brooks, Council unanimously accepted the recommendation of the Washington Planning Board and adopted an Ordinance to renew the temporary moratorium on any development located in the proposed Highway Interchange Overlay Districts for a period of 3 months (90 days).

ORDINANCE

WHEREAS, cities may extend or renew any temporary moratoria on any city development approval process required by law, as provided by NCGS 160A-381(e), and;

WHEREAS, the development moratorium on the U.S. Hwy 17 Bypass Interchange Districts is proposed to be renewed for 3 months (90 days) and is therefore subject to the notice and hearing requirements established under NCGS 160A-364, and;

WHEREAS, any ordinance renewing or extending a development moratorium must expressly include at the time of adoption statements as to why the renewal of the moratorium is necessary as well as what new facts or conditions warrant the renewal, which are as follows:

**Statements of Fact
City of Washington Moratorium
US Hwy 17 Bypass Interchange Districts/ Development Controls**

1. Statement of the problems or conditions necessitating the renewal of the moratorium.
 - a. As of June 26, 2006, the North Carolina Division of Highways was in the process of acquiring right-of-way for the construction of the US Hwy 17 City of Washington Bypass (Transportation Improvement Project R-2510B) from US 17 south of SR 1149 (Price Road) and US 17 to north of SR 1509 (Springs Road). The construction project will include two (2) interchange areas within the City of Washington's extra-territorial jurisdiction.
 - b. Highway interchanges and the areas that surround them often serve as a catalyst for development. Since the interchange areas are key gateways to the community, design considerations in the area are critically important. The area surrounding the interchange should be subject to an overlay district that creates site design,

architectural guidelines, signage, parking, landscaping, and lighting standards more stringent than in other areas of the community.

- c. Growth and development of land uses along the US Hwy 17 Bypass interchange right-of-ways including, but not limited to, residential, commercial, industrial, institutional, and public and private, is expected. The Washington City Council finds that interchange areas have specific development pressures and unique conditions that are not found elsewhere in the City. Existing land use control ordinances are not considered adequate to respond to increased development adjacent to the US 17 Bypass Interchange Districts.
 - d. In addition to establishing Interchange Overlay Districts, the Washington City Council finds that more specific and targeted development guidelines are necessary to accomplish pressing land use issues.
 - e. Since the adoption of the original development moratorium the North Carolina Department of Transportation has changed the configuration of several Hwy 17 Bypass access roads necessitating this renewal in order to allow the City of Washington time to develop additional guidelines in order to incorporate and address the changes.
 - f. There is no alternative to the renewal of the temporary moratorium on development within the US Hwy 17 Bypass Interchange Districts that adequately afford the City of Washington an opportunity to develop and adopt adequate land use regulatory controls. Therefore, no alternatives were considered.
2. Statement of the development approvals subject to this moratorium.
- a. Except as specifically provided for hereinafter, this moratorium will apply to any developmental approvals for all parcels of property, as shown on Beaufort County tax records effective as of November 19, 2007 which are within the City of Washington planning jurisdiction and are located within the proposed US 17 Bypass Interchange Districts as shown on Appendix A and B of the document dated November 20, 2007, as prepared by the City of Washington's Department of Planning and Development. This moratorium shall not apply to any project for which a valid building permit issued pursuant to NCGS 160A-417 is outstanding; to any project for which a conditional use permit application or special use permit application has been accepted by the City of Washington; to development approved pursuant to NCGS 160A-385.1; to development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit approved by the City of Washington; or to preliminary or final subdivision plats that have been accepted for review by the City of Washington prior to Washington City Council's call for a public hearing to renew this moratorium. Any preliminary subdivision plat accepted for review by the City of Washington prior to the call by the Washington City Council for the public hearing on this renewal of the moratorium, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to this moratorium.
 - b. The imposition of a moratorium will allow the City to prepare and adopt the land use related controls necessary to regulate such development.

3. Date and time for moratorium termination

This renewal of the moratorium shall become effective upon adoption (“the Effective Date of this Moratorium”) and shall expire at 11:59 P.M. EST on November 10, 2008. The termination date and time are sufficient to allow the City of Washington to complete the Highway Interchange Overlay Districts and District guidelines. Any land use controls imposed as a result of the construction of the US Hwy 17 Bypass interchanges must be coordinated with these Districts.

4. Schedule of Actions

The following dates provide for the schedule of actions which were and are to be followed by the City of Washington prior to and during the renewal of the moratorium to address the problems/conditions leading to imposition of this moratorium renewal:

- a. October 2007 to November 2007 – City of Washington Planning Board considered proposal for land use control regulatory changes.
- b. November 2007 – City of Washington Planning Board recommended to City Council the imposition of a temporary moratorium on development within the US Hwy 17 Bypass Interchange Districts.
- c. December 2007 – Washington City Council considered a proposal for a temporary moratorium on development within the US Hwy 17 Bypass Interchange Districts to study land use control regulatory changes. The City Council called for a public hearing on the imposition of a moratorium
- d. January 2008 – Washington City Council advertised and conducted a public hearing for a temporary moratorium on development within the US Hwy 17 Bypass Interchange districts.
- e. January 2008 to May 2008 – City of Washington Planning Board researched and studied the creation and implementation of interchange overlay districts. The process included a public hearing involving the property owners and assigns of the affected parcels, and other interested members of the public.
- f. June 2008 to November 2008 – Planning Board voted to recommend to the City Council to renew the temporary moratorium an additional 90 days in order to complete the necessary requirements for the approval of the Interchange Overlay Districts and the development guidelines for the districts.

