

CITY OF EDEN, N. C.

A work session of the City Council, City of Eden, was held on Tuesday, November 7, 2000 at 7:00 p.m., in the Council Chambers, 338 West. Stadium Drive. Those present for the meeting were as follows:

Mayor:	Philip K. Price
Mayor Pro Tem:	John E. Grogan
Council Members:	Ronald H. Reynolds
	Ronald L. Janney
	Christine H. Myott
	(absent) William W. Rorrer
	C.H. Gover, Sr.
	Garry Tudor
Interim City Manager:	Peter Bine
City Attorney:	Charles J. Nooe
City Clerk:	Kim J. Scott

Representatives of staff:

MEETING CONVENED:

Mayor Philip K. Price called the work session of the City Council to order and welcomed those in attendance.

Additions to Agenda:

A motion was made by Council Member Tudor seconded by Council Member Reynolds to add the discussion of Christmas lights on Washington Street. All Council Members present voted in favor of this motion.

Deletion:

A motion was made by Council Member Gover seconded by Council Member Grogan table Item No. 5 (Discussion of improvements to NC 700-770 Intersection at Main Street) on the agenda as they were doing other studies. All Council Members present voted in favor of this motion.

Discussion of City Hall Renovations Project – Change Orders No. 2 and 3:

Mr. Bine explained that approximately two months ago there was a discussion regarding the adequacy of parking at City Hall. Pursuant to the direction of Council, staff contacted the architect and contractor to amend the existing agreement for city hall improvements to include the additional 30 parking spaces. The memorandum and drawing provided to Council showed the additional costs. It was thought that the costs would be \$35,000 to \$40,000 for the 30 spaces and as quoted by the contractor it was \$57,613. Mr. Bine asked for direction from the Council.

Council Member Janney stated it looked like they would look at some other bid to do this. He stated he had looked at this and they had already spent all of the money they had on the project already if the \$1,696,000 was correct. He stated they did not have much over 1.6 million for the whole project, asking if that was correct.

Council Member Myott asked if it were possible to table this matter and see if they need those parking spaces.

Mr. Bine replied that if they were asking staff, that was their opinion from the outset. He added they could always expand the parking lot, but it was their understanding that the urgency of the time was to get a contractor who was there working, unfortunately, he finished on the existing addition of the parking before this came into play. He stated this would be bringing new people onto the site and adding another parking lot amendment so it would not matter whether it was done now, six months or now or a year from now.

Council Member Reynolds stated he agreed with Council Member Myott as he would like to cancel it. Council Member Grogan stated it seemed to him that it would make good sense to postpone it for several reasons, (1) it was getting winter time and if they start pouring asphalt this

November 7, 2000

CITY OF EDEN, N. C.

Minutes of the special November 7, 2000 meeting of the City Council, City of Eden, continued:

time of year, they would not get the best job and they should, hopefully, be able to tell something by the middle of next summer and then they could go out for bids.

Council Member Gover asked how many parking spaces they deleted to which several replied 30. Council Member Gover stated in order to put those 30 spaces somewhere else, it would be approximately \$57,000, but they only deducted \$13,000 for the 30 parking spaces, which confused him. They were only allowing them \$13,124 credit and yet and still they come back with a \$57,000 bill.

Mr. Bine explained that was the way contractors work to which Council Member Grogan explained that the memorandum pointed out a couple of things such as the curvature in the drive and having more asphalt, more curb and gutter which would increase the costs some, but there again, with a job that size, he would like to have at least three bids. Council Member Grogan stated he would certainly support his motion.

A motion was made by Council Member Myott seconded by Council Member Grogan to delay this project until at least next spring, for further consideration. All Council Members present voted in favor of this motion.

Discussion of position reclassification for Parks and Recreation Department:

The position of Facilities Maintenance Mechanic became vacant in August 2000. It was determined that a reclassification from Maintenance Mechanic to laborer II would better serve the department. A memorandum explained that an employee in the department would be promoted to the reclassified position of the Laborer II position. In promoting this employee, they would create a vacancy for a Laborer I position. The Laborer I position would be advertised and filled as quickly as possible.

Mr. Bine explained that Mr. Joey Conner, Parks and Recreation Director, was requesting a change in the budget and allocation of jobs in that department, determining that he does not need a Fleet Maintenance Mechanic position and would rather have a Laborer II position and a Laborer I position. They have an employee they feel could be promoted in the Laborer II position and that would leave the Laborer I position, which is currently the filled position, vacant which could then be filled to utilize by his field staff.

In response to a question by Council Member Grogan as to how much change it would make in the payroll, Mr. Bine replied approximately \$400.00 (less) per year.

