

CITY OF EDEN, N. C.

The regular meeting of the City Council, City of Eden, was held on Tuesday, August 19, 2003 at 7:30 p.m. in the Council Chambers, 308 E. 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
	Bill Vestal
	Christine H. Myott
	Jerry Epps
	C.H. Gover
	Garry Tudor
City Manager:	Brad Corcoran
City Clerk:	Kim J. Scott
Deputy City Clerk:	Sheralene Thompson
Representatives from Departments:	
Representatives from News Media:	Lisa Doss, <u>Eden's Own</u> ; David Clemmons, <u>Eden Daily News</u> ; Lanita Withers, <u>News & Record</u>

MEETING CONVENED:

Mayor Price called the regular meeting of the Eden City Council to order and welcomed those in attendance. He explained that the Council meets the third Tuesday of each month at 7:30 p.m. and works from a prepared agenda; however, time would be set aside for business not on the printed agenda.

INVOCATION:

Mr. Gary Cobb, Pastor, Sunny Home Baptist Church, was present to give the invocation.

PROCLAMATION:

Mayor Price asked Mrs. Barbara Sanders to come forward for the reading of the proclamation recognizing Art Appreciation Month.

Proclamation
Art Appreciation Month

WHEREAS, thousands of years ago early man told his story through pictures drawn on cave walls, and through the ages, artists told their stories through drawings, paintings, architecture and sculpture; and

WHEREAS, joy, sorrow, anger, peace – the emotions and experiences of the artists – are shared in a sketched line or a splash of color; and

WHEREAS, art is the most effective way to communicate across language and cultural barriers, and artists draw on our own unique emotions, thoughts, and experiences; and

WHEREAS, art affects every aspect of life in America today, including the economy, social problem solving, job creation, education, creativity, and community livability; and

WHEREAS, appreciation of art enhances community development, promotes cultural planning, stimulates business development, spurs urban renewal, attracts new businesses, and improves the overall quality of life in our city; and

WHEREAS, the City of Eden actively participates in the pursuit of arts by hosting the City of Eden Artist of the Month Program at Eden City Hall in hopes of building a sense of community identity by preserving and nurturing our common cultural heritage; now

THEREFORE I, Mayor Philip K. Price, Mayor of the City of Eden, do hereby proclaim August as ART APPRECIATION MONTH in Eden and recognize Barbara F. Sanders as Coordinator of the City of Eden Artist of the Month Program and a tireless promoter of art at all levels.

Philip K. Price,
Philip K. Price, Mayor

Kim J. Scott
Kim J. Scott, City Clerk

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Mayor Price read the following proclamation in recognition of Litter Sweep.

Litter Sweep
Proclamation

WHEREAS, the North Carolina Department of Transportation annually organizes a fall state roadside litter cleanup to ensure clean and beautiful roads in North Carolina; and

WHEREAS, the Fall 2003 LITTER SWEEP roadside cleanup will take place September 13-28, 2003, and encourage local government leaders, civic and professional groups, churches, schools, families, businesses and individual citizens to participate by organizing cleanups in their communities; and

WHEREAS, Department of Transportation employees, Adopt-A-Highway volunteers; Department of Correction inmates and community service workers; local government officials, agencies and leaders; professional, civic and religious organizations; businesses; schools; and environmentally concerned citizens annually conduct community cleanups during LITTER SWEEP and may receive certificates of appreciation for their efforts; and

WHEREAS, the LITTER SWEEP cleanup will educate and encourage the children of this great State regarding the importance of a clean environment to the quality of life North Carolinians enjoy; and

WHEREAS, the great natural beauty of our State and a clean environment are sources of great pride for all North Carolinians, attracting tourists and aiding in recruiting new industries; and

WHEREAS, the cleanup will raise awareness of the need for cleaner roadsides, emphasize the importance of not littering, and encourage recycling of solid wastes; and

WHEREAS, the 2003 fall cleanup will celebrate the 15th anniversary of the North Carolina Adopt-A-Highway program and the thousands of volunteers who contribute their time and labor year round to keep our roadsides clean;

NOW, THEREFORE, I, Philip K. Price, Mayor of the City of Eden, do hereby proclaim September 13-28, 2002 as "LITTER SWEEP" in the City of Eden, and urge all citizens to participate in making our roadsides clean and reducing and recycling solid wastes.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eden, this 19th day of August 2003.

Philip K. Price.
Philip K. Price, Mayor

Kim J. Scott
Kim J. Scott, City Clerk

Mayor Price asked Fire Chief Ronnie Overby and Ms. Fran Anderson to come forward in recognition of the Fill the Boot Campaign.

Fill the Boot Campaign
Proclamation

WHEREAS, the Eden Fire Department has been working with the Muscular Dystrophy Association in their fight against neuromuscular disease; and

WHEREAS, the Eden Fire Department has collected thousands of dollars for the MDA's "Fill-the-Boot" campaign; and

WHEREAS, the Eden Fire Department has spent many hours collecting money on the streets for the MDA "Fill-the-Boot" campaign; and,

WHEREAS, Firefighters locally and nationally are the largest contributor to the MDA, collecting more than 17 million dollars in 2002 to help fight the forty-three neuromuscular diseases associated with the MDA.

THEREFORE, I, Phil Price, Mayor of Eden, and on behalf of the City of Eden, do hereby proclaim September 13-14, 2003 as:

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“FILL THE BOOT DAYS”

Philip K. Price.
Philip K. Price, Mayor

Kim J. Scott
Kim J. Scott, City Clerk

Chief Overby recognized the chairman of the local MDA firefighters, Wendy Wall, City of Eden Firefighter.

ADDITIONS OR DELETIONS TO AGENDA:

1. Motion to remove item 8(c) Consideration and adoption of an ordinance for the demolition of a building located at 429 Monroe Street.

A motion was made by Council Member Myott seconded by Council Member Reynolds to remove item 8(c) from New Business. All Council Members voted in favor of this motion. This motion carried.

2. Motion to add a waterline service for Dan River Water, Inc. under New Business as item 8(j).

A motion was made by Council Member Grogan seconded by Council Member Gover to add a waterline service for Dan River Water, Inc. under New Business as item 8(j). All Council Members voted in favor of this motion. This motion carried.

Motion to add the following Resolutions: Resolution to Accept Comprehensive Water Distribution Master Plan and a Resolution to Accept Comprehensive Wastewater Collection Master Plan to the agenda.

A motion was made by Council Member Epps seconded by Council Member Tudor to add the resolutions to New Business under item 8(k). All Council Members voted in favor of this motion. This motion carried.

PUBLIC HEARINGS:

(a) Consideration of a request and an ordinance to amend Section 11.26(3)(c)(10) the Board of Adjustment section of the City of Eden Zoning Ordinance pertaining to bed and breakfasts. Request submitted by the City Council. ZONING CASE Z-03-09.

The memorandum explained that at their regular meeting in July, the Council scheduled a public hearing to hear comments regarding a zoning text amendment request filed by the City Council. The request was to amend Section 11.26(3)(c)(10) – the Board of Adjustment section of the City of Eden Zoning Ordinance pertaining to bed and breakfasts.