Now Therefore Be It Ordained:

The City of Washington finds it necessary to renew the moratorium in order to provide for orderly growth and development with the anticipation of the new US Hwy 17 By-Pass to be located on the western side of the municipality by coordinating the streets, highways, access roads and interchanges with other public facilities to lessen traffic congestion and to allow for the distribution of population in a manner that will avoid congestion and overcrowding and create conditions essential to the public health, safety and the general welfare of all our citizens by developing Interchange Overlay Districts with design guidelines to be consistent with the Comprehensive Plan for current and future development.

Adopted this 11th day of August, 2008

s/Judy Jennette
JUDY JENNETTE
MAYOR

ATTEST:

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

COMMENTS FROM THE PUBLIC

Mr. Lucky Warren, Owner of Lucky Cab Company, appeared to ask Council for a raise on taxi cab fares. Mayor Jennette asked Council if they would like to add this discussion with the fee and charges in another section of the agenda. Councilman Jennings said he would but would like to know if we had any information now on the current rate. Mr. Warren stated it was \$5.00 in town from one stop to another.

Mayor Jennette said since this is complicated, she suggested gathering the information for the September meeting and discussing at that time. Councilman Jennings asked if another month would be ok and Mr. Warren said he didn't have a choice. Councilman Brooks stated he spoke with Mr. Warren and asked him to come before Council to get some help. Councilman Brooks said with gas and everything else going up, they need some help. Mr. Smith stated we could do a temporary measure and Councilman Jennings agreed.

On motion of Councilman Davis, seconded by Councilman Brooks, Council unanimously agreed to add \$1.00 per ride as a temporary surcharge in each zone until the City has time to study and make a final decision.

Mr. Reid Brodie stated it appears we are down to one signature for the grant he requested the City's endorsement. As to date, they have hired five (5) new people. The subcontractors are ready to start and the first boat has been sold. Mr. Brodie invited Council to come down and take a look at the boats. Council thanked Mr. Brodie for the success story.

Mr. Gary Tomasulo, Downtown Merchant, had several issues he would like to address tonight.

- Why do we hold monthly meetings at 4:30 when the average citizen works until 5:00 or 6:00 pm?
- Meeting to be televised
- List of addresses of downtown stores that are empty
- Plan to revitalize downtown – maybe no taxes in the central business district
- Electric fees, sewer fees, water fees at a reduced rate
- Everyone share the cost and not businesses alone
- Leaders and the City Manager

AUTHORIZE – MAYOR TO SIGN THE CONTRACT WITH COASTAL PLANNING & DESIGN, PLLC - CITY OF WASHINGTON MASTER PLAN DESIGN FOR HAVENS GARDEN (\$10,000)

Mr. Phil Mobley, Parks and Recreation Director, stated he had alluded to this item when they were talking about Haven's Garden. There was \$10,500 in the budget for Coastal Planning and Design and he talked them down to \$10,000. Later he found out we would need to have a survey done which is roughly \$2,500. Mr. Mobley feels Haven's Garden is one of our most beautiful

areas you can go to and feels we have let it go. "We do need a Master Plan and we have a window of opportunity to get Haven's Garden some sort of structure."

Mayor Jennette shared she likes Susan Suggs a lot and everything she has ever done with the City was very good. Before she was an employee of the State and is now on her own and this contract is not real specific. "Does Ms. Suggs know what the City expects the end result to be and unlike the Master Plan we did for the Recreation Department, are we going to be happy with the end result and have some recourse if we are not happy?" Mr. Mobley stated he feels we need to have her report to either Council or the Recreation Advisory Committee on steps as to where we are. We can change the direction that person is going in at that time. We can have benchmarks along the way as to what we are looking for. Ms. Suggs may be able to meet with Council at the Committee of the Whole and at that time take direction.

Councilman Jennings felt the Mayor's broad statement meant the City has our State Representative that is head of the NC Wildlife Committee rebuilding the ramp and the parking area around it. The City has DOT repurchasing right-of-way along the path of the new bridge. Councilman Jennings envisions getting the parking lot out of the middle of the park and move it to the perimeter so that the heart of the park can be returned to the public. Councilman Jennings sees a lot of complicated features to this redesign with a lot of partners that may or may not know what our expectations for them are. Mr. Mobley stated, "Getting out of Haven's Garden right now is a very dangerous crosswalk and they have some innovative things they are looking at in turns of parking area." Councilman Jennings said "yes and we also talked about the possibility of having cross paths underneath the bridge so that you can get from one side of 32 to the other without having to cross traffic." Mr. Mobley stated the real issue is how low we are there. Councilman Jennings stated all these things are happening next May and we need these things right now and involve all the agencies (CAMA, DOT, etc.). Mayor Jennette said to make sure Ms. Suggs has public input on this.

Councilman Davis added that Ms. Suggs was the person who helped with the Master Plan for Jack's Creek Greenway and is familiar with the area and what we are attempting to do. Also, she did the plans for the Urban Tree Grant. Councilman Davis disagrees with the Mayor characterization that the Master Plan was not what we wanted. It was exactly what we asked the consultant to prepare. It was just during the process some of Council changed the plan and it was hard for the consultant to figure that out. Mayor Jennette stated they would agree to disagree.

On motion of Councilman Woolard, seconded by Councilman Jennings, Council unanimously authorized the mayor to sign the contract with Coastal Planning & Design, PLLC, in doing the City of Washington Master Plan Design for Havens Gardens in the amount of \$10,000. Mayor Pro tem Mercer amended the motion to state not to exceed \$10,000. Councilman Jennings amended the motion, because of timing, to see a meaningful product within 60 days – by the Committee of the Whole meeting in October.