A motion was made by Council Member Grogan seconded by Council Member Myott for approval of this request.

Council Member Gover questioned there being only a \$400.00 difference between a mechanic that has the ability of electrical, plumbing and boiler repair, and they would have a Laborer out there, and there was just a \$400.00 span.

Mr. Conner explained that the Laborer that been there for two years and had reached mid point. At this moment, he would be making \$17, 162 whereas the beginning job for Facilities Maintenance Mechanic is \$17,589.

Action on the motion: All Council Members present voted in favor of this motion.

Discussion of Dry Creek detention basin adjacent to Fieldcrest Road – ownership of property.

Mr. Bine explained that this matter was brought to his attention last week and they have been scratching through the records trying to figure out what happened. They know some things that have not happened and one of those was the city has not purchased the property. He stated that something that has happened was that they have constructed the dry creek detention basin and it was on a piece of property that the city did not own. He explained that the city had an option to the property and it was not acquired and yet the city constructed the basin. Mr. Bine suggested they do one of two things; the easiest thing to do would be to condemn the property, deposit the monies with the court, the \$10,000 which they have the option on the piece of property and then move on and let the church acquire the balance of the property from Fieldcrest, the current

November 7, 2000

CITY OF EDEN, N. C.

Minutes of the special November 7, 2000 meeting of the City Council, City of Eden, continued:

owner. The other thing would be to find the proper people at Fieldcrest and get them to agree to the option back in 1997 of \$10,000 and see if they would be willing to sell it at that value. Those were the two choices, but it was up to the Council and the advice of the city attorney.

Mr. Nooe stated it was his understanding that the church had a contract to purchase it; therefore, they could not deal with Fieldcrest Cannon. His idea would be to approach the church, through their attorney, and see if it would agree that the city purchase what it had an option for and let the church purchase the rest of it to avoid condemnation proceedings and that expense. The church was certainly aware that the pond was there and it was going to effect their use of the property, there would be some risks in going in there and doing away with the pond. He stated he thought the thing to do was to see if the church really needed that land and planned on using it. He added that they might be able to work something out to use it at a reasonable price.

Council Member Gover suggested that they go with the attorney's recommendation. Council Member Janney asked about the encroachment on former Council Member Dan Squires' property.

Mr. Nooe replied that the immediate problem was the church to which Council Member Grogan stated that certainly Mr. Squires was aware of it and stated they needed to get an easement signed. Mr. Nooe noted that Mr. Squires was not questioning this at the time, but the church was getting ready to close on the purchase of the property.

Mayor Price asked if someone felt like they needed to authorize the attorney to negotiate with the church's attorney.

A motion was made by Council Member Gover seconded by Council Member Grogan to authorize the City Attorney to negotiate with the attorney from the church.

Council Member Janney mentioned that agenda items for the work session were being voted on and indicated it was his understanding that none were being taken on work sessions.

Mayor Price pointed out that it was a legal meeting and they could vote. Council Member Grogan stated there were a lot of questions he had about this such as where was the survey, but he was talking about now and moving forward which was probably the best thing to do at this time.

Council Member Janney noted that looking at his map, it looked like it (the pond) was on unimproved Burgess Street.

Mr. Nooe explained that, that was an unopened street and he believed that might be the street that they got the adjoining property owner on the other side to quick claim to the city whatever interest it had at about the same time they were getting the option.

Council Member Gover commented that he spoke with the minister of the church today and it was a verbal agreement with them that they could come out into that property at that time, he knew of nothing in writing about it.

Council Member Janney asked if he was talking about in the street to which Council Member Gover replied he was talking about in the property on the Christian Church side.

Council Member Janney stated he had read this and when he looked at the map, it was confusing to him. They were talking to Draper Christian Church and on the map, it showed unimproved Burgess Street which meant it was not open.

Council Member Gover explained that when the church acquired that property, it was his understanding that since the street was not a dedicated street . . . adding he did not know.

Council Member Janney explained that the only way to close an unopened street was to close it by law. Normally, each property owner divides the property.

November 7, 2000

CITY OF EDEN, N. C.

Minutes of the special November 7, 2000 meeting of the City Council, City of Eden, continued:

Council Member Gover stated what he was insinuating was that they approached them about the use of that property and that was what the person was telling him, adding that he was quoting him, in that the city approached the Christian Church about the use of the property.

Council Member Janney explained that the reason he was asking the question was that the map looked different than what he read.