The Planning and Inspections recommended approval of the text amendment request.

Mayor Price asked Mrs. Kelly Stultz, Director of Planning and Inspections, to come forward for a report.

Mrs. Stultz explained that the Planning Board voted to approve this request at their regular meeting in August. The request was initiated by the City Council. This amendment would allow bed and breakfast operators to serve meals for private parties and gatherings.

Under the current special use provisions for bed and breakfast operators, meals may only be served to overnight guests and residents of the facility. The request was to amend this provision to allow bed and breakfast operators to cater to private parties and gatherings such as luncheons, showers and similar special events. The amendment would pertain to private recreational uses only, and the facilities would be subject to the same provisions as other bed and breakfasts with regard to hours of use, noise levels, parking and other restrictions. The facilities would also be subject to all applicable state, city and county regulations in regard to health and sanitation for food preparation operations. Staff was of the opinion that to serve meals for private parties and gatherings would not adversely affect the character of the neighborhoods in which they were located.

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She noted that based upon this information, staff recommended in favor of the text amendment. She stated that a couple of things were added to guarantee that those kinds of uses would not become a nuisance and were similar to the things they put into the special use permit process to allow a private home to be used solely for this kind of activity and not for a bed and breakfast. This would say that no private recreation uses, which were what this would be, would be undertaken before 9:00 a.m., nor should any outside activities be undertaken after 10:00 p.m., Sunday through Thursday and after 11:00 p.m., Friday and Saturday. The use should be limited to overnight guests of private parties and gatherings and noise levels and outside activities shall be limited according to the city code. It would still require that all parking for those gatherings be on the premises.

She added that if the current holders of a special use permit for a bed and breakfast decided to amend their permit to do this, it would have to go back to the Board of Adjustment.

Mayor Price asked how it could be removed.

Mrs. Stultz replied that just as any other special use permit worked, assuming that any operator of the bed and breakfast that had received such a permit and violated the provision, the process would be to give them notice that the Board of Adjustment was going to review that and the Board of Adjustment could revoke their permit. At that time they could no longer operate a bed and breakfast and that was the same for any other special use permit.

Council Member Vestal questioned the time table.

Mrs. Stultz replied that they would have to fill out an application and it would have to go to the Board of Adjustment.

Council Member Vestal explained that he was talking about violations.

Mrs. Stultz replied that as soon as they received the complaint, they would verify that it was true, and then set up a hearing with the Board of Adjustment at the next available meeting.

Council Member Grogan questioned the number of bed and breakfasts operating in Eden to which Mrs. Stultz replied, one.

Mayor Price called for a public hearing and asked if there was anyone who would like to speak in favor or in opposition to this request.

As no one came forward to speak in favor or in opposition, Mayor Price declared the public hearing closed.

A motion was made by Council Member Vestal seconded by Council Member Tudor to accept the recommendation of the Planning and Inspections Department. All Council Members voted in favor of this motion. This motion carried.

A motion was made by Council Member Grogan seconded by Council Member Gover to approve and adopt the ordinance to amend Section 11.26(3)(c)(10) the Board of Adjustment section of the City of Eden Zoning ordinance pertaining to Bed and Breakfasts. All Council Members voted in favor of this motion. This motion carried.

MONTHLY FINANCIAL REPORT:

(a) Financial Report.

A motion was made by Council Member Epps seconded by Council Member Gover to accept the Finance Report. All Council Members voted in favor of this motion. This motion carried.

REQUESTS AND PETITIONS OF CITIZENS:

(a) Presentation regarding saving the old Hwy 87 bridge.

Mr. Bud Stickels explained that he became involved with the Preservation Society once he came to town to build the brewery. He stated that he could not speak for the society, but he could

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speak from his heart and having been a past president and current treasurer, that these words reflect the feelings that he and his wife have about saving the bridge.

He explained that a new bridge was being built across the Dan River on Hamilton Street which would replace the magnificent arched structure that has served the community so well for so many years as it took the place of the covered bridge which crossed the river a few yards to the north. Many folks now regret that the only part of the old covered bridge are the stone buttresses that are on each end. The State Department of Transportation had about three quarters of a million dollars in their original budget to demolish the existing bridge. When this money, or a portion of it, is placed in a special trust fund, hopefully by the parks department of the city, there would be enough money to save the city harmless and provide sufficient funds for perpetual maintenance of the structure for use as a pedestrian walkway and future access to the proposed beach on the county side of the river Dan. He explained that their vision was that the city side of the bridge and the arch portion of the structure would be saved and the county's side of the structure could be removed. This would allow a timber stairway to be built at the end of the arch which would allow access to the beach on the county side of the river. The city side of the access was already included in the contractor's contract for the new bridge. It should be noted that the contractor has stated that he would be glad to exclude this portion of demolition from the scope of his work. It should be further noted that by saving this grand old bridge for walkers and hikers only, there were Federal Grant Funds available for the development of trails. He added that this same scenario would come into play with the future planning of the Mebane Bridge a few hundred yards down stream. With the advent of the newly formed Dan River Basin Association, this valuable water resource could be beautifully enhanced for all the people of Eden. Mr. Stickels noted that a wise man once said, people without a vision would perish. He stated that they truly pray that the good folks of Eden would see the vision as this was a dynamic opportunity and he urged them to take action while there was still time.

Mr. Stickels then asked Dr. Lindley Butler, a county historian, and Mr. Jeff Johnston to make the presentation.

Dr. Butler then proceeded to present a slide display of the Dan River and the bridges along the Dan that were within the City of Eden as well as some of the areas along the Dan in Danville, Virginia.

Mr. Jeffrey Johnston, explained that he owned the property on four corners of that lovely bridge. He bought the land down there specifically to protect Leaksville landing, the bridge and the old covered bridge site. He challenged the city and county, at no cost to the city, that they could develop those greenways, walking trails, river accesses, and so on. He pointed out that he had already offered the city three acres of land to put in a canoe access, a pocket park, and a walking trail up to the Leaksville landing. He was also willing to offer another thirteen acres of land that would take the trail all the way down to the old covered bridge and would include the covered bridge site as a match to work toward getting those trail systems going.

Mr. Johnston noted that the problem was it has to be connected by the old bridge; it did not work if they do not get from one side of the river to the other. The new bridge design was not going to be user friendly, particularly to families. He pointed out that he did not know of many mothers who would allow their children to ride a bicycle across a traffic highway bridge where there was no barrier between pedestrians and traffic, but a separate bridge upon the new bridge would offer just that, safety, scenic beauty and history.

