

CITY OF EDEN, N. C.

The regular meeting of the City Council, City of Eden, was held on Tuesday, September 16, 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:	(Absent)	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> ; Steve Lawson, <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:

Ms. Susie Artis, Pastor, Upper Room Christian Center, was present to give the invocation.

PROCLAMATION:

Mayor Price read the following proclamation in recognition of Employ an Older Worker Week.

PROCLAMATION
EMPLOY AN ORDER WORKER WEEK

WHEREAS, the fastest growing segment of the population are those people over 55 years and older; and

WHEREAS, the older workers will play an increasingly important role in our work force in the months and years ahead; and

WHEREAS, older workers bring a variety of skills and knowledge to any job, are reliable, dependable, loyal; and

WHEREAS, it is fitting that a period of time be set aside to honor these men and women.

NOW, THEREFORE, I Philip K. Price, Mayor of the City of Eden, North Carolina, do hereby proclaim September 21st through September 27th, 2003 as

“EMPLOY AN OLDER WORKER WEEK”
In the City of Eden

and commend this observance to all citizens in our local community, and urge the employment of older workers by area businesses.

Witness my hand and corporate seal of the City of Eden, North Carolina, this the 16th day of September, 2003.

Philip K. Price, Mayor

Mayor Price read the following proclamation in recognition of the anniversary of September 11, 2001.

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911 ANNIVERSARY

WHEREAS, two years ago, more than 3,000 innocent people lost their lives when a calm September morning was shattered by terrorists driven by hatred and destruction, and

WHEREAS, as we remember September 11, 2001, we reaffirm the vows made in the earliest hours of our grief and anger. The passage of time cannot erase the pain and devastation that were inflicted on our people; and

WHEREAS, while we as a Union still continue to recover from the unspeakable loss of so many lives, the indomitable spirit of the United States has been revitalized and given way to numerous expressions of heroism and patriotism; and

WHEREAS, as a show of continued support for our United States of America, we join with the rest of the world in remembering the tragedy by commemorating the second anniversary; and

NOW, THEREFORE, I, Philip K. Price, Mayor of Eden, North Carolina, do hereby proclaim Thursday, September 11th, 2003, as "A DAY OF REMBRANCE" and urge all citizens to commemorate this day with appropriate events remembering all those who gave their lives for our freedom.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Eden, North Carolina this sixteenth day of September in the year of our Lord two thousand and three.

Philip K. Price,
Philip K. Price, Mayor

Kim J. Scott
Kim J. Scott, City Clerk

PUBLIC HEARINGS:

(a) Consideration of a zoning text amendment request and an ordinance to amend Section 11.24(h)(1) – the Business-Neighborhood district of the City of Eden Zoning Ordinance to include churches as a permitted use. Request submitted by Roger Brown. ZONING CASE Z-03-10.

The memorandum explained that at their meeting in August the Council scheduled a public hearing to hear comments regarding a zoning amendment request filed by Roger Brown. The request was to amend Section 11.24(h)(1) – the Business-Neighborhood district of the City of Eden Zoning Ordinance to add “churches” as a permitted use.

The Planning and Inspections Department recommended approval of the text amendment request. The Planning Board considered this request during a special meeting on August 11 and recommended that the request be approved.

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

Mrs. Stultz explained that this request was submitted by Roger Brown. The proposed change would add churches as a permitted use in the Business-Neighborhood district.

The Business-Neighborhood district was established as a district where the principal use of land is for commercial and service uses for the surrounding residential districts. Churches are a permitted use in the Business-Central, Business-General, both of the Business-Highway districts and all of the Residential districts including Office & Institutional. Since the Business-Neighborhood districts were generally surrounded by residential districts or are a transition district from Business-Central or Business-General to residential, and since churches can be considered as a service use of the surrounding neighborhood, staff was of the opinion that churches should be a permitted use in the Business-Neighborhood district.

She stated that based upon the foregoing information, staff recommended in favor of the text amendment.

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.

Mr. Roger Brown came forward and explained that he submitted this request because the building he owned, he had some problems out of it and he wanted to get it rezoned. He noted

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that there were already churches in the neighborhood. He stated that he hoped that the Council would consider it.

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

Council Member Grogan stated that he appreciated Mr. Brown's comments. He thought that the overriding thing in this was a change in their zoning ordinance to allow churches in Business-Neighborhood districts. He stated that he for one would vote to allow churches in Business-Neighborhood, not necessarily because he had a building to rent, but because it was needed and it was the one district that had been overlooked as far as allowing churches.