Mr. Joe Stanley, City Engineer, explained that the way he understood the issue with the church and Mr. Squires, at the time, on the plans they showed a temporary construction easement from them which never was obtained either, and that was to get in there and do the work. The dam itself, without surveying it, based on what Gene (Robertson, Surveyor) had, it looked like it was in the unopened right of way. It looked like it was on the half that they revert to the city so he did not see a problem.

Council Member Janney stated that when he read the information and looked at the map, he did not understand it.

Mr. Bine stated that the church would probably when they acquire the property, apply to the city to close many of those streets. Mr. Stanley stated he did not know the exact boundary of Mr. Robertson's survey, total slope, and top slope, evidently that was the outer encroachments of the pond, he was assuming.

Council Member Grogan asked if it was ever determined if a survey was done at the time before construction as done to which Mr. Stanley replied nothing was done, that he was aware of.

Council Member Janney asked if a survey was made to which Mr. Bine replied they had looked but could not find anything. He added there were other surveys done in this general time period, but they related to other matters the city was involved in.

Mr. Nooe stated he thought they would have consulting engineers working with Mr. Branz on that project and asked if they never got any. Mr. Stanley explained that the firm that did the design and construction administration passed that on to Mr. Branz which they had transmittals of that information and he even called the firm himself.

Mr. Nooe asked if he could not find the file to which Mr. Stanley replied that there was nothing in his department as he had searched high and low.

Council Member Grogan asked Mr. Stanley what the name of the firm was to which he replied, Woolpert. Council Member Grogan asked if there was another engineering firm out of Burlington involved.

Mr. Bine replied that was a surveyor and Mr. Stanley replied no, that he had also called them today and it was out of their Greensboro office that the city had some surveying done on three other different easements. He noted that they found the billing for that. He added that he had talked with a guy that was with them then and now and he had no recollection of any of this.

Mr. Bine commented that they went in the Finance Department and look at the fixed assets. A piece of property was a fixed asset and is listed as such. He stated that they could not find a fixed asset, a check in the amount of \$10,000 or anything of that sort.

Mr. Nooe pointed out that in view of the memorandum from the City Manager to the Council he would not expect to find anything else. That memorandum indicated that he thought it was all over and done with and done with.

Mayor Price stated a motion was on the floor to instruct our attorney to negotiate with the buyer of the proposed property for the purchase or our section as needed.

Action on the motion was as follows: All Council Members present voted in favor of this motion.

November 7, 2000

CITY OF EDEN, N. C.

Minutes of the special November 7, 2000 meeting of the City Council, City of Eden, continued:

Mr. Nooe commented that he would also like the Council to consider approving condemning this property in the event they were unable to...to which...

A motion was made by Council Member Grogan seconded by Council Member Myott that if this was not done the property would be condemned and the money put on escrow and left up to the courts. All Council Members present voted in favor of this motion.

Discussion of improvements to NC 700/770 Intersection at Main Street.

(Deleted from agenda)

Discussion of water line installation for the Gas Company.

Council Members Gover and Grogan noted that they did not receive information on this.

Mayor Price replied there was nothing on it. He explained that there had been some confusion somewhere along the line. This was for South Bridge Street where the Pump Station was. They have added a wash bay and a restroom. They also want a water meter and they want water to it. They apparently applied in May and there was some problem why they could not get water to them. They have indicated they would be happy to cite all the stuff in the road through their people for lines and electric and that type of thing. He noted that it seemed there was some confusion in the city and he asked Mr. Stanley if he knew anymore about it.

Mr. Stanley replied only that the Mayor brought the situation to his attention.

Mayor Price asked Mr. Stanley if he spoke with Mr. Brian to which he replied that he spoke with Randy East of the NC Gas Company. Mr. Stanley stated that this was the first time he was made aware of the situation. It had been a repetitive problem with them trying to do this. He stated that he needed to talk to Mr. Sexton about it and come to an agreement on what they would want to do for them. He stated that he thought it was from 150' from the end of the waterline on down South Bridge Street down to their gate station. He stated that they did not care if it was a ¾" service or if they extend the waterline and then run them ¾" service. He stated that he understood that there was quite a bit of utilities in that area of the road and based on Mr. East's conversation with Mr. Sexton, he was not very comfortable digging through all that. Mr. Stanley added that he did not fully understand that either, but his question was, if they were to provide a service, who would pay for the waterline for what was run. He stated that if they extend the 6" on down to make it a public main on down to that point, 150', were they going to run a ¾" tap on down.

Council Member Gover stated he thought we agreed on the ¾ to which Mr. Stanley replied that he was not aware of anything.

Mr. Bine commented that he had asked Mr. Sexton to attend this meeting tonight but he misjudged the speed the Council would consider items. He stated that he would be there in about 45 minutes. Council Member Grogan stated that they could decide that before Mr. Sexton got there.