Mr. Johnston stated that he was offering to the county and city a total of fifteen acres of land with the only known bateaux fort in the United States. He added that it was one of the last remaining concrete arch bridges in the State and one of the few architectural remains of a covered bridge in the State. He explained that they all would be tied together for a recreational history park. He suggested that the city accept the arched bridge from the Department of Transportation and he believed they would be able to do this at no cost. He added that one of the questions he felt sure they would ask has to do with the Department of Transportation's letter indicating a great deal of cost. He stated he would argue that those numbers were old numbers based on what it would cost to repair the bridge for highway traffic, for the entire bridge including the southern causeway. He explained that when you change the concept to taking away the southern causeway, which was the damaged part, and it was three-fourths of the bridge, the bridge was 800 feet long, the arch was 200 feet. When you take away the southern causeway and you convert from trying to repair the bridge and causeways from taking tractor trailers to

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handling pedestrians, the numbers change. The value just saved by not demolishing the arch should be enough to cover perpetuating it for because the contractor has stated a number of times that he did not want to even think about tearing the arch down. He stated that the contractor did not know how he was going to go about it yet; it was going to be a great big headache, so he was going to charge a great big bill to do it.

Council Member Myott commented that she understood that the new bridge would have a five foot walkway or safe way on either side for pedestrians and bike and fishers.

Mr. Johnston replied that was true, it would look just like the Highway 14 bridge to which Council Member Myott pointed out it should be safe. Mr. Johnston agreed and added that he would not have a problem being on that bridge, but it would look just like the Highway 14 bridge, only narrower. He pointed out that there was no physical barrier between the walkway and the traffic and it was elevated by five or six inches. A bicycle or a child going across it would have nothing to stop him from deciding to swerve off into the traffic. He added that he would suspect there were not many mothers who would allow their children to ride across a bridge like that.

Mr. Stickels mentioned that he spoke to some folks who lived in Bynum, North Carolina and they had a similar situation there where 15-501 was built over the Haw River and they replaced the existing bridge and the citizens kept the old bridge for pedestrian and bikers only and they were thrilled with it. He added that they hold festivals there annually. He added as well that in Danville, that has been a real boon with their tourist attraction. He stated that they had so much to offer here and from looking at that slide [presentation] the downtown City of Eden looked like a veritable paradise. He stressed that they have an opportunity and he thought that the safety factor was a consideration, there would be no possible way for traffic to ever get on to this bridge that they want to save and it could be made handicapped accessible.

Council Member Epps asked if the side that he was talking about, putting the entrance to the beach, would that be like a slope or something or steps.

Mr. Johnston replied both. They would see doing it as much as what Danville did, although this bridge was much higher than Danville, but the wooden steps going down would be the primary access but there would also be a ramp. He added that they would have plenty of room to curve or shape it any way they want because he had fifty acres.

Council Member Grogan stated that they were talking about the engineer or the contractor saying he would be happy to not do such and such. He asked if he was talking about a dollar number and how many dollars was he talking about. He stated that they talked about a trust fund; he noted that interest rates have not been great lately. He stated that he did not know what maintenance and upkeep and liability...

Mr. Stickels replied that he had spoken only to the contractor and he did not know the amount of money that he had. He added that his point was, the original budget from the State was about three quarters of a million dollars. If that money were to be put in a separate trust and that was the point they were trying to make, then that would be held just for maintenance. The cost of the timber structure that Dr. Butler mentioned that Danville did, would come from other sources and would not be from those funds, it could be from the Federal grants or he thought volunteers would build the timber ramp.

Council Member Grogan noted that he assumed that this fax that was sent to Mrs. Stultz dated August 12th, from Mike Mills, Department of Transportation [a copy is on file in the office of the City Clerk], he thought that it was about three paragraphs and one paragraph says that "this is something that we cannot do!" exclamation mark, "as a matter of fact it may be too late to work out an arrangement with the city for the maintenance of the bridge due to the fact that the contract for this work has already been let". Council Member Grogan added that he was not saying he was either way, he thought that there was more information than he thought could be gathered from the Department of Transportation, from the bridge people and especially dollars. Somebody was going to have to be responsible and unless they set up a private corporation and they accept it, the City of Eden was going to have to be responsible.

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Mr. Stickels replied that they said that they did not want to deed it to a private organization, but the Parks Department could....there was enough money there in the budget to cover maintenance.

Council Member Grogan stated that he did not disagree with him, he had not seen the numbers, he probably should have gone and looked at the numbers, but he did not have numbers up there.

Mr. Johnston replied it was a chicken or egg situation. The contractor has given him verbal assurances a number of times and has indicated he was perfectly willing to put them in writing.

Council Member Grogan asked who the contractor was.

Mr. Johnston replied that it was Branch Construction out of Roanoke, Virginia and Mr. Henry McDaniels was the fellow in Roanoke who was overseeing the entire thing. He has stated verbally and has said he was perfectly willing to give it to them in writing that that the primary expense of the demolition contract was the arch. The substance of the expenses would return to the State if he did not have to tear down the arch, that the tearing down of the causeway on the south was a relatively trivial operation. He stated that they were talking about tons and tons of concrete, but compared to the arch, the permit from the Core of Engineers did not allow them to put anything in the river, so they were going to have to tear that arch down without going into the river.

Council Member Grogan stated that he did not disagree with any of that.

Mr. Johnston stated that he could get the numbers but they sort of need some kind of reason to have them before he [contractor] would go to the expense of doing that. The highway department has made some commitments that they have not lived up to. He stated that his attorney and the special deputy attorney general for the State of North Carolina both indicated that they were at the meeting when the highway department made those commitments and that they would put it in writing of what the commitments were, and that was that the highway department committed on January 22nd of this year that they would produce for the City of Eden, and with a copy to him [Johnston], hard numbers of what it would cost to save the bridge and not tear it down and what it would cost to put it into condition that it would be safe to use, they have not done that but they did commit to doing it.

Council Member Grogan stated that he had hit the nail on the head. He stated that he thought for one, the greenways, the water, all the things that they have done has been fantastic. The biggest thing, they need to get the marketing out and get it done, but when they start talking about this bridge and maintaining and keeping it, it was a real big project and he thought that as far as the tax payers of the City of Eden that they need to have information more than the engineer in Roanoke saying verbally to Mr. Johnston and the verbal commitments that they have gotten, because they have gotten verbal commitments from the State of North Carolina, and all municipalities have kindly had a little victory sign and things were tough and to take on things, and he did not disagree with them, he believed that a lot of this grant money was out there, if they have the talented people to know where the pots of money were, but the bottom line, as far as his feelings, and here again everyone has an opinion, he really felt a lot more comfortable if they had more information on the dollars and so forth, the concept and so forth, he had no problem with that. He stated that his problem was once they say they were going to do it and he was right, the State would give it to them, and then what do they do with it. He stated that his concern was, what do they do with it once they get it and even with some of their grant stuff he thought they probably could find numbers of those and where it might be and approximately how much money they might get. Everything tonight they have talked about, and he knew that they had to, which comes first the chicken or the egg, but he, for one, did have concerns.

Mr. Stickels noted that one thing that he could address in that letter that Mr. Mills sent was the timing. He said it may be too late but actually the demolition will not start until next year, so they do have time...

Council Member Grogan replied that he did not disagree with that, [but] he just saw this for the first time tonight.