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

A motion was made by Council Member Grogan seconded by Council Member Epps to approve and adopt the ordinance to amend Section 11.24(h)(1) – the Business-Neighborhood district of the City of Eden Zoning Ordinance. All Council Members present voted in favor of this motion.

(b) Consideration of a zoning text amendment request and an ordinance to amend Sections 11.24 and 11.29 of the City of Eden Zoning Ordinance pertaining to “greenhouses”, “plant nurseries”, and “garden and lawn shops”. Request submitted by the Eden City Council. ZONING CASE Z-03-13. (If Z-03-13 is approved then Z-03-11 shall be withdrawn).

The memorandum to Council explained that at their regular August meeting, 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 Sections 11.24 and 11.29 of the City of Eden Zoning Ordinance pertaining to “greenhouses”, “plant nurseries” and “garden and lawn shops”.

This case was reviewed by the Planning Board at a special meeting on September 9, 2003. The Planning and Inspections Department recommended approval of the text amendment.

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

Mrs. Stultz explained that this request was initiated by the Eden City Council as a result of a request to call a public hearing on another one, that would have considered nurseries as they had previously allowed them, under their ordinance in the O&I district.

The response was initiated by the City Council in response to a zoning text amendment request to allow retail nurseries as a permitted use in the Office and Institutional districts.

Currently, there were no definitions in the Zoning Ordinance for this type of business, although there were several uses of this type listed in various zoning districts. Those include:

Garden and lawn shops (in the Business-General district), greenhouses and horticultural nurseries (in the Business-General district), and retail nurseries (in the Business-Highway #1 and #2 districts.) Commercial greenhouses were specifically prohibited in the Business-Neighborhood districts.

She stated that staff was of the opinion that adding these definitions would clarify which types of those businesses may be permitted in the various districts. Since there were various types of nurseries and garden centers, this amendment would define the parameters of each type of business in order to better control where each type of business may be located. This amendment would also rename the uses of this type currently permitted in the various zoning districts to fit the amended definitions.

She stated that the research that they did and came up with those definitions and various names were the ones that had become standard in other zoning ordinances across the country. They have had some questions at the Planning Board level about this particular thing and about bulk storage and they worked really hard with the Planning Board to firm up that definition. That included and delineates the sort of thing, where there were big piles of things, where someone would come in and buy a loose truck load of mulch as opposed to buying it in bags. She

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appreciated the Council's attention and allowing them the opportunity to amend the entire ordinance as it deals with this issue.

Mayor Price commended Mrs. Stultz and the Planning Board for moving on this and he then 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 Epps seconded by Council Member Tudor to approve this request. Action on the motion was as follows: Council Member Vestal voted in opposition. Council Members Epps, Tudor, Grogan, Myott and Gover voted in favor. This motion carried.

Council Member Vestal asked Mrs. Stultz if this in fact would open all of their O&I zoning throughout the city and not just this one particular incident where this person wanted to open up a nursery. He stated that as he had mentioned last time, he felt that a special use permit would be a better solution to those incidents. He pointed out that they already have special use permits in Business-Highway #1 and #2, Residential, and just about all. He thought they needed to look at adding a special use permit to all aspects of their zoning.

Mrs. Stultz replied that they have talked at length about this and she had thought about it since and she understood his concerns. She explained that they wrestled with it as a staff trying to decide exactly how to prepare this particular amendment. The one thing she tried to avoid was making their ordinance more cumbersome and that was the reluctance they had about a special use process for nurseries. She added that two members of the Planning Board agreed with him that there should have been a special use process at least for O&I. The one thing that they did not do was conditional use zoning. She explained that they do special use permits on the Board of Adjustment level, but as yet their ordinance had not been amended and the mechanism of it changed to the point that they do conditional use zoning. If they did true conditional use zoning, that would give the City Council the opportunity, when those kinds of rezonings came forward, to do exactly what he was talking about. She thought that should the Council approve this tonight and then ask them to go back to the Planning Board and look at it one more time to see if they wanted to recommend any further changes to it, she thought that would be fine, or if they wanted to send it back as it was now and have them work on it one more time, they could certainly do that too.