On motion of Councilman Davis, seconded by Councilman Jennings, Council unanimously approved the survey with the understanding we will have to provide the funds for that.

Councilman Jennings said if this comes to Council after the first of the year, we have wasted \$10,000 because we will not be able to implement anything at that point.

DISCUSS – RESPONSE TO MAYOR PRO TEM MERCER’S PROPOSED FEES

Jim Smith, City Manager, suggested going down the line on the proposed fees. Mr. Smith stated he received input from all the Departments with some of their suggestions or alternative being considered. If the suggestions are acceptable to Council, then we can check them off as we go along and have them incorporated into the budget amendment.

Mayor Pro tem Mercer asked to go back and address a broader question than looking at these individually now. Mayor Pro tem Mercer stated in looking at the list you have accepted by part of them and have already billed people at the rate that we are getting ready to approve. If we are already billing people at this rate and if we don't want to adopt the rate, will we go back and refund the money. Mayor Jennette asked Mr. Smith if we could answer that question. Mr. Smith stated they took Mayor Pro tem Mercers list and some of those suggestions were adopted by Council and put in the budget. The only ones that were already increased were the privilege license fees that were included in the budget. Mayor Jennette asked Mayor Pro tem Mercer what did he want to do with the list and he said to reject them all. "I suggested them and now let's reject them." Mayor Pro tem Mercer stated we have done the budget for this year and put money basically in the budget ordinance that was adopted, let's just wait until next year and have them adopted. Mayor Pro tem Mercer asked for Council's indulgence and stated as he goes down the list he sees that some of the things he suggested was adopted and others were not adopted and he doesn't understand how we got to pick and choose which one to adopt and not adopt. Mr. Smith stated at the back of the budget was a fee manual of all the fees that the City charges with recommended increases and no change in other cases. Those that were in the budget and included as revenues in the budget were adopted at budget time because they were a part of the budget. Mayor Pro tem Mercer made some good recommendations for the rest of the fees. For instance, one area he strongly agrees with was the waterfront. Councilman Jennings recalled that the fee discussion began again not as a revenue generator but as a new awareness for the Council that many of these fees had not been revisited in decades and some of them were really ridiculous in there amount. The Manager replied "the subdivision fees were thought to be a per lot fee and it was a per application fee." The effort here is more around equity, consistency, and we haven't gotten to the point where we are encouraging a certain activity or discouraging an activity. We need a more professional effort around the larger project of fee assessment. Mayor Pro tem Mercer stated when he presented this list he did it in the manner Councilman Jennings is talking about. "I went down the list and pulled a number out of the air hoping to generate discussions." "The basic extent of the discussion was they all looked good." Councilman Jennings said along those lines let's revisit fees at next year's budget session and have the Department Heads make it a part of their presentation; a total review and assessment of the fees in his department. The Council will be able to discuss at that time what action they would like to take around the fees. Councilman Woolard pointed out the Aquatic Center was something discussed in the very beginning and that we really need to look at those fees. Councilman Jennings stated that was a good point, if we have done the work already then he would not mind going forward. Councilman Woolard stated Council had also talked about the Library.

Following more discussion, on motion of Councilman Jennings, seconded by Councilman Woolard, in consideration of the proposed fee schedule that we adopt the recommended fees from staff regarding the Aquatic Center including swimming lessons, the dock facility, and the previously billed items at Day Care Center, Taxi Cab permit, Pawnbrokers, Sale of Certain Oils, facility use fee and the facility rent at the Peterson's Building. All other fees will be discussed at budget time with consultation of the Department Head and be reviewed for the following year's budget.

**AUTHORIZE – CITY MANAGER TO IMPLEMENT THE CLASSIFICATION AND
PAY GRADE CHANGES FOR THE PARKS AND RECREATION
DEPARTMENT**

Jim Smith, City Manager, stated this had been discussed, but we didn't have any specific proposal at budget time for reorganization out at the pool. The management of the Aquatics and Fitness Center was re-organized following the resignation of the former Aquatics and Fitness Supervisor in May, 2008. Three positions in the Parks & Recreation Department were reviewed by a contract agency, The Maps Group, to determine proper classifications and pay rates based on the change in job duties. The Maps Group also recommended the Recreation Program Supervisor for the Senior Center be upgraded due to an additional new full-time staff position at the Senior Center.

Mayor Pro tem Mercer asked how much this will cost. Mr. Mobley stated the two positions at the pool did go down in pay grades. Mr. Mobley stated last year's salary was \$69,221 and this year with the two new positions that have been reclassified, we are down to \$66,770. Mr. Mobley said with the increase in fees out there, you are looking at a net gain of \$18,000 at the Aquatic Center.

Mayor Pro tem Mercer said he does not have a problem with reclassifying these positions, the difficulty he has is administering the pay plan. In his personal opinion we made a huge error in the way we handled the adjustment of salaries for the positions we adopted for The Map changes last month.

On motion of Mayor Pro tem Mercer, he moved for Council to adopt the recommendation for the adjustment of the pay grade with no pay increases until we have resolved the questions about the personnel policy and then the raises will be retroactive to August 1, 2008. –Motion failed.

Councilman Brooks asked for clarification on the personnel policy. Mr. Mobley stated we have had people filling these jobs since July 1. Mayor Pro tem Mercer said the book says effective August 11, 2008 and Councilman Davis said he was giving them another two weeks. Mr. Mobley said to do what you feel like you have to do.

On motion of Mayor Pro tem Mercer, seconded by Councilman Davis, he moved that Council adopt the recommendation for the adjustment of the pay grade with no pay increases until we have resolved the questions about the personnel policy and then the raises will be retroactive to August 1, 2008. – Motion died.

