

CITY OF EDEN, N. C.

A special meeting of the City Council, City of Eden, was held on Thursday, July 10, 2003 at 4:00 p.m. in the Council Chambers, 308 East 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
	Billy Vestal
	(absent) Christine H. Myott
	Garry Tudor
	Jerry Epps
	C. H. Gover, Sr.
City Manager:	Brad Corcoran
City Attorney:	Tom Medlin, Jr.
City Clerk:	Kim J. Scott
Deputy City Clerk:	Sheralene Thompson
Representatives from staff	
Representatives from News Media:	Steve Lawson, <u>Eden Daily News</u>
	Lisa Doss, <u>Eden's Own Journal</u>

MEETING CONVENED:

Mayor Price called the special meeting of the City Council to order and welcomed those in attendance.

Mayor Price explained that the purpose of this meeting was to consider the adoption of an annexation ordinance for the area west of the current City boundary and identified as Area II, Indian Hills. He then noted for the record that they have received the certification of notices that were mailed. ("Certificate showing that notices were mailed to the owners of property subject to annexation as per the attached public notice of the informational meeting and public hearing on the questions of annexation"; this certification, public hearing notice, map, and property owners list are attached and made a part of the minutes).

Mayor Price again stated that the matter of business before the Council tonight was consideration of adoption of an annexation ordinance and at that time he opened the floor.

A motion was made by Council Member Grogan seconded by Council Member Epps that the annexation ordinance be approved.

Council Member Vestal questioned the privatizing of the water and stated he had not received an answer to those questions.

The City Manager explained that the staff had met on one occasion with representatives of Dan River Water to discuss the issues relative to what needed to be done. Dan River Water's attorney was present along with two of their officers and their administrator. During that meeting, they indicated that there would be no problem in reaching a deal. Since that meeting some legal issues have developed. The City has contacted them on numerous occasions and they were currently not able to meet until those matters were resolved. But, he added, there did not appear to be any problems.

Council Member Vestal pointed out that at this time they have nothing in writing to which Mr. Corcoran replied that was correct.

A substitute motion was made by Council Member Vestal seconded by Council Member Gover to delay this annexation ordinance until they find out the legal answers (to the discussion with Dan River Water).

Council Member Tudor commented that he was very impressed by the points made by the citizens who came forth at the public hearing. In thinking about that, he had talked with a number of people who lived there. He stated that he told them that he had no problem with a delay and he had asked the professional staff about a delay of two years, but what they have told him, and what the Institute of Government said, with a Resolution of Intent, they have 400 days.

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They could not delay beyond 400 days. The way all of this has transpired legally, all they could vote for was "yes" annex or "no" not annex. They could not delay because of the legal boundaries of the Resolution of Intent. He then asked the City Attorney to address his comments.

Mr. Medlin explained that if he was not mistaken, they have 90 days from the public hearing in order to have this meeting to consider an ordinance. Under any circumstance the ordinance could not be effective less than one year from the Resolution of Intent or 400 days from the Resolution of Intent. So, that was their time frame for working on this Resolution of Intent.

Council Member Tudor questioned how many days this vote could be delayed.

Mr. Medlin replied that he thought their outside time frame would be the 400 days from the Resolution of Intent because that creates a shorter period which puts them around mid August, adding he did not have the exact date.

Council Member Tudor asked, so this meeting could be delayed 30 days at the most to which Mr. Medlin replied 30 - 35 days.

Council Member Vestal commented for clarification that his motion was to do away with this totally and if they vote against this at any time, 3 months, 6 months or 2 years from now they could bring this process back up starting at ground zero.

Council Member Tudor pointed out that it would cost another \$31,000 to which Council Member Vestal disagreed as the study has already been done.

Mayor Price asked if his motion was to do away with the proposed annexation to which Council Member Vestal replied yes, until they find out the answers that they need to find out.

Mr. Medlin interjected that Council Member Vestal stated it was a motion to delay, but what he was really saying was it was motion to not act on this, which was in essence a vote of no against the main motion so he did not know that they needed a substitute motion cause that was just a no vote on the main motion. He closed by stating that the motion to substitute was out of order. It was just a no vote on the main motion.

Mayor Price mentioned that they were back to the main motion by Council Member Grogan and seconded by Council Member Epps to approve the adoption of the annexation ordinance.

Council Member Vestal mentioned that Council Member Grogan could withdraw his motion.

Action on the motion was as follows: Council Members Tudor, Epps and Grogan voted in favor of the annexation ordinance. Council Members Vestal, Gover and Reynolds voted in opposition. As there was a tie due to Council Member Myott's absence, Mayor Price voted in favor of the ordinance. The motion (to approve the annexation ordinance) carried.

Mayor Price thanked staff and all the citizens for their understanding.