Council Member Vestal stated that he did not want to delay the opening of this gentleman's establishment at all, he just thought they were opening up a lot more areas to things that possibly would not need to be there and they would agree that special use permits were more stringent than just opening up an area. He added that they could put in conditions and if they go past the conditions they could shut the operation down.

Mrs. Stultz agreed and they have revoked a special use permit in their history. She suggested that if they wanted to do that once the vote was taken and initiate another amendment to ask for a special use process to be created and if they wanted to do it beyond O&I, make sure they let them know exactly where they want to have that done and she was sure the Planning Board and staff would be glad to look at it again.

A motion was made by Council Member Tudor seconded by Council Member Grogan to approve the ordinance to amend Sections 11.24 and 11.29 of the City of Eden Zoning Ordinance pertaining to "greenhouses", "plant nurseries", and "garden and lawn shops". Action on the motion was as follows: Council Members Tudor, Epps, Grogan, Gover and Myott voted in favor of this request. Council Member Vestal voted in opposition. This motion carried.

Council Member Vestal moved to allow Mrs. Stultz and the City Manager to check into establishing a....

Mrs. Stultz asked if he was initiating another zoning text amendment for a special use process to which Council Member Vestal replied, conditional use. Mrs. Stultz explained that they could not do conditional use until they amend their whole....to which Council Member Vestal answered that they do special use. He added that she had mentioned conditional use...

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Mrs. Stultz replied that was what she would like for them to do some time to which Council Member Vestal pointed out that it was time consuming.

Council Member Grogan added that it was also where the city was telling the property owner really what they could and could not do with their property. They were talking about dictatorship then.

Council Member Vestal agreed and on conditional use he was absolutely correct. They have a special use process and now, whereas if you grant a variance for someone to build a carport in front of their building line, they decide to close that carport in, and if it was five feet in front of their building line they can add five feet onto their house. That becomes their new building line. Whereas, under a special use process if they want to close that carport in, they cannot do it, because they have issued a conditional use for that carport.

Council Member Grogan stated that he was not getting into a "he said you said" with anybody. He just wanted to point out that if they go to the type of zoning she was speaking of...that was the time to move to the beach.

Council Member Vestal agreed and that was why he wanted to stay on a special use permit.

Mrs. Stultz added that a special use permit was exactly what its name implied. It was special permission to do something that a property owner would be otherwise not be able to do on their property.

Council Member Grogan pointed out that they talked about that last month to which Mrs. Stultz replied they did.

Council Member Vestal then moved to have the City Manager and Mrs. Stultz look into special use permits and report back to Council.

Council Member Myott questioned if this was just for nurseries...to which Council Member Vestal replied that it was for any special use process.

Mr. Tom Medlin, City Attorney, stated that he did not think they could do that. Special use was limited to the type of use they were talking about so it was going to have to be tailored to whatever use they were dealing with and they were going to have to take that up on a case by case basis on whatever issue they were addressing. If they wanted to address nurseries throughout the context of the planning code, then that was what they would tell them to take a look at. They could not pass something that deals with special use, because special use says here are the requirements you have to have the building setbacks, you have to have this and this, and its got to be tailored for whatever it was that they were addressing.

Council Member Vestal amended his motion to say "nurseries" at this time.

A motion was made by Council Member Vestal seconded by Council Member Gover to allow the Planning Director and the City Manager to look into special use permits for nurseries and report back to Council with a recommendation.

Council Member Grogan asked if this was not the same thing they did last month and they came forth with this recommendation tonight.

Mrs. Stultz replied that there was some discussion about special uses last month when the Council had initiated this new amendment and had them send it to Planning Board. Staff was not of the opinion that a special use process was the best way to go, it went to Planning Board, the vote was split, two of them thought a special use process should have been brought forward, they voted in favor of the amendment as it was drafted and brought it on to Council, but, as with any other issue the Council could reconsider it as it's will.

Mayor Price commented that the Council last month did not vote on a special use at all, what Mr. Vestal was asking was to be considered and give a report to the Council for their consideration.

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

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(c) Consideration of a zoning text amendment request and an ordinance to amend Section 11.24(e)(1) the Office & Institutional district of the City of Eden Zoning Ordinance to include lawn and garden centers as a permitted use. Request submitted by John Cameron. ZONING CASE Z-03-11.