Councilman Brooks asked for someone to explain the personnel policy matter to him in which Mayor Pro tem Mercer explained and read from the personnel policy on page 10. Mayor Pro tem Mercer stated what happened this past month was, we had several individuals that had multiple pay grades and instead of getting 5% or to the minimum of the pay grade, they were given 5% for the first pay grade and 2.5% for each additional pay grade. No where in the policy does he see 2.5%. Mayor Pro tem Mercer stated he has suggested changes to the personnel policy that he feels clarify the language and Mayor Jennette stated this was a policy issue. Councilman Brooks consulted with Ms. Hodges on how the pay raise of the 2.5% would be a problem or not a problem. Ms. Hodges explained this was the methodology they used that was a fair and consistent way to reward people for what they felt they were doing in their job. Councilman Brooks stated he knows there is another problem there, but this is not what is before Council now. Ms. Hodges stated they projected what they thought The Maps Group would recommend and it was included in the budget. Councilman Brooks said in other words this has already been included in the budget, Ms. Hodges responded "correct". Mayor Pro tem Mercer asked Ms. Hodges if she was saying the recommended pay raises were already in the

proposed budget and Ms. Hodges stated they were trying to anticipate what the cost was going to be and incorporated some money into the budget. Mayor Pro tem said that brought up another question that Ms. Hodges will not have an answer to and that is why the pay raise in the Finance Director office from the proposed budget to the approved budget went up almost \$8,000, which is almost the exact amount of the raises promoted last month. Mr. Smith stated they have struggled with it, but this was reviewed with the City Attorney, the Personnel Attorney and there is no easy answer given the current language in the policy. The present language anticipated only reclassifications that took in one pay grade and it worked fine under those circumstances. Over the past years that go back before his time or Ms. Hodges time, there were multiple steps which were not anticipated by the language. When The Maps Group study was done for all employees, they recommended 5% plus 2%. Until the language change, we have been following past practice. Mayor Pro tem Mercer stated the language to him is very straight forward. Mayor Pro tem Mercer suggested studying the issue and not making the same mistake we did last month and his motion is on the table.

Councilman Jennings stated as a cross current to this conversation, he thinks we all see favorably this reorganization and the net saving it brings to the Department and this is exactly what we want to encourage. Ms. Hodges asked Mayor Pro tem Mercer if his concern is that by giving more than 5% we violated the policy. Mayor Pro tem Mercer said his concern was when you took an individual that was at a grade 15 and you gave them a 20% raise, 5% for the first grade and 2.5% for the next seven grades a 20% raise and about \$4,000 more than the minimum for the job range. If she had been promoted to the minimum of the job range she would still receive a substantial increase but not as much as 20% and Ms. Hodges said she didn't think it was much over the 20%. Mayor Pro tem Mercer stated his concern is the 2.5% and Ms. Hodges said it was consistent with other job studies that were implemented. Councilman Jennings said he thinks the Manager hit the nail on the head. The policy was not written for multiple job class skip. Councilman Jennings stated what he is proposing at this moment is to amend Mayor Pro tem Mercer's motion as follows:

Councilman Jennings asked to amend the motion to include and encourage this particular example as a pass through and to suspend any other increases until the policy is rewritten in an acceptable fashion. Councilman Jennings said we got to have a competitive work force, make allowance that jobs change over time and need to be reclassified, and encourage internal movement to have advancement in our work force. We don't want to get caught up in situations where we can't move someone internally and we have to go out and get somebody with less relevant experience and bring them in at a higher rate.

Mayor Pro tem Mercer asked to vote first for the motion on the table.

On motion of Mayor Pro tem Mercer, seconded by Councilman Davis, moved Council adopt the recommendation for the adjustment of the pay grade with no pay increases until we have resolved the questions about the personnel policy and then the raises will be retroactive to August 1, 2008. – Motion failed.

AYES:

Mayor Pro tem Mercer
Councilman Davis

NAYES:

Councilman Jennings
Councilman Brooks
Councilman Woolard

Motion on the table at this point of Mayor Pro tem Mercer, seconded by Councilman Jennings, Council unanimously adopted The Maps recommendation as presented and make the appropriate pay raises in the same manner that we did for the judgment in the Finance Office; that no further Maps reclassification be brought to this Council until the personnel policy is revised.

**MOVED TO CLOSED SESSION UNDER G.S. 143-318(a)(5) AUTHORIZE –
CITY MANAGER TO NEGOTIATE WITH BEAUFORT COUNTY REGARDING
HARVEY STREET PROPERTY**

APPROVE – LETTER EXTENDING IMPRESSIONS LEASE AGREEMENT

Mr. Smith stated this is an extension term of the lease with Impressions Marketing Group. Mayor Jennette stated this has been discussed and she hopes everyone has had a chance to look at it.

On motion of Councilman Davis, seconded by Councilman Woolard, Council unanimously approved the proposed lease extension for Impressions Marketing Group and Authorized the City Manager to execute the proposed letter agreement.

December 17, 2007

Mr. Kevin Goodale, Chief Financial Officer
Impressions Marketing Group, Inc.
7951 Angleton Court
Lorton, VA 22079

Re: 234 Springs Road, Washington, NC – manufacturing facility

Dear Mr. Goodale:

In accordance with our recent conversation, this letter is to confirm the extension of Impressions Marketing Group's above tenancy. More specifically, you may continue to occupy said facility, other than the call center currently occupied by Hamilton Beach, which they will continue to occupy until December 31, 2008, and thereafter, including the call center, until such time as the Committee of 100 1) decides not to enter an agreement to purchase the underlying property or 2) decides to enter an agreement to purchase the underlying property and said purchase is consummated.