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
CITY OF EDEN,
UNDER THE AUTHORITY GRANTED BY CHAPTER 160A,
ARTICLE 4A, PART 3 OF THE GENERAL STATUTES OF NORTH CAROLINA

WHEREAS, all of the prerequisites to adoption of this ordinance prescribed in Chapter 160A, Article 4A, Part 3 of the General Statutes of North Carolina, have been met; and

WHEREAS, the City Council of the City of Eden has taken into full consideration the statements presented at the public hearing held on June 30, 2003, on the question of this annexation; and

WHEREAS, the City Council of the City of Eden has concluded and hereby declares that annexation of the area described herein is necessary to the orderly growth and development of the City of Eden;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Eden that:

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Section 1. From and after the effective date of this annexation, the following territory shall be annexed to and become a part of the City of Eden, and the corporate limits of the City of Eden shall be extended to include said territory more particularly described by metes and bounds as follows:

BEGINNING at a point marking the northeast intersection of N.C. Hwy 770 and Shady Grove Road, said point being located South 87° 13' 39" West 533.44 feet from NC Grid Mon. "Holy" NAD 83, said NC Grid Mon. being North 71° 53' 34" West 10,521.76 feet from NC Grid Mon. "Fellow" NAD 83; thence from said point of beginning with the northern right of way line of N.C. Hwy 770 the following 9 courses: thence North 85° 25' 03" East 1,115.68 feet to a point, thence along an arc with a chord bearing and distance of North 71° 51' 58" East 857.66 feet, and an arc distance of 865.70 feet, to a point, thence North 58° 18' 53" East 778.91 feet to a point, thence North 58° 47' 29" East 370.03 feet to a point, thence North 73° 41' 59" East 62.87 feet to a point, thence North 47° 42' 50" East 144.29 feet to a point, thence North 57° 59' 04" East 104.92 feet to a point, thence North 58° 10' 41" East 125.09 feet to a point and thence North 58° 10' 41" East 170.00 feet to a point in the existing city limit boundary line; thence crossing N.C. Hwy 770, South 28° 12' 46" East 114.31 feet to a point in the southern right-of-way line of NC Hwy 770; thence with the southern right of way line of N.C. Hwy 770, South 57° 58' 34" West 435.84 feet to a point; thence continuing with the southern right of way line of N.C. Hwy 770, South 43° 20' 59" West 211.01 feet to a point marking the southeast intersection of N.C. Hwy 770 and N.C. Hwy 135; thence with the southern right of way line of N.C. Hwy 135, South 17° 24' 23" West 329.54 feet to a point; thence continuing with the southern right of way line of N.C. Hwy 135, South 19° 29' 35" West 86.57 feet to a point marking the northwest corner for Ridgeview Cemetery; thence with the north line of Ridgeview Cemetery, South 76° 11' 57" East 424.06 feet to a point in the center line of Matrimony Creek; thence with the centerline of Matrimony Creek, the following 28 distances: South 10° 59' 40" West 144.72 feet to a point, South 10° 36' 30" West 162.22 feet to a point, South 15° 30' 04" East 225.74 feet to a point, South 21° 41' 47" East 289.41 feet to a point, South 11° 47' 57" East 138.42 feet to a point, South 35° 47' 35" East 167.05 feet to a point, South 45° 51' 15" East 102.96 feet to a point, South 08° 39' 04" East 86.89 feet to a point, South 05° 50' 33" West 122.18 feet to a point, South 65° 42' 53" East 14.98 feet to a point, South 35° 45' 19" East 168.78 feet to a point, South 57° 56' 38" East 225.85 feet to a point, South 19° 29' 13" East 147.85 feet to a point, South 24° 50' 25" East 118.13 feet to a point, South 79° 45' 22" East 164.57 feet to a point, North 80° 55' 13" East 237.91 feet to a point, South 33° 43' 26" East 208.48 feet to a point, South 55° 00' 20" East 69.57 feet to a point, North 82° 48' 31" East 215.41 feet to a point, South 76° 56' 46" East 94.00 feet to a point, South 63° 35' 42" East 130.81 feet to a point, South 87° 50' 06" East 82.42 feet to a point, North 79° 12' 41" East 133.08 feet to a point, South 89° 10' 42" East 225.70 feet to a point, North 79° 28' 12" East 110.81 feet to a point, South 81° 07' 58" East 79.09 feet to a point, South 88° 09' 29" East 56.93 feet to a point, and South 68° 23' 00" East 76.00 feet to a point at the mouth of Matrimony Creek and at the North edge of the bank of Dan River; thence leaving the existing city limit boundary line and running with the North bank of Dan River the following 10 courses: South 58° 16' 15" West 103.14 feet to a point, South 58° 05' 34" West 163.97 feet to a point, South 70° 08' 33" West 260.13 feet to a point, South 63° 27' 38" West 223.33 feet to a point, South 81° 22' 48" West 141.72 feet to a point, South 64° 00' 26" West 144.60 feet to a point, South 64° 13' 28" West 157.68 feet to a point, South 54° 08' 41" West 159.10 feet to a point, South 55° 40' 35" West 265.41 feet to a point and South 46° 45' 05" West 186.25 feet to a point marking the southeast corner CWR Construction Corp. (Deed Book 1060, page 1244); thence with the east line of CWR Construction Corp, North 41° 25' 30" West 410.53 feet to a point; thence with an unnumbered lot and with the rear lines of Lots 85 through 101, Lot 103 and Lot 105, Indian Hills Subdivision, the following 7 courses: South 69° 54' 51" West 293.12 feet to a point, North 82° 00' 13" West 100.00 feet to a point, South 72° 38' 30" West 198.86 feet to a point, South 56° 53' 59" West 311.00 feet to a point, South 45° 14' 22" West 105.00 feet to a point, South 35° 01' 45" West 310.36 feet to a point and South 57° 47' 07" West 1,159.36 feet to a point in the eastern right of way line of Harrington Highway (SR 1533); thence with the eastern right of way line of Harrington Highway, the following 13 courses: North 27° 41' 43" West 336.05 feet to a point, North 27° 59' 34" West 247.76 feet to a point, North 20° 52' 29" West 200.76 feet to a point, North 27° 36' 58" West 700.22 feet to a point, North 41° 06' 48" West 102.37 feet to a concrete monument found, North 24° 10' 12" West 370.07 feet to a point, North 24° 04' 30" West 111.64 feet to a point, North 34° 28' 31" West 147.77 feet to a point, North 20° 23' 30" West 176.70 feet to a point in the southern right of way line of N.C. Hwy 135, North 56° 48' 51" West 73.44 feet to a point in the northern right of way line of N.C. Hwy 135, North 19° 13' 10" West 299.63 feet to a point, thence along an arc with a chord bearing and distance of North 23° 05' 16" West 472.23 feet, and an arc distance of 472.59 feet, to a point, and North 26° 57' 21" West 819.76 feet to the POINT OF BEGINNING and containing an area of 246.503 acres as shown on a survey entitled "Plat of Survey For The City of Eden Showing 'Indian Hills Annexation Area,'" Leaksville Township, Rockingham County, North Carolina by C. E. Robertson & Associates, P.L.S. dated June 27, 2003, to which plat reference is hereby made for more particularity in description.

