

CITY OF EDEN, N. C.

A special meeting of the City Council, City of Eden was held on Monday, November 10 at 7:30 a.m., in the Council Chambers at Eden City Hall, 308 East Stadium Drive. Those present for the meeting were as follows:

Mayor:		Wayne R. Tuggle, Sr.
Mayor Pro Tem:		Jim Burnette
Council Members:		Angela Hampton
		Donna Turner
		Darryl Carter
		Neville Hall
		Jerry Epps
	(absent)	Jerry Ellis
City Manager:		Brad Corcoran
City Clerk:		Sheralene Thompson
City Attorney:		Erin Gilley
Planning & Inspections:		Kelly Stultz

MEETING CONVENED:

Mayor Tuggle called the special meeting of the City Council to order and welcomed those in attendance. He explained that the special meeting was being held due to recent legislation on fracking and coal ash that will supersede any kind of local ordinances that the city may have.

Consideration and discussion of a motion to initiate a text amendment to the City of Eden Zoning Ordinance for the purpose of amending I-2, heavy industrial district.

Mayor Tuggle asked Ms. Kelly Stultz, Director of Planning & Inspections to come forward.

Ms. Stultz explained that the city's ordinance does not allow landfills anywhere in any district and now they have learned that a senate bill will allow it to pre-empt the city's land use regulations of any sort. She explained that the only out that the city has would be to put landfill requirements on some other industrial uses. She and the City Attorney spent weeks researching fracking and coal ash. It was a frightening thing as most of them know that they sit on shale rock and also they have two very large parcels and a third one that was unoccupied that were great spots for fracking.

She explained that they would like to ask the Council to amend the I-2 section of the zoning ordinance. She explained that this was an awesome responsibility and the flip side

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was that they could go in and put a lot of things in I-2 that would impede other industries from coming in that the City Council would want. That is why she and the City Attorney discussed the fact that they may need to talk to a land-use lawyer. They have found a gentleman that was both a highly touted land-use lawyer who also does a lot with landfills so they have contacted him for assistance as they go through the process. She explained that she and the City Attorney were set to either have a conference call or meet with him if the Council approved. She asked if the Council would allow them to both initiate the amendment and allow them to move forward.

Mayor Tuggle asked if there were any questions.

Council Member Burnette asked out of curiosity, suppose that the decision was made to go somewhere other than an I-2, and these restrictions only apply to I-2, he questioned what that meant.

Ms. Stultz replied that it was kind of like the mobile home rule, they have to allow them somewhere, but they do not have to allow landfills in every district, they just could not zone them out and right now that was what they have done.

Council Member Burnette asked how they could say they could not go anywhere else when actually the State has that authority.

Ms. Stultz replied that what they have said was that they will pre-empt it if they have done something that will exclude them.

The City Attorney, Ms. Erin Gilley, added that was the interpretation that was made. It did not say that exact, but it was the interpretation that they have made that basically says that if they were prohibited outright, out of all their jurisdictions, they were going to be pre-empted, which basically means it comes in without any regulations at all. So if they (city) allow it carefully with restrictions, they can prohibit it elsewhere.

Council Member Burnette agreed and added that it would not stop it in I-2 but it would put restrictions on it.

Ms. Stultz also agreed and added that it would allow the Council to manage it. She explained that Mr. Terrell, the land-use attorney, had suggested that there may be an amendment that they need to make to their solid waste ordinance and there may be some other places that they may be able to begin to negotiate in the city's favor. She pointed out that she did not want their jurisdiction to have any other coal ash and she was really not in favor of the city pushing it's somewhere else but it needed to be done and done well.

Mayor Tuggle noted that the coal ash bill does not address that.

Ms. Stultz replied that it says that the State can decide, if they get a landfill (in Eden) that if they (the State) thought it can take somebody else's coal ash that has done a better job than Eden, then they can bring it and so Mr. Terrell seems to think that they would have a

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good shot at negotiating with them to include that once they get something sturdy in place that they were not going to want to spend the money to fight. She then pointed out that where they want to put it was on a promising economic development site and it would not be a good thing for Eden.

Mayor Tuggle added that as a matter of fact that was their prime economic development site at New Street. If they take this area then they would not have a place to bring in industry so they have to be prepared.

Ms. Stultz noted that it makes the former MGM and bedding building vulnerable because it would have a landfill next to it. Regardless of how clean and how well they work and all that stuff the stigma of having a landfill next to it and it was still on a parcel that has a lot of floodway and adjoins the river.

Mayor Tuggle stated that this amendment covers fracking as well as coal ash and asked if that was correct to which Ms. Stultz replied that was their intention. Mayor Tuggle explained to the Council that was because the fracking stuff has come up too but the coal ash was moving fast and right now they really needed to make this amendment.

Ms. Stultz added that the I-2 ordinance had said “no fracking” before they had adopted the fracking bill, so that will have to come out.

Council Member Turner questioned how long they have had those stipulations in their I-2.

Ms. Stultz replied that if she meant “no landfills”, it did not say “no landfills”. She explained that the way their ordinance was constructed, if it was not a listed use then it was prohibited and it was not listed anywhere.

Council Member Carter questioned the property there at Harrington Highway where there had been discussion as a possible prison site.

Ms. Stultz explained that was not in the city’s jurisdiction. It was the first parcel out of the city’s ETJ. She added that there was a prime site out towards the former HanesBrands building where they have hit shale while doing soil borings.

Council Member Turner asked if this amendment covered ETJ to which Ms. Stultz replied yes.

Ms. Gilley added that she thought that neither of these properties was inside the city but they were inside the jurisdiction.

Ms. Stultz also pointed out that they were going to try to stand on the city’s policy that you do not get sewer unless they would be asking us to treat the leachate and so they were going to try to see that at least it was annexed.

Council Member Epps asked that in essence the attorney was going to write the ordinance.

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Ms. Stultz replied yes and she and the City Attorney would still be doing most of the grunt work but they needed somebody with more experience, the same as when they had Anthony Fox assist them with annexation.

Mayor Tuggle added that you never know what might happen ten years down the road and you want to make sure that they have retained someone that was an expert in that field and make sure they have definitely done the right thing for the citizens of Eden.

Ms. Gilley also added that they could provide more information for a closed session next week but they would like this text amendment initiated now. Ms. Stultz has asked to issue a binding statement as to what their ordinance was and they have this pending so that was why they needed it today.

A motion was made by Council Member Burnette seconded by Council Member Hampton to initiate a text amendment to the City of Eden Zoning Ordinance for the purpose of amending I-2, heavy industrial district and to retain Mr. Tom Terrell for legal assistance. All Council Members present voted in favor of this motion. This motion carried.

ADJOURNMENT:

A motion was made by Council Member Burnette seconded by Council Member Turner to adjourn. All Council Members present voted in favor of this motion. This motion carried.

Respectfully submitted,

Sheralene S. Thompson
City Clerk

ATTEST:

Wayne Tuggle, Sr., Mayor