The rental for each month will continue to be \$16,666.00; however, the same is subject to future negotiation after June 30, 2009 depending upon how long the above referenced sale continues to be in limbo. Your occupancy will be subject to an access agreement between the City and Hamilton Beach as well as Hamilton Beach's above referenced lease. Your occupancy continues to be "as is" with no obligation on behalf of the City to perform any maintenance whatsoever during this term. It is my hope and intention that this further extension would provide time for Impressions and the Beaufort County Committee of 100 to conclude their negotiations and arrangements for a long-term occupancy agreement and improvements to the facility. Please be assured of the City's continuing willingness to work with Impressions to facilitate your occupancy of the Springs Road building while you conclude your long-term arrangements with the Beaufort County Committee of 100.

Please indicate your company's agreement to the terms hereof by your execution in the blank provided below.

Yours very truly,

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

ACCEPTED AND AGREED TO:

IMPRESSIONS MARKETING GROUP, INC.

s/Kevin Goodale
CHIEF FINANCIAL OFFICER

**ACCEPT – GRANT FROM THE RURAL CENTER IN THE AMOUNT OF
\$200,000 AND AUTHORIZED THE MAYOR TO ENTER INTO THE
LOAN/PERFORMANCE AGREEMENT WITH PACIFIC SEACRAFT AS PART
OF A SUB-RECIPIENT AGREEMENT**

Mr. Bobby Roberson, Planning and Community Development Director, summarized the information that was in the Council action. The performance measure will have to be taken by the actual company which means that they will have to submit a monthly report. The Performance Agreement calls for the creation of 25 jobs within twenty four months beginning on July 1, 2008 and establishes a repayment schedule as set forth under Section 6 of the agreement, if the conditions are not met by the applicant Pacific Seacraft. If Mr. Brodie doesn't create the 25 jobs then he will have to pay back to the City via The Rural Center at \$8,000 per job. At the end of 24 months, then the City will be responsible (the same thought process we had with Northgate). The government will ask us to repay the money and subsequently, if we did not do that there will be a 10% fine of interest payment. Mr. Roberson called Council's attention to the last page (page 110). The Promissory Note says in effect Pacific Seacraft will pay back the \$200,000 and he will create the number of jobs that are anticipated in the grant, or in essence he will have to pay back the City \$8,000 for the jobs not created. If Mr. Brodie does not have the money at the end, the City will be held accountable for the 25 jobs. Another component of the grant is the reporting schedule contained in exhibit C which outlines what the report should contain when presented to City Council and The Rural Center.

Mr. Brodie stated he has already created five (5) jobs.

On motion of Councilman Jennings, seconded by Councilman Woolard, Council unanimously accepted the grant from The Rural Center in the amount of \$200,000 and authorized the Mayor to enter into the LOAN/PERFORMANCE agreement with Pacific Seacraft as part of a sub-recipient agreement.

Franz Holscher, City Attorney, stated he read this grant agreement three times because he didn't see a specific language stating we have a duty to recapture any amount of contributable jobs they are unable to fill. If that is true, the next step is if we are unable to recapture any of that money do we have an obligation to pay the State that money which is the relationship we have with Northgate and several other situations. Mr. Holscher said he spoke with someone today who said the City is not ultimately responsible for an amount that may not be realized in a recapture situation. Mr. Holscher stated he does not have this in writing but he does not see it in the grant or performance agreement. He views the match as a cash match of the \$200,000 - 3% will come from the City and 97% will come from private and public sources. Mr. Holscher understands from the Manager that Pacific Seacraft understands this. The Rural Center is not going to give the City a dollar until the \$200,000 is paid. Mr. Holscher pointed out the LOAN/PERFORMANCE Agreement needed to be revised. Mayor Jennette asked if we could get the statement in writing from the gentlemen Mr. Holscher had spoken with. Mr. Holscher said he didn't push him for that but he noted and dated the conversation. Mr. Holscher stated the representative from The Rural Center recognized that Pacific Seacraft was a tenant and if this didn't come to fruition we will have a building that has been renovated.

**APPROVE – ADMINISTRATIVE AGREEMENT WITH MID-EAST COMMISSION
FOR ADMINISTRATIVE SERVICES FOR PENNSYLVANIA AND HAVEN
SEWER WORK**

Mr. Allen Lewis, Public Works Director, stated that Council has before them an Administrative Agreement between the City and Mid-East Commission to do the admin work on Pennsylvania and Haven sewer line replacement grant of Carver Machine work. Part of the project cost for the Pennsylvania and Haven sewer project included \$40,000 for grant administration, all of which is grant eligible.

Mayor Pro tem Mercer asked Mr. Lewis if the CD he received had anything to do with this project and Mr. Lewis said "no". The CD is the information you requested on the \$10,000 that was paid to Rivers and Associates. The information has already been submitted because the deadline was the 28th and we made the changes that were mentioned to him. Mayor Pro tem stated this was 264 pages and he had questions on seven pages but he would come back to it a later time. Mr. Lewis asked Mayor Pro tem Mercer to email him or give him a call about those seven pages and he will be glad to address those questions. Mayor Pro tem Mercer said he had those tonight and would pass them along to Mr. Lewis.

Mr. Franz Holscher suggested if Council adopts the Administrative Agreement tonight they need to have the flexibility of having some revision. He questioned paragraph #2 and want to be able to revise the liquidated damages clause in #11. Mayor Jennette asked Mr. Lewis would that be ok if those changes be submitted to him and he gets those to the Mid-East Commission. Mr. Lewis stated he will need to have this to The Rural Center by the 15th of August.