Mr. Johnston commented that this may not be exactly in line with what Mr. Stickels wanted, but he had been thinking for some time, he had hit the nail on the head exactly. He stated that they

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would not be doing a service to the City of Eden to accept a potential liability of this magnitude without knowing what they were getting into. He stated that he hoped that what they would do was to make enough of a commitment that they could proceed with some authority to find the rest of the data they need. He pointed out that their sticking point since January has been that every time they go to get it, they need this hard number, they need that fact and those who commit to it, kind of leave it alone, because why would they bother, Eden was not going to take it because they have already scared them off. He stated that if they would commit to accepting the concept of taking it, if the figures were good, that the Council bought into the idea of taking the bridge and incorporating it into a park and accepting the liability involved with it, monetarily involved in it, if he could come up with numbers that were satisfactory to them, i.e., does not cost the city any money...then they could move on.

Council Member Grogan replied that his response to that, it was about six or eight months ago that Mrs. Harrington was here, [regarding] a fountain at the Spray [traffic] circle. They had some dialog and he thought the Council would agree and they could go back to the minutes that they would support that being done as long as no tax dollars from the City of Eden was used in construction or maintenance thereof. He added that he had no problem making that type of commitment to them.

Mr. Stickels pointed out that was what they were asking and that fountain was going to happen because of the action the Council took that night.

Council Member Grogan agreed, but stated that things change, elections [were] coming up and as a fellow told him twenty years ago and he learned it right quick, that if you got four votes you can do anything and unfortunately he was correct. He stated that anything that this Council sitting there tonight says that they will do and commit to, come January 2004, it could change, just like that. He stated that unfortunately it was not as a cliché, he guessed that was politics, but he had seen it happen, where the city has done things that he thought was fairly progressive, and people around this table changed and everything that was done in a four year period was eliminated, changed and went back four years, so they could there and talk about this [but] it makes him a little bit antsy.

Mayor Price commented that they understood the situation that they were in. He suggested that it probably would be best for them to have an opportunity to talk with the City Manager and have him gather this information in some type of print form so that he could assimilate it and have it in front of the City Council to have some general idea of where they were going. He stated that they had an excellent idea and they saluted DRBA for everything they have done, because it was just wonderful. Mayor Price agreed Council Member Grogan was right, there had to be some rational basis and he thought everybody agreed with that, but he thought that if they could get a group of them to meet with the City Manager and get those things out on the table and have some meaningful conversation, he could present things back to the Council then they could go forward.

Mr. Johnston pointed out that one piece they were missing was a commitment from the city to move forward with the reservations that Council Member Grogan has addressed. He explained that they were constantly stymied by the State with the axiom that the city was not going to take it so why do they bother and they have put him off since January using that phrase. He stated that if the city would commit to the concept, reserving the opportunity to back out if it was going to cost any money, then he believed that they could start moving forward to get this...

Mayor Price asked if anyone had any interest in making that proposal or would they rather wait for the City Manager to assimilate the information.

Council Member Tudor stated that he [Johnston] was leaving it very open. He was asking if they were willing to take a serious look at it. He was not asking them really for a commitment to do anything other than take a look at it.

Mr. Johnston replied exactly, without a commitment from the city that they have a serious interest; they could not go any further. That had been the problem. If the Council would commit a serious interest that they want to put a clause saying, as they did with the fountain, that they would go along with this idea, they like this idea, if it did not cost the taxpayers money from the City of Eden that was what they had in mind anyhow. He stressed that they could not go get that information and that was what had been stopping them for six or eight months now. They keep

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telling them that the city was not committed so why were they trying; they were not going to give it to them.

Council Member Tudor asked if they could say they were interested in looking at it to which Mr. Johnston replied, that was an amazing difference. Council Member Tudor added they were interested in looking at it; they might look at it and say no.

Mr. Johnston added, but that they do have some interest in it, they would look at it, they would accept it if it was right.

A motion was made by Council Member Epps seconded by Council Member Grogan that they liked the concept and they suggest that the City Manager get together to see what the advantages and disadvantages were and report back to Council at a later date.

Council Member Myott commented that the most important thing to her was to see something in writing that they would get that the State would give them this money, that it did not cost to tear down that part they were talking about.

Council Member Vestal asked what their perception was, from talking with the State on committing those unused funds to this project.

Mr. Johnston replied that he had had many conversations with many different people and the people at the highest end of the DOT indicate that it should be no problem because it was not North Carolina's money anyhow; it was all Federal money and if the contractor gave it back then North Carolina could not keep it. People at the other end will say no, if you give it back they were going to put it right back in the fund. So, they need to get a commitment.

Council Member Grogan referred to the note again, from Mr. Mills [NCDOT], where it said that there was no way that the funds coming back would be given to the city.

Mr. Johnston noted that was who he was referring to.

Council Member Grogan directed his question to the City Attorney and stated that they had heard several things tonight about discussions with attorney generals, this that and the other. He added that he did not want to wind up in a court suit [however] he did not think Mr. Johnston would do that. He asked the Clerk to read the motion so that the City Attorney could hear it.

Mrs. Kim Scott, City Clerk, read the motion made by Council Member Epps "that the city likes the concept and suggests that the City Manager look at the advantages and disadvantages and reports back to Council".

Council Member Grogan stated that when he [Johnston] gets the tape of this meeting and he has mentioned several times of "you're approving of our concept"....

Mr. Tom Medlin, City Attorney, explained that he was questioning the word "concept" and were they locking themselves into anything with the word "concept" as opposed to being a little more specific so that they were not incorporating any of those verbal conversations with other alleged people. Personally, he thought the motion was vague enough that they were not taking on anything other than referring this matter to the City Manager with the idea that the Council likes this park using the 87 bridge and trying to preserve a portion of it for park purposes, if it was not going to cost the City of Eden taxpayers any money, and to him that was the "concept" that everybody here liked.

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

Ms. Marion Hill Addressed Council:

Ms. Hill, 628 Overby Street, explained that she wanted to bring the attention the wonderful job the dog catcher was doing to keep dogs and cat population under control. Whenever they call him, he responds within a day. When they moved there many cats and dogs, wild and domestic were roaming the area and now the population had gone down in her neighborhood to an occasional cat and two very large German Shepherd type dogs. She noted that they were

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domestic dogs with collars. The two dogs run through their garden and relieve themselves wherever they feel like. She stated that she assumed that the town has an ordinance in place and those two dogs have been on her property almost every day for about two years. She stated that the dog catcher has talked to the owner, who complies for about a month and then the dogs are loose again. She also expressed concern that the dogs could some day attack a small child.

Ms. Hill asked if there was an ordinance in town that dogs have to be on a leash and how many warnings do owners need before the town does something about the owner's negligence and what happens if they did not comply with the ordinance.

Mayor Price replied that the city did have a leash law and it has had one for some time and it also included cats. He explained that they were given a reasonable period of time for not complying [with the ordinance] but they were given a citation after that.

Council Member Grogan commented that they had a similar situation in his neighborhood about ten or twelve years ago. He stated that it was just awful and they had to take out a warrant. He explained that a citizen took out a warrant against those people and had to go to court and the people in the neighborhood went and testified about the damage that the animal was doing and the owner was instructed by the court that the dog would have to be put down or relocated.

Ms. Hill asked if there had to be a citizen complaint before they would do anything.