Mr. Bine explained that the issue was really whether or not the city extended the line to their property and put the meter adjacent their property like they do in a normal residential service or whether they would set the meter at the edge of the city property and the gas company runs their service line from that point to the use point. The gas company did not want to maintain a 150' service. He stated that he could see their point because he had a 150' service to his house from the meter as his house was that far from the street. He stated that it was not unusual to have a service that long. He stated that their concern was that it run along the edge of the right-of-way and a lot of digging and so forth goes on there, which was frankly Mr. Sexton's concern. He stated that there were all sorts of things along the shoulder that they were skeptical and unsure about digging amongst and this was the dilemma where they were.

Mr. Nooe asked what the city's policy was.

November 7, 2000

CITY OF EDEN, N. C.

Minutes of the special November 7, 2000 meeting of the City Council, City of Eden, continued:

Mr. Bine replied that he felt strongly both ways about this to which Mr. Nooe pointed out that they have a policy.

Mr. Bine replied that there were times, as this Council would observe of itself, it had a policy and it varied from the policy on various occasions.

Mr. Nooe pointed out that it did not mean they should not try to follow the policy. He stated that he thought that the Council would do well to try to adhere to its policies and then he would not have the...Mr. Bine strongly agreed and if that was the case then policy would be to extend the line down to a point where the service could be connected and that would be a policy.

Council Member Grogan commented that with the cooperation that they get from the gas company and utilities and the way they have done the city, he would be looking at if it were legal to set the meter and tell them to do their own digging and put the line in and the city would provide the water. He explained that the two reasons being; they have consistently dug up streets and done thing and not repaired them properly which might be the city's fault, and if it was possible to let them dig the line and be responsible for that line and the city did not get into the liability of getting down there and digging up their pipes and other people's pipes, he asked if that was legal.

Mr. Bine replied that one of the concerns he would have with putting in a 6" line was that the city had a responsibility for maintaining water quality to the tap, and that was the state law. If they put in a 6" line and they were going to have a wash out basin and a very nominal use, then they were going to have extremely poor quality water in a 6" line. He noted that the folks that were at the last Council Meeting, their problem had been solved, for Council's information. Then continuing back to the discussion, they would have an extremely poor quality of water for them to flush their basins and wash their hands or whatever they had to do. That might use a couple hundred gallons per month. A six-inch line would not turn over. They would have to put a leader valve on the end and go down there and constantly bleed the line to maintain residual chlorine levels. He stated that was the other side of the coin. He suggested that the best interest to the city was to run a 3/4" regardless of who put it in.

Council Member Tudor commented that anything the city did should be done the right way and if there was a problem with NC Gas about doing what they do on city streets the right way, then they needed to point it out and insist that they fix it the right way.

Council Member Grogan stated that he had been there for 16 years and they have talked about that, it sounded wonderful but the reality of it was, it did not happen.

Council Member Gover suggested that the Engineering Department look at it and see how many utilities and places they would have to disturb so they could make a sound judgement. He stated that as a matter of fact, when they first discussed it and mentioned 3/4" line, he thought it was a clear open space.

Council Member Janney suggested that they just follow the policy.

Mayor Price asked what the policy stated. Were they required to run water to a customer who wanted it inside the city.

Mr. Stanley replied that without reading, he assumed they were obligated to provide water services to anybody within the city limits. He stated that if they treat them as anybody else, did they want their service line in the right-of-way or a 3/4" line in the right-of-way, then the meter be at the right-of-way where it should be and they go onto their property.

Mayor Price stated that there could not be that much in there.

Mr. Stanley replied that he did not see this intersection or utilities in this road any different than anywhere else in the city. They had to deal with it; that was part of the job.

November 7, 2000

CITY OF EDEN, N. C.

Minutes of the special November 7, 2000 meeting of the City Council, City of Eden, continued:

Council Member Grogan asked if Mr. Stanley could get with Mr. Sexton and come back with a recommendation.

Mr. Stanley recommended that they run the ¾" line down set the meter at the right-of-way and let them be a normal customer.

A motion was made by Council Member Grogan seconded by Council Member Gover to follow the recommendation of the City Engineer. All Council Members present voted in favor of this motion.

Discussion of Christmas Lights for Downtown Leaksville Parade.

Council Member Tudor stated that the Washington Street Merchant's Association wanted to have a parade and they wanted Christmas lights put up. He explained that they normally have Mr. Barney Merritt (Merritt's Electric) to put them up for them and they have been renting a bucket truck. He stated that they did this for the enjoyment of the citizens of Eden and it would be nice if the city could help them out by not having them have to pay an exorbitant amount of money to rent a bucket truck. He stated that he would like for them, if at all possible, to work out a way, even if it meant having someone sign a liability waiver, to let the city bucket truck be used for the installation of Christmas lights/decoration on Washington Street by the Merchant's Association.