On motion of Councilman Woolard, seconded by Councilman Jennings, Council unanimously approved the attached Administrative Agreement and authorized the Mayor to execute the attached on behalf of the City with the amendments of the Attorney.

**ADMINISTRATIVE AGREEMENT
BETWEEN THE
CITY OF WASHINGTON AND
MID-EAST COMMISSION
FOR THE PENN/HAVENS
COMMUNITY DEVELOPMENT BLOCK GRANT-
INFRASTRUCTURE PROJECT**

This Agreement, entered into on this the 11th day of August 2008, by and between the City of Washington (hereinafter called the "Local Government"), and Mid-East Commission (hereinafter called the "Commission") and WITNESSETH THAT:

WHEREAS, the Commission is empowered to provide planning assistance by the N.C. General Statutes and by resolution passed by the Planning Agency on April 27, 1972. Technical assistance shall consist of the provision of services as described in Attachment A to this Agreement; and

WHEREAS, the Local Government has requested the Commission to provide such technical planning assistance to the Local Government; and

WHEREAS, the Commission desires to cooperate with the Local Government in every way possible to the end that the proposed activities are carried out in an efficient and professional manner.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. **Personnel.** That during the period of this Contract, the Commission will furnish the necessary trained personnel to the Local Government.
2. **Travel/Printing.** The Local Government will pay for expenses related to conferences, conventions, seminars, Government requests or approves travel related to the Local Government's planning program, or if it is beneficial to both parties, the costs will be shared on an agreed-upon ratio.

The Local Government will also pay for expenses related to printing of report(s), mailings to advisory boards, and other costs not related to normal travel and staffing costs associated with personnel furnished by the Commission.

3. **Compensation.** The Local Government agrees to pay the Commission an amount not to exceed \$40,000 (forty thousand dollars) to administer the grant as outlined in the Scope of Services (Attachment "A") attached to this Contract. The source of these funds is \$40,000 from the CDBG grant. These funds will be billed on a quarterly basis beginning on or about September 1, 2008 until the termination of the grant. If the limit of \$40,000 is reached prior to completion of the project, the Commission shall continue to render services to the Local Government until such services and the project are complete, at no additional cost to the Local Government.

In addition, the Local Government will pay the Commission a flat fee of \$2,000 (two thousand dollars), for planning and grant development, this amount to be paid in one lump sum on or about September 1, 2008.

4. **Termination/Modifications.** The Local Government may terminate this Contract by giving the Commission a thirty-day written notice. Furthermore, if there is a need to amend the proposal outlined in Attachment A, either party may do so with the written approval of the other.
5. **Time of Performance.** The Commission shall ensure that all services required herein shall be completed and all required reports, maps, and documents submitted during the period beginning on or about August 11, 2008 and ending on or about August 30, 2010.
6. **Conflict of Interest, Interest of Members, Officers, or Employees of the Commission, Members of the Local Government, or Other Public Officials.** No member, officer, or employee of the Commission or its agents; no member of the governing body of the locality in which the program is situated; and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any financial interest, either direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with program assisted under this Agreement. Immediate family members, officers, employees, and officials are similarly barred from having any financial interest in the program. The Commission shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this section.
7. **Nondiscrimination Clause.** No person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to

discrimination with any program or activity funded in whole or in part with funds available under the Housing and Community Development Act of 1974, Section 109.

8. **Age Discrimination Act of 1975, as amended.** No qualified person shall, on the basis of age, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance.
9. **Section 504, Rehabilitation Act of 1973, as amended.** No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance.
10. **Access to Records and Record Retainage.** All official project records and documents must be maintained during the operation of this project and for a period of three years following close-out, in compliance with 15 NCAC 13L Rule .0911, Recordkeeping. The NC Department of Commerce, US Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of the Commission which are pertinent to the execution of this Agreement, for the purpose of making audits, examinations, excerpts, and transcriptions in compliance with the above Rule, Recordkeeping.
11. **Liquidated Damages Clause.** If the project fails to be carried out within the time frame outlined in the administrative proposal due to activities attributed to the Planning Agency, the Local Government may assess the Commission a sum in the amount of \$100 per month for any subsequent months until completion.
12. **Termination of Agreement for Cause.** If, through any cause, the Commission shall fail to fulfill, in a timely and proper manner, its obligations under this Agreement, or violate any of the covenants, conditions, or stipulations of this Agreement, the Local Government shall thereupon have the right to terminate this Agreement by giving written notice of such termination and specifying the effective date thereof. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared under this Agreement shall, at the option of the Local Government, become its property, and the Commission shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials in direct proportion to the extent of services actually completed.
13. **Grantee Assurances.** In the performance of this Agreement, the Commission shall comply with all applicable federal rules and procedures outlined on the attached pages as E.O. 11246 Clause and the Section 3 Clause (Attachments B and C).

IN WITNESS WHEREOF, the Commission and the Local Government have executed this Agreement as of the date first above written.

s/Judy Jennette
JUDY JENNETTE
MAYOR

ATTEST:

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

s/Tim Ware
TIM WARE
EXECUTIVE DIRECTOR

Pre-audit Statement

This instrument has been pre-audited in the manner prescribed by the Local Government Budget and Fiscal Control Act.

s/Anita Radcliffe
ANITA RADCLIFFE
INTERIM FINANCE DIRECTOR

ATTACHMENT A
SCOPE OF SERVICES
CITY OF WASHINGTON
GRANT MANAGEMENT ASSISTANCE
PENN/ HAVENS CDBG-ED PROJECT
WORK PROGRAM/BUDGET
AUGUST 11, 2008 – AUGUST 30, 2010

The following work program and budget are presented as descriptive of the work and dollar amounts called for in the Agreement concerning planning activities by the Mid-East Commission for the City of Washington.