Council Member Grogan replied that it did not have to be, but he was just telling her that if she wanted to get something done, she had to go take out a warrant. If people have been warned and warned he suggested that she get her neighbors and go get a warrant and get the sheriff to serve it and that would solve her problem. He pointed out that as she had previously said, she could call the dog warden and the Police Department, but without them seeing and observing, they really have limited...to which Ms. Hill stated that she had to prove that they did what they did.

Council Member Grogan explained that if she took out a warrant and take it to court and the neighbors go and say those dogs were just raising havoc in the neighborhood something would be done about it. He added that it was awful for it to have to happen that way, but he was just giving an experience of what he had in their neighborhood and that was the only way they got it done.

Mayor Price added that they have ordinances on the city books, they have a full time and a part time dog catcher and from his experience, he got calls all the time about dogs and he was very proud of the job they [dog catcher] do. But, there were several ways they could handle it, the last thing they want to do was to take a warrant for their neighbor, the city did have ordinances, but sometimes it goes into a civil matter.

Ms. Hill agreed that they did have a very good dog catcher, but she was wondering if there was anything without committing to the neighbor, because she lived next door to them and she had no idea who they were.

Mayor Price suggested that one of the part time people [dog catcher] lived on her street so he would work with him very closely to which Ms. Hill replied that they have been working with him, he was wonderful and they had called him a number of times.

Ms. Faye Megee addressed Council:

Ms. Megee introduced herself and explained that she was a Case Manager with Therapeutic Alternatives, a new program in the area working in conjunction with the Mental Health Department.

Mayor Price welcomed Ms. Megee and told her to feel free to call on city staff to be of help.

UNFINISHED BUSINESS:

No Unfinished Business was discussed.

Minutes of the regular August 19, 2003 meeting of the City Council, City of Eden, continued:

NEW BUSINESS:

(a) Consideration of "A Resolution of City Council of Eden Declaring September 13-20, 2003 as Rockingham County Big Sweep Week".

A RESOLUTION OF CITY COUNCIL OF EDEN
DECLARING SEPTEMBER 13-20, 2003 AS
ROCKINGHAM COUNTY BIG SWEEP WEEK

WHEREAS, Rockingham County is rich in natural resources and beauty; and

WHEREAS, water is a basic and essential need for all life; and,

WHEREAS, trash fouls our waterways as well as our landscapes; and,

WHEREAS, every citizen should contribute to keeping our environment clean and healthy by working together to preserve clean water and the natural beauty of our surroundings; and,

WHEREAS, North Carolina Big Sweep is a statewide community effort to retrieve trash from North Carolina's waterways and landscapes;

NOW, THEREFORE, BE IT RESOLVED that the City Council of Eden, North Carolina, meeting on August 19, 2003, does hereby declare September 13-20, 2003 as ROCKINGHAM COUNTY BIG SWEEP WEEK in Eden, and does further hereby urge every citizen to do his or her part to restore the beauty and function of our lakes and streams by volunteering to participate in the Big Sweep event.

In witness whereof I have hereunto set my hand and caused the seal of Eden to be affixed.

Philip K. Price
Mayor

ATTEST:

Kim J. Scott
City Clerk

A motion was made by Council Member Grogan seconded by Council Member Myott to approve this resolution. All Council Members voted in favor of this motion. This motion carried.

(b) Consideration of landscape maintenance contract.

The memorandum presented to Council explained that during the 2003-2004 budget process the Council approved monies for the city to engage a contractor to maintain the landscaping projects undertaken by the Community Appearance Commission and the Tree Board.

The Planning & Inspections Department sent out requests for proposals and Lewis Nursery, Inc., was the lowest responsible bidder in a total amount of \$45,960 and \$3,830 per month. An amount of \$50,000 was budgeted for landscape maintenance for the 2003-04 fiscal year.

Mr. Bill Mike, 126 Taft Street, explained that he was currently Chairman of the Eden Tree Board. He stated that at yesterday's monthly meeting the members unanimously requested that he address the City Council. He stated that they strongly felt that the continuation of utilizing Mr. Webster Irving in that position would be a prudent move by the City Council. He pointed out that Mr. Irving was a professional landscape and nursery man and he was a certified arborist, licensed in the application of all approved herbicides and insecticides. Over the past several years he has proven his professionalism by expertly maintaining the contractual areas on issue tonight and they have received many compliments on the beauty of the Highway 14 corridor, the small Draper Memorial Park, the landscaping behind old Southern National Bank, and so forth. Secondly, Mr. Irving has been a valuable resource serving gratis on the Eden Tree Board as a consultant. He has drawn up landscape plans for most of the beautification projects that grace their city. He noted that two recent ones were the entrance to the new Freedom Park and a preliminary plan for the mini park proposal at Washington and Henry Street and all of this was done gratis. He stated that the Tree Board had not been privy to the dollar details of the two bids that he understood the Council would be considering, however they have been closely involved and in most cases the originator of the projects being maintained, therefore they felt it was their duty to inform the Council of their position and trust that they would give weight to their request. In closing they did commend the Council on their commitment to maintain the beauty of those planted areas and their policy to award contracts to local businesses.

Minutes of the regular August 19, 2003 meeting of the City Council, City of Eden, continued:

Mayor Price thanked Mr. Mike for his beautification and tree forestry efforts over the years.

Mrs. Stultz added that over the years Mr. Irving had been paid for the design work that he had done, separate and apart from the landscape maintenance contract. She explained that this was something that the city had handled for several years and Mr. Irving had been the only contract holder.

She explained that when those bids originally came in they had two bidders. She stated that they sent out a bid notice to every single company that had any kind of landscaping business in Eden and they ran an ad in the newspaper. The first time they came in, they had two bids and as she opened them she realized they were identical to the penny. She decided that after some discussion it would be most fair to see if they could firm up the request to give the two firms and anybody else that wanted to bid the second time an opportunity to weigh in. She stated that they reworked it and sent it out again to all those folks and when they came in one of the gentlemen was approximately \$300 lower than the other. As they looked at the bids, she felt that in the economic times they were in it was her duty at this stage to recommend the low bidder, but obviously it was the Council's choice as to which they would prefer.

Council Member Vestal asked if she was saying the bids were just \$300 apart to which Mrs. Stultz replied in the affirmative. Council Member Vestal stated if Mr. Irving's point of business was in Rockingham County and Mrs. Stultz added that Lewis Nursery was in Cascade, Virginia.

A motion was made by Council Member Grogan seconded by Council Member Vestal to remain with Mr. Webster Irving at a cost of \$300 extra. All Council Members voted in favor of this motion. This motion carried. *This project was for \$46,188.00 with a monthly payment of \$3849.00.*

(c) Consideration and adoption of an ordinance for the demolition of a building located at 429 Monroe Street.

The memorandum provided explained that the Planning & Inspections Department was asking the City Council to adopt an ordinance for the demolition of the subject property 30 days from August 19, 2003.

This item was pulled from the agenda.

(d) Consideration and adoption of an ordinance to vacate and close a building located at 110 Primitive Street.

The memorandum provided explained that the Planning & Inspections Department was asking the City Council to adopt an ordinance for the demolition of the subject property 30 days from August 19, 2003.