Section 2. The City Council of the City of Eden hereby finds and declares that the above described territory meets the requirements of G.S. 160A-48, in that:

The area meets North Carolina's statutory standards for annexation. It complies with the standards set forth in North Carolina General Statute 160A-48(b) as follows:

- It is contiguous to the primary city limits;

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- It is not located within another municipal boundary;
- 31% of the area's total boundary coincides with the municipal boundary, and this complies with the statutory 1/8th (12-1/2%) requirement;
- The area is developed for urban purposes because it meets both the use and subdivision tests.

Use Test: 102 of the 149 lots, or 68.4%, are used for residential, commercial, industrial, institutional or governmental purposes; and

Subdivision Test: 96.8 acres out of 153.1 total residential and undeveloped acres, or 63.2%, are in lots and tracts of 3 acres or less in size.

Section 3. It is the purpose and intent of the City of Eden to provide services to the area being annexed under this ordinance, as set forth in the report of plans for services approved by the City Council of the City of Eden on May 14, 2003 and filed in the office of the Clerk for public inspection on May 15, 2003.

Section 4. The City Council of the City of Eden hereby finds and declares that, on the effective date of annexation prescribed in Section 9 hereof, the City of Eden will have sufficient funds appropriated in the amount of \$508,900.00, to finance the estimated cost of construction of water and sewer facilities found necessary in the report of plans for services to extend the basic sewer and water system of the City of Eden into the area to be annexed under this ordinance, as G.S. 160A-47(3)(b).

Section 5. From and after the effective date of this annexation, the territory annexed and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Eden, and shall be entitled to the same privileges and benefits as other parts of the City of Eden.

Section 6. The newly annexed territory described above shall be subject to City of Eden taxes according to G.S. 160A-58.10.

Section 7. The Mayor of the City of Eden, shall cause an accurate map of the annexed territory described in Section 1 hereof, together with a duly certified copy of this ordinance, to be recorded in the office of the register of Deeds of Rockingham County, and in the office of the Secretary of State in Raleigh. Such a map shall also be delivered to the City of Eden Board of Elections, as required by G.S. 163-288.1.

Section 8. This ordinance shall become effective on July 15, 2004.

As to qualified tracts of agricultural land, horticultural land and forestland, the annexation will become effective on the last day of the month in which the tract or part thereof becomes ineligible for present-use classification under G.S. 105-227.4 or no longer meets the requirements of G.S. 160A-49(f)(2).

Section 9. Notice of adoption of this ordinance shall be published once in a newspaper having general circulation in the City of Eden.

Adopted this 10th day of July, 2003.

CITY OF EDEN

BY: Philip K. Price
Philip K. Price, Mayor

ATTEST:

Kim J. Scott, CMC
City Clerk

ADJOURNMENT:

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

Respectfully submitted,

Kim J. Scott
City Clerk

ATTEST:

Philip K. Price
Mayor