Mid-East Commission staff will be responsible for administering this project.

Work Program

Professional services necessary to administer all aspects of the project will include but not be limited to the following:

- Administration and coordination of all activities involved in the Project.
- Set-up and maintenance of all economic development project files and records in accordance with program and audit guidelines.
- Preparation and submission of reimbursement requests.
- Develop forms to meet State CDBG requirements to document CDBG activities from start to finish.
- Coordination of the economic development program with federal, state and local officials.
- All items related to Davis Bacon requirements.
- Coordination of all fiscal and legal activities relating to the economic development program.
- Preparation and submission of all financial reports.
- Conducting project close-out and representing the City of Washington at audits and monitoring visits. This does not assume, however, responsibility for payment of fees levied by auditors or accountants.

The City of Washington will be responsible for the following:

- Direct payment of CDBG funds for legal and audit services and general administrative costs.

- All administrative costs not specifically identified as MEC responsibilities.

Time of Performance

The Mid-East Commission will complete all activities involved in administration of this project in a 24-month period beginning on or about August 11, 2008 and ending on or about August 30, 2010.

Budget

The Mid-East Commission will provide administrative services for an amount not to exceed \$40,000. These funds will be billed on a quarterly basis beginning on or about September 1, 2008 until the termination of the grant.

In addition, the City of Washington will pay the Mid-East Commission a flat fee of \$2,000 for services related to planning and grant development.

Assurances

Assurances are attached as a part of the Agreement.

Amendments

This scope of services and budget may be amended as desired by mutual consent of the Local Government and Mid-East Commission.

ATTACHMENT B - ASSURANCES OF COMPLIANCE

Executive Order 11246

During the performance of this Contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, or national origin. Such action shall include, but not be limited to the following: recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, or national origin.
3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, notice advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

5. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies involved as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

ATTACHMENT C

Section 3 Clause

"Section 3" Compliance in the Provision of Training, Employment, and Business Opportunities.

- a. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
- b. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.
- c. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous

places available to employees and applicants for employment and training.

- d. The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The contractor will not subcontract with any subcontractor where it has notice of knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- e. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors or assigns to those sanctions specified by the grant or loan agreement of contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

LOBBYING CLAUSE

Required by Section 1352, Title 31, US Code

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, US Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

APPROVE – RESOLUTION REQUESTING NCDOT TO PERFORM A TRAFFIC STUDY AT THE INTERSECTION OF FIFTEENTH AND WASHINGTON STREETS WITHIN THE CITY OF WASHINGTON AND TO ADJUST THE

TIMING OF THE TRAFFIC SIGNAL

Mayor Pro tem suggested one change to be included is the last section of **NOW, THEREFORE, BE IT RESOLVED**. He would like to include a statement, "and if appropriate adjust the signal timing." Also, Mayor Jennette suggested including after Mid Town Crossing Shopping Center or create a left turn lane at the intersection of Fifteenth and Washington Streets.

On motion of Councilman Woolard, seconded by Councilman Brooks, Council unanimously approved the resolution requesting NCDOT perform a traffic study at the intersection of Fifteenth and Washington Streets within the City of Washington and if appropriate adjust the timing of the traffic signal or create a left turn lane.

**A RESOLUTION REQUESTING NCDOT TO PERFORM A TRAFFIC STUDY
AT THE INTERSECTION OF FIFTEENTH STREET AND WASHINGTON
STREETS WITHIN THE CITY OF WASHINGTON AND TO ADJUST THE
TIMING OF THE TRAFFIC SIGNAL**

WHEREAS, the US Department of Transportation Federal Highway Administration publishes its manual on Uniform Traffic Control Devices (MUTCD); and

WHEREAS, this manual provides guidance for traffic control signals; and

WHEREAS, the MUTCD provides guidance for the signals which control entry and discharge into high occupancy vehicles facilities; and

WHEREAS, such guidance includes standards for total stop time delays and vehicle volumes; and

WHEREAS, the MUTCD provides guidance for signal controlled intersections based on crash experience; and

WHEREAS, the MUTCD warrant recognizes five or more reported crashes in a twelve month period involving personal injury or significant property damage as a substantial concern; and

WHEREAS, there have been twelve (12) crashes at the intersection of Fifteenth Street and Washington Street including five (5) personal injuries involving left turns within the past twelve months; and

WHEREAS, within the past twelve months the Mid Town Crossing Shopping Center served by the referenced traffic signal has been re-occupied by several new businesses resulting in increase traffic volume.

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Washington hereby requests that the North Carolina Department of Transportation perform a traffic study at the intersection of Fifteenth Street and Washington Street within the City of Washington and adjust the signal timing if appropriate with particular attention to the entering and exiting movements across traffic at Mid Town Crossing Shopping Center or create a left turn lane at the intersection of Fifteenth and Washington Streets.

Adopted this 11th day of August, 2008.

s/Judy Jennette
JUDY JENNETTE
MAYOR

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

CLOSED SESSION – UNDER G. S. 143-318.11(a)(3) ATTORNEY CLIENT PRIVILEGE, G.S. 143-318.11(a)(6) PERSONNEL, AND G.S. 143-318.11(a)(5) ACQUISITION OF REAL PROPERTY

On motion of Councilman Woolard, seconded by Councilman Brooks, Council unanimously agreed to go into closed session under G.S. 143-318.11(a)(3) Attorney/Client, (a)(6) Personnel, and (a)(5) Acquisition of Real Property.