Mrs. Stultz explained that this was a particular structure that they had been working with for several months and this afternoon she had received a call from Mr. Jesse Meeks. Mr. Meeks has undertaken to coordinate a group of folks who were going to step in and attempt to make the repairs on this piece of property. She asked Mr. Meeks to present something in writing before she asked the Council to delay on this decision.

Mrs. Stultz then proceeded to read "friends and I are going to undertake the safety issues and make necessary repairs at Mrs. Goodman's house at 110 Primitive Street in Eden. We'd like to ask that a decision on this property be delayed and we appreciate your attention to the matter."

She explained that one of the things they know is that housing stock in the community has never been replaced as fast as it was being lost and the whole point of their program was to try to maintain as many of those structures as they could. She noted that she did have pictures taken by staff inside of this home and the repairs needed for it were fairly extensive. She stated that they had some grant monies that they might have been able to use had the repairs not been as serious as they were. She recommended that based upon the request of a responsible citizen of this community and a group who had gotten together to try make those repairs, that the Council table this and let her bring it back before them [at a later date].

Council Member Vestal asked if they could get that street cleaned up.

Mrs. Stultz replied that they have sent out several nuisances on that street and Mr. Meeks had also noted he had already started removing the cars. She stated that she suggested that Mr.

Minutes of the regular August 19, 2003 meeting of the City Council, City of Eden, continued:

Meeks report to staff every thirty (30) days and she suggested that the Council give them no more than sixty (60) days.

A motion was made by Council Member Vestal seconded by Council Member Grogan to table this item for sixty (60) days. All Council Members voted in favor of this motion. This motion carried.

(e) Consideration and adoption of an ordinance for the demolition of a building located at 523 Moir Street.

The memorandum provided explained that the Planning & Inspections Department was asking the City Council to adopt an ordinance for the demolition of the subject property 30 days from August 19, 2003.

A motion was made by Council Member Tudor seconded by Council Member Epps to approve this request. All Council Members voted in favor of this motion. This motion carried.

(f) Consideration of taxicab driver permit.

The memorandum provided explained that on July 29, 2003 James Wesley Mitchell applied for a taxicab permit. Mr. Mitchell has never possessed a taxicab permit and wishes to drive on a part-time basis for Eden Cab, presently owned by Tommy Ray Mitchell.

A motion was made by Council Member Grogan seconded by Council Member Epps to approve this request. All Council Members voted in favor of this motion. This motion carried.

(g) Consideration of surplus apparatus donation.

The memorandum explained that Mr. Randy Evans, Fire Service Coordinator for Rockingham Community College, has asked if the city would consider donating the 1963 American LaFrance that has been taken offline with the delivery of the new fire apparatus. Fire Chief Overby felt that this would be a great thing to do for the college, since so many of the county's firemen are trained at the center.

Mayor Price asked Mr. Medlin if there was anything new on this request.

Mr. Medlin referred to a memo that the Council had seen earlier where he believed it was okay and they were entitled to do it.

Mayor Price asked if the city would have no liability for anything on this truck, after it left the city's hands to which Mr. Medlin replied no.

Council Member Vestal noted that Chief Overby was doing a good thing for county-wide firefighter training purposes.

A motion was made by Council Member Vestal seconded by Council Member Gover to approve this request. All Council Members voted in favor of this motion. This motion carried.

(h) Consideration an application for a license to operate a poolroom.

The memorandum explained that the application was for a license to operate a poolroom at 111 Hundley Drive.

Council Member Epps questioned the violations that needed to be corrected.

Council Member Vestal pointed out that he had received a report that those violations had been corrected and the inspectors gave a clear bill on that.

A motion was made by Council Member Grogan seconded by Council Member Vestal to approve this request.

Mayor Price commented that there had been a lot of problems in the past in this particular area.

Council Member Grogan stated that it depended on who was running it.

Minutes of the regular August 19, 2003 meeting of the City Council, City of Eden, continued:

Mayor Price agreed, but he thought that while the request was good, he had often mentioned that this property needed to be rezoned.

Council Member Gover commented that he just hoped it did not get out of hand and be used for something else. He added that the poolrooms there had not had good reputations.

Mayor Price asked Mrs. Stultz how this related to an ABC permit, after the poolroom was there.

Mrs. Stultz replied that it was probably a question better suited to Mr. Medlin. She explained that she understood that if they applied for an ABC permit, the city jumped through all the hoops, and after that, control of it had to do with the State. She added that she was quite sure that if the city's staff thought if there were any problems, they could make a request for the State to investigate it. As for the zoning ordinance, that particular block of commercial buildings have been commercial since the time of original zoning in 1968. When the towns were consolidated the City Council at that point thought that the best thing to do in a lot of places was to do what was being done on the ground at that point. She noted that she would be forty-four years old on Friday and as far back as she could remember there had been a pool room at that place. As long as it was zoned Business-General, the kind of uses that they were anticipating doing was permitted. The City Council always had within its discretion to initiate a rezoning and she had encouraged several residents who have complained about the zoning to initiate such and so far a rezoning application has not been initiated. So when they present information to the city, if it was permitted in that zoning district, the city had to accommodate them.

Mayor Price stated that before her time though, those neighborhood stores were truly neighborhood stores, they were not poolrooms and they were spread out in all areas of this community.

Council Member Epps questioned if there were an ordinance in place such as with the bed & breakfasts about hours of operations or a noise ordinance.

Mrs. Stultz replied that the noise ordinance that was already in place under the city code applies, but there was no special use permit process for a poolroom.

Mayor Price asked where there was none.

Mrs. Stultz explained that it was something that neither the Council nor a citizen had requested happen. She noted that they could do most anything that they wanted to do within certain perimeters of the zoning ordinance.

Action on the motion was as follows: Council Members Grogan, Vestal, Gover, Myott, and Reynolds voted in favor of this motion. Council Members Tudor and Epps voted in opposition. This motion carried.

(i) Consideration of industrial user violation civil penalty and enforcement fee recommendation.

The memorandum explained that this was a request to change the fees and charges schedule for issuing Civil Penalties and Enforcement Fees for the City's Industrial Pretreatment Program. Currently, the Enforcement Response Plan does not fix specific dollar amounts for penalties other than the general statement that penalties may be as much as \$25,000 per day per violation. By using the proposed fee schedule, all industries in violation of their Pretreatment Permit would have the civil penalty calculated in a uniform manner. This will help recover some costs associated with monitoring and administering the Industrial Pretreatment Program.

Mayor Price asked why this came up.

Mr. Dennis Asbury, Public Utilities Director, explained that in the ordinance there was a single line that allowed them to establish fines up to \$25,000 per day per violation. What they were trying to do was to proceduralize that, so it was clear cut that those particular violations, which were fairly routine, things that happen over and over, things that they have seen for years, and they just needed to have the authority of the Council to designate that this was a fine for that particular one and basically it takes it out of the hands of the staff, as far as making a judgment call. For other things where there were issues of, was the violation intentional, did the violation damage the environment or the treatment plant; they still have that up to \$25,000 per day for violation and the opportunity to take into account mitigating circumstances or circumstances that might warrant a more severe penalty.