Council Member Janney commented that they did everywhere else.

Council Member Myott questioned who installed them the rest of the time.

Mayor Price explained that they rent a bucket truck and Mr. Merritt puts them up and they rent one to take them down. The city puts the banners up on Highway 14 and some other areas. He stated that in East Eden the Fire Department puts them up with a forklift that was on loan to them. He stated that he spoke with Mr. Bine about this and he noted that they have some liability if that person get up on that bucket and is electrocuted. He stated that there had to be some type of waiver. He explained to the people that it was not as easy as 1-2-3 and it makes a lot of sense but there was some liability. He asked Mr. Nooe what his opinion would be on this situation.

Mr. Nooe replied that if they were going to do it they would require them to provide the license to electricians to do the work. He stated that they would still want an indemnification and would require that they use a licensed contractor, as they would have workman's compensation.

Mayor Price noted that it would be about a three-hour project to put them up and about three hours to take them down. He stated that the biggest problem was on Bridge Street and they would need to be up by 6 o'clock in the morning.

Council Member Gover wanted to know who would operate the vehicle.

Mayor Price replied that the city would take their bucket truck with a city employee, as that was the request.

Council Member Gover pointed out that was where they get into problems. They were still liable by him being a city employee. If he pushes that guy on up into an electrical or whatever, or dumps him out... Mayor Price asked that if he signed a waiver, would the city be clear.

Mr. Nooe replied that they could get an indemnification agreement from them.

Council Member Grogan pointed out that if somebody got killed they were going to sue the city and everybody else they could.

Mr. Nooe stated that unless it was a matter of gross negligence and willful ... the Workman's Compensation would specify and pay for the injuries, medical care, permanent and partial disability of whomever would get hurt. He stated that was why he said they should use an

November 7, 2000

CITY OF EDEN, N. C.

Minutes of the special November 7, 2000 meeting of the City Council, City of Eden, continued:

electrical contractor to do the work. The city would want its employee to operate the truck and they may also want to charge for it as they did their police officers when they were used somewhere.

A motion was made by Council Member Grogan seconded by Council Member Tudor that this request be granted and be subject to indemnification upon being completed and approved by the City Attorney. All Council Members present voted in favor of this motion.

CLOSED SESSION ADDED TO AGENDA:

Mayor Price explained that there had been some discussion before and the City Attorney had asked for a closed session to discuss a legal issue. He stated that they needed to add that to the agenda.

A motion was made by Council Member Grogan seconded by Council Member Tudor to add a closed session to the agenda (for discussion of a legal matter). All Council Members present voted in favor of this motion.

APPLICANTS FOR CITY MANAGER

Mr. Bine explained that he had provided the Council with copies of resumes for applicants for the position of City Manager. He stated that he did not want any confusion about the application and how the state law looks at applications in regard to privacy. He referred to the Plummet Law Book, 1999 edition written by Steve Allred at the Institute of Government, who quotes a North Carolina Supreme Court decision which says in essence and very clearly, "The court finds significant to the fact that the Plummet applications for North Carolina public employers be of the same confidentiality as a personnel file." He asked if that was clear.

Council Member Grogan asked how they were going to hire somebody to which Mr. Bine explained that the disclosure of this information by anybody...Council Member Grogan asked if he was saying that the confidentiality should stay between the City Council and those applicants to which Mr. Bine replied that was correct, it was not for public consumption.

Council Member Myott stated this (the applications) should stay in the Council's hands.

Mr. Bine replied that there was precedence in the Supreme Court for declaring that as he had read.

CLOSED SESSION:

A motion was made by Council Member Tudor seconded by Council Member Myott to go into Closed Session for a discussion with the attorney concerning a legal matter (as previously added). All Council Members present voted in favor of this motion.

OPEN SESSION:

A motion was made by Council Member Tudor seconded by Council Member Janney to return to open session. All Council Members present voted in favor of this motion.

ADJOURNMENT:

A motion was made by Council Member Grogan seconded by Council Member Reynolds to adjourn. All Council Members voted in favor of this motion. The meeting adjourned at 5:00 p.m.

Respectfully submitted,

November 7, 2000

CITY OF EDEN, N. C.

Minutes of the special November 7, 2000 meeting of the City Council, City of Eden, continued:

Kim J. Scott
City Clerk

ATTEST:

Philip K. Price
Mayor