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

ANY OTHER BUSINESS FROM THE MAYOR OR OTHER MEMBERS OF COUNCIL

Request from Councilman Jennings to switch meetings dates around for September – Committee of the Whole meeting September 8, 2008 and Regular City Council meeting September 22, 2008. Councilman Jennings informed Council he would not be able to attend the Committee of the Whole meeting. Council agreed to switch the meetings around for the month of September.

On motion of Councilman Davis, seconded by Councilman Woolard, Council unanimously voted to switch the meeting dates of September the 8th and the 22nd.

Mayor Jennette reminded everyone that the Mayor's Association meeting is on August 21, 2008, 6:00 pm at Cliff's Seafood. The lady doing the Historic Inventory will be the guest speaker.

Please turn in the evaluation for the City Manager. Mayor Jennette requested Council get the responses to her before the Committee of the Whole meeting and Councilman Davis could turn his in at the meeting.

RESOLUTION FOR THE CITY OF WASHINGTON IN SUPPORT OF A PROGRAM TO REDUCE ENERGY PRACTICES AND POLICIES WITHIN THE CITY OF WASHINGTON

Councilman Jennings introduced this resolution to Council memorializing Council discussion on various points regarding energy conservation. Councilman Jennings stated during the budget year one of the items that really stuck in his mind was the fact they were unable to budget in an adequate amount of allowance for increase in fuel cost. He felt the City needed to be a leader in terms of conservation.

On motion of Councilman Jennings, seconded by Councilman Davis, Council unanimously adopted a resolution for the City of Washington in support of a program to reduce energy practices and policies within the City of Washington.

Mayor Jennette stated we need to commission all the Department Heads to meet with the City Manager and do a green strategy for the City and Councilman Jennings stated this resolution needs to go out to every department.

**A Resolution for the City of Washington
In Support of
A Program to Reduce Energy Practices and Policies within the City of
Washington**

WHEREAS, the City Council of the City of Washington recognizes as does all its Citizens the increasing concerns caused by the escalation of energy cost; and

WHEREAS, the City of Washington has discussed the need to initiate programs within City government to reduce the cities energy consumption; and

WHEREAS, the City of Washington wishes to lead by example; and

WHEREAS, the City of Washington will begin immediately to review its vehicle fleet to determine if smaller, fuel efficient vehicles, including the use of hybrid, flex fuel or electric powered vehicles, can be utilized efficiently; and

WHEREAS, the City of Washington recognizes the need to reduce its consumption of electric energy, the City will review all of its use of electric power to determine if current uses can be reduced by changes in some of operating procedures in major areas of electric consumption; and

WHEREAS, the City of Washington request all its citizens to review their own consumption of energy to support the city's efforts;

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Washington supports a program to reduce energy consumption by the city.

Adopted and Signed This 11th Day of August, 2008

s/Judy Jennette
JUDY JENNETTE
MAYOR

ATTEST:

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

PROPOSED PERSONNEL POLICY CHANGES

Mayor Pro tem Mercer stated he has some proposed Personnel Policy changes and they basically fall into two categories. Mayor Pro tem Mercer said it will involve re-writing three sections of the Personnel Policy Manual.

They are as follows:

- Modify section 9 – which involve the use of City owned equipment. Our present language forbids the use of City owned equipment unless authorized by the Manager. Section that deals with City owned vehicles, section A B C, recommends it be deleted in its entirety.
- Article 9-section 12 that deals with car allowances. Presently, language says that Council may provide a car allowance to the Manager and Department Head. Mr. Mercer's suggestion is that we rewrite it in its entirety. Mayor Pro tem Mercer suggested making a specific recommendation for the City Manager and a specific recommendation for the Department Head. Rather than giving a specific monthly allowance to the Department Head have them keep a log of their personal vehicle and the City will pay the mileage.
- Recognizing that other City employees who need a City vehicle to perform their job, Mr. Mercer's suggested that a list be prepared by the City Manager and presented to the Council. Those persons should be allowed to use the vehicles when necessary; however, they may not use them for their commute to and from work unless they live within the City limits and does not include the satellite annexed areas.

- Language that address the call out policy and the use of those procedures there.
- A re-write of the section for reclassification in which Mr. Mercer states, that an employee whose position is reclassified shall receive a pay raise of 5% max or an increase to the minimum salary of the new range whichever is greater. However, in no case in salary, should the employee's new salary exceed the job rate reclassification, unless approved by the City Council.

Councilman Jennings stated Ms. Hodges should be involved on the re-write of policies. Mayor Jennette asked Mayor Pro tem Mercer to send this information to either the Manager or Ms. Hodges.

Mayor Pro tem Mercer appreciated the travel log he received tonight but he wanted the list to show the planned travel for August and any unplanned travel in July. It was not restricted to travel more than 150 miles. Mayor Pro tem Mercer stated he wanted to see all travel; planned and unplanned.

Councilman Woolard asked if they need to leave the lovely new books on the table tonight and Mayor Jennette said "yes" to leave them for Reatha and for Council to take what they needed out of them. Councilman Jennings stated this is a great step in the right direction but he is convinced now more than ever that we can go electronically. Councilman Woolard said this would be good when the monies are available. Councilman Brooks stated in going this way now it saved the City a significant amount of money and the person should be commended on doing this.

On motion of Councilman Woolard and seconded by Councilman Brooks, Council unanimously adjourned the meeting at 9:15 pm, until Monday, August 25, 2008 at 4:30 p.m. in the Council Chambers at the Municipal Building.

**Reatha B. Johnson
Acting City Clerk**