Minutes of the regular August 19, 2003 meeting of the City Council, City of Eden, continued:

Council Member Gover questioned if that was only if the standards change or were they changing standards. If they have companies that may hairline on some of the standards, this did not open the door to start fining them if they were not within that standard or if the standards were going to change then they would have to adapt to that standard.

Mr. Asbury replied that was correct, they would and in some cases that has been the case. In the sewer master plan there were recommendations that changes be made in the limitations on their industries and they have already proceeded to do that as industrial user permits have come up for renewal.

Council Member Gover asked if those standards came down from the State or EPA.

Mr. Asbury replied that generally they would come from the EPA and the State would adopt them by reference.

Mayor Price asked how often they have had to initiate fines in the past.

Mr. Asbury replied that they probably had fifteen (15) different violations in the last year and all of their industrial users have had one or another and as they could see here there were some that were fairly mundane administrative penalties for failing to get the reports in on time, that sort of thing.

Mayor Price asked if he wanted to take this objective part out from his staff to have something pretty well defined for them to which Mr. Asbury replied yes.

Council Member Vestal added that he thought that was what the whole thing was, to try to get everything uniform throughout the city.

A motion was made by Council Member Grogan seconded by Council Member Epps to approve this request. All Council Members voted in favor of this motion. This motion carried.

(j) Consideration of request from Dan River Water, Inc.

Mayor Price explained that the request was from Dan River Water to extend a waterline service for Howard Tate's property on Bethlehem Church and Mebane [Bridge] Road. He asked them to bear in mind that Dan River has to inform the city about any proposed change and the city has to accept it into their plan.

Council Member Vestal noted that this was just an extension to a place of business, it was not extending their line, it was just a tap to the county line.

A motion was made by Council Member Vestal seconded by Council Member Gover to approve this request. All Council Members voted in favor of this motion. This motion carried.

(k) Consideration of Resolution to Accept Comprehensive Wastewater Collection Master Plan and Consideration of Resolution to Accept Comprehensive Water Distribution Master Plan.

A RESOLUTION TO ACCEPT COMPREHENSIVE WATER DISTRIBUTION MASTER PLAN

WHEREAS, the City of Eden owns, operates and maintains a potable water distribution system for the benefit of the citizens of the City; and

WHEREAS, the City of Eden Council contracted with W.K. Dickson & Co., Inc., to evaluate said distribution system; and

WHEREAS, W.K. Dickson & Co., Inc., has completed said evaluation and has provided a report to the City detailing distribution system capabilities and deficiencies and offering recommendations for distribution system improvements; and

WHEREAS, the City desires to utilize said report as a planning tool in making prudent decisions regarding distribution system improvements and modifications;

NOW, THEREFORE, BE IT RESOLVED by the City Council that The City of Eden Water Master Plan report completed by W.K. Dickson & Co., Inc., and dated May, 2003, is hereby accepted by the City to be utilized as described therein.

August 19, 2003

City of Eden, N. C.

Minutes of the regular August 19, 2003 meeting of the City Council, City of Eden, continued:

DULY RESOLVED THIS THE 19TH DAY OF AUGUST 2003.

(ATTEST:)

Brad Corcoran
City Manager

Philip K. Price
Mayor

A RESOLUTION TO ACCEPT COMPREHENSIVE WASTEWATER COLLECTION MASTER PLAN

WHEREAS, the City of Eden owns, operates and maintains a central sanitary sewer system for the benefit of the citizens of the City; and

WHEREAS, the City of Eden Council contracted with W.K. Dickson & Co., Inc., to evaluate said collection system; and

WHEREAS, W.K. Dickson & Co., Inc., has completed said evaluation and has provided a report to the City detailing collection system capabilities and deficiencies and offering recommendations for distribution system improvements; and

WHEREAS, the City desires to utilize said report as a planning tool in making prudent decisions regarding collection system improvements and modifications;

NOW, THEREFORE, BE IT RESOLVED by the City Council that The City of Eden Water Master Plan report completed by W.K. Dickson & Co., Inc., and dated May, 2003, is hereby accepted by the City to be utilized as described therein.

DULY RESOLVED THIS THE 19TH DAY OF AUGUST 2003.

(ATTEST:)

Brad Corcoran
City Manager

Philip K. Price
Mayor

A motion was made by Council Member Vestal seconded by Council Member Gover to adopt the resolutions, accepting the plan only. All Council Members voted in favor of this motion. This motion carried.

9. CONSENT AGENDA:

(a) Approval of minutes: June 30, July 10, and July 15, 2003.

(b) Approval and adoption of a motion to hold a public hearing to consider an ordinance to amend Section 11.24(h)(1) - the Business-Neighborhood zoning district of the City of Eden Zoning Ordinance to add "churches" as a permitted use. ZONING CASE Z-03-10.

The memorandum explained that the city has received a request from Roger Brown to amend the zoning ordinance. The request is to amend Section 11.24(h)(1) the Business-Neighborhood Zoning Ordinance to add "churches" as a permitted use.

(c) Approval and adoption of a motion to hold a public hearing to consider an ordinance to amend Section 11.24(e)(1) the Office & Institutional zoning district of the City of Eden Zoning Ordinance to add "retail nurseries" as a permitted use. ZONING CASE Z-03-11.

The memorandum explained that the city has received a request from John Cameron to amend the zoning ordinance. The request is to amend Section 11.24(e)(1) the Office & Institutional Zoning District of the City of Eden Zoning Ordinance to add "retail nurseries" as a permitted use.

Please note that the beginning of this discussion was omitted from the original tape.

The discussion was in regard to the proposed amendment to the zoning ordinance to add "retail nurseries" as a permitted use and the need for some type of restriction on this ordinance.

Mrs. Stultz noted that the Board had already met once [regarding subject] so it would be the end of September before they would hear it, which would mean it would be the third week of October before they could...to which Mayor Price questioned why they could not hold a special meeting. Mrs. Stultz replied that they could.

Mayor Price pointed out that it was a valid point.

Minutes of the regular August 19, 2003 meeting of the City Council, City of Eden, continued:

Mrs. Stultz agreed and explained that was why they chose the language they did to avoid the problem that was suggested might happen if it was left wide open and just put a nursery.

Council Member Vestal stated that with a retail nursery, if he wanted to go buy a block or a brick or whatever, he knew that retail nurseries sell those things. He stated that you could not just say retail nursery and say okay you cannot have so and so he thought they needed to clean the language up before it was passed.

Mayor Price asked if they could have a special meeting and still get under the wire with the public hearing or when they have one could they for a public hearing in October.

Mrs. Stultz replied that they had to have two public hearings, but the first thing they had to do was change the ordinance and then they had to deal with the issue and the Planning Board would have to deal with this case all over again. She stated that if the Council wanted to do that, what they need to do would be to initiate a zoning case to deal with nurseries throughout their zoning ordinance and all of this timeline move soon that they write something that the Planning Board liked well enough to approve [and] that gets to Council and Council liked it good enough to approve on the first go and to get it done. She stated that they could do it which ever way they wanted.

Mr. Medlin asked how many districts allow some form of nursery right now.

Mrs. Stultz replied that they could manage them in industrial districts; it has been interpreted to allow them in Business-General and Business-Highway. She noted that the ordinance had three or four different ways it talks about something that amounts to a nursery. She stated that they sort of made a determination that the heavy duty kind that they were all concerned about was called something a little different than a retail nursery. Otherwise, she would not have ever been anxious to put the word retail in over the line.

Council Member Myott questioned what they were called to which Mrs. Stultz replied that there were greenhouses; they have a couple of those, greenhouses and horticultural nurseries that was one of the most common ones.

Council Member Grogan asked that if they approve this tonight for a public hearing and have the public hearing next month and they table it for thirty days, they would have time to take it before the Planning and Zoning Board and come back with the proper verbiage.

Mrs. Stultz replied that they need to make sure what they do the zoning case for. She stated that the problem that she had was this, the Planning Board would have to agree to approve the application they have now contingent upon Council approving the change in the zoning language. She added that she would be asking them to approve something that Council had not approved yet. She stated that anything adopted under Article 19 of Chapter 160a has to have a public hearing and go to the Planning Board and they have 45 days to review it and there was no way to speed some parts of it up.

Mayor Price stated to table the public hearing decision and the next month have all the information and if that information came back and they passed it that would be what their desire would be and Mrs. Stultz added that she would then have to take it to Planning Board and get them to review it again.

Council Member Vestal commented that Mrs. Stultz said that she was going to have to delay this for 60 days and he still thought they needed to clarify that language to which Mayor Price agreed.

Mr. Medlin asked if they were going to then be moving ahead with just adding retail nurseries to O&I because they were calling a public hearing and if they were talking about wanting to revamp nurseries throughout their zoning ordinance then they have to call a public hearing for that to amend each section, so what they were calling for was this public hearing had to dovetail what they want to do. They could not just do public nurseries and then at the public hearing come out and say "okay we'll table it" and then decide to revamp the whole thing because then they have to have another public hearing.

Minutes of the regular August 19, 2003 meeting of the City Council, City of Eden, continued:

Mrs. Stultz stated that the other option they did have was to ask them all, just because they have decided to call it retail nurseries it did not mean that the Council could not give instruction at the time of the ordinance they could decide they did not want to (unintelligible) something else and call it a public hearing, now that she still had to get back to the Planning Board and change it, but they could do it just for this district, if they wanted to do that to make it faster, but either way, she agreed they did need to look at it throughout the ordinance, eventually.

Council Member Myott asked if they had someone who wanted this changed.

Mrs. Stultz replied yes and they try really hard not to talk about the specific property, but she would share that this was over at the old filter plant below the old city hall. The gentleman that owned the house across the street made this application. He and his wife purchased this property in order to prevent something that they did not want as a neighbor going there and Mr. Dwight Talley of Rockingham Community College and Mr. Cameron were cooking up a notion of some sort of horticultural sight to be there. The bottom line was, once they change this for O&I it did not just change it for that plot and the Planning Board gets a little hung up on that, it changes it for every single O&I in the community.

Mr. Medlin explained that they were looking at a specific situation for a person who has made this request, yet on the backside they had a much bigger issue that covers nurseries for all zoning. He stated that it seemed to be putting the cart before the horse if they were just going to go ahead and look at this one situation when their real plan was to review the entire nursery proposal. He suggested that they could go ahead and call a public hearing for next week if Mrs. Stultz thought they could be ready.

Mrs. Stultz stated that it would be initiating a zoning amendment and calling a public hearing on that day and she did not have the ability to initiate it, but they could and call a public hearing.

Mr. Medlin agreed and explained that Council had to initiate it and they could have a motion now to initiate the amend to Planning and Zoning for any type of use for nurseries within the zoning and have that reviewed and they need the language for this, what they were calling for, they would call the public hearing. First tonight they would initiate it then go ahead and call their public hearing and then at the next meeting they were set up to do their full review and take care of this request for retail nurseries in O&I and everything that they want to do for nurseries at the next meeting.

Mrs. Stultz added that the Council needed to initiate a text amendment to the ordinance that deals with nurseries in the various zoning districts in which they were committed and hold a public hearing. They also have to send this one back to the Planning Board and have them look at this tape again, contingent upon the changes that would or would not be made.

Mayor Price asked if they could still have both public hearings next month.

Mrs. Stultz replied that they certainly could, that was if they want to take the chance that Council and the Planning Board were comfortable with what they recommend the first go...

Mr. Medlin added that was just for that one. They were doing everything for one person, but the Council was looking at trying to review the entire structure of the zoning ordinance and to him that seems to be more important trying to get it all done and get it done for this person at the same time.

He then clarified that as they were initiating a text amendment, as he understood it, the Board was asking to be able to differentiate between the types of nurseries in the different zoning districts and that was what they were wanting to look at and modify, correct.

A motion was made by Council Members Epps to initiate a text amendment, differentiating between the types of nurseries in the different types of zoning districts and then call for a public hearing at the next regular meeting of Council. Council Member Myott seconded the motion. All Council Members voted in favor of this motion. This motion carried.

(d) Approval and adoption of an ordinance closing a portion of Fifth Street. STREET CLOSING SC-03-03.

August 19, 2003

City of Eden, N. C.

Minutes of the regular August 19, 2003 meeting of the City Council, City of Eden, continued:

(e) Approval and adoption of Budget Amendment No. 2.

Budget Amendment #2

<u>Budget Amendment #2</u>	<u>Account #</u>	<u>From</u>	<u>To</u>	<u>Amount</u>
General Fund Revenue				
Fund Balance Appropriated	10-3991-91000	\$205,650.00	\$229,869.11	<u>\$ 24,219.11</u> <u>\$ 24,219.11</u>
General Fund Expenditures				
LLEBG – Dep Equip	10-4310-57100	\$ -	\$ 8,310.73	\$ 8,310.73
Drug Fort – Equip	10-4310-57200	\$ -	\$ 14,344.58	\$ 14,344.58
Parks & Rec Reimbursement	10-6120-29400	\$ -	\$ 1,563.80	\$ 1,563.80
				<u>\$ 24,219.11</u>

Budget Amendment #2 is to cover the re-appropriation of monies restricted for use (These monies remained as of June 30, 2003 and need to be taken out of fund balance and given back to the appropriate department).

Adopted and effective this 19th day of August, 2003.

Attest:

Kim J. Scott, City Clerk

Philip K. Price, Mayor

(f) Approval and adoption of fire lane ordinance amendment.

(g) Approval and adoption of amendments to Chapter 5, Sections 5-27, 5-28, 5-29 and 5-30 of the Eden City Code.

A motion was made by Council Member Grogan seconded by Council Member Vestal to approve the Consent Agenda. All Council Members voted in favor of this motion. This motion carried.

VOUCHERS:

Mayor Price encouraged the Council to talk with the City Manager to talk about any items in the vouchers.

ADJOURNMENT:

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

Respectfully submitted,

Kim J. Scott
City Clerk

ATTEST:

Philip K. Price
Mayor