The memorandum provided to Council explained that at their August meeting, the Council scheduled a public hearing to hear comments regarding a zoning text amendment request filed by John Cameron. The request was to amend Section 11.24(e)(1) of the City of Eden Zoning Ordinance to include garden and lawn centers as a permitted use in the O&I district.

This case was reviewed by the Planning Board at a special meeting on September 9, 2003. The Planning and Inspections Department recommended that if text amendment Z-03-13 was adopted, this case be withdrawn.

This item was withdrawn as the second public hearing (item b) was approved.

MONTHLY FINANCIAL REPORT:

(a) Financial Report.

A motion was made by Council Member Gover seconded by Council Member Tudor to accept the finance report. All Council Members present voted in favor of this motion. This motion carried.

REQUESTS AND PETITIONS OF CITIZENS:

No one spoke at this time.

UNFINISHED BUSINESS:

(a) Consideration of Main Street Advisory Board ordinance and official appointment of members.

The memorandum presented to Council explained that the Main Street Advisory Board needed to be authorized, the Board Members appointed and the Main Street Ordinance adopted. After those requirements are met, the Advisory Board will be officially sworn in during the October 13, 2003 regular meeting.

Mr. Mike Dougherty, Business Development Director, explained that the Main Street Advisory Board needed to be authorized, the Board members appointed and the ordinance adopted. They were selected earlier this year and the award would be given on Wednesday, September 17th at noon. A chairman was elected last week and if the Council approved it, next month they would swear everyone in.

Council Member Grogan asked who the new chairman was to which Mr. Dougherty replied, Jean Harrington.

A motion was made by Council Member Epps seconded by Council Member Tudor to approve the appointment of the Main Street Advisory Board. All Council Members present voted in favor of this motion. This motion carried.

A motion was made by Council Member Tudor seconded by Council Member Epps to adopt the Main Street Ordinance. All Council Members present voted in favor of this motion. This motion carried.

NEW BUSINESS:

(a) Consideration of an appeal on a nuisance violation from Scott K. Tippett, Attorney for Brittni Jill Evetts, for property located on Van Buren Road.

The memorandum presented to Council explained that on August 4, 2003 a notice of code violation was sent to the property owner of a parcel of land owned by Brittni Jill Evetts located on Highway #14 South and known on the Rockingham County Tax Records as PIN# 7989-13-24-4669-00.

This is a tract of land that has had several nuisance violations over the past few years. The Department stands behind its determination that a violation of the nuisance provisions exists.

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Mr. Medlin explained that all the information that would come before the Council on this appeal would be sworn testimony; this would be a quasi-judicial action. They would hear the information, the evidence, so to speak, decide whether or not this constitutes a nuisance under the code, then enter an order as to what their course of action would be and what the property owner would need to do.

Mrs. Kelly Stultz and Ms. Brenda Evetts were both sworn in by the City Attorney.

Mrs. Stultz explained that this particular case was of a nuisance order and notice of abatement that was sent out on August 4, 2003. This happens to be a particular nuisance that she herself identified and sent one of the inspections staff out to make a determination on a mobile home that currently sits on this piece of property. It was owned by Brittini Jill Evetts and there was what they have determined to be a single derelict manufactured home located on this property and based upon their determinations they have deemed that it was a nuisance. An appeal was filed just before they were ready to do the abatement process.

Mr. Medlin asked what she found that constituted the findings.

Mrs. Stultz explained that this particular finding requires the accumulation of rubbish, trash, junk, appliances, or combustible items causing or threatening to cause the accumulation of stagnant water or threatening to cause the inhabitation therein of mosquitoes, harmful insects, rats, mice, snakes or vermin of any kind. In this case this was a single, derelict manufactured home that was currently in a decided state of disrepair and the inspections staff has determined that it cannot be lived in under its current condition. There were conditions that injure or cause discomfort to the community at large, endanger life, generate disease, have a detrimental effect on the public health, safety and welfare.

Mr. Medlin asked her when she inspected the property last or was aware of those conditions to which Mrs. Stultz replied about an hour ago. Mr. Medlin asked if there was anything else other than what she saw that she had not already related to the Council.

Mrs. Stultz replied nothing, other than this manufactured home could not be lived in and this particular area one could not store that sort of material, so it was a nuisance.

Mr. Medlin asked if it was open to the public and if people could get in and out of it to which Mrs. Stultz replied they could. Mr. Medlin asked if under Section 6-37 he had heard correctly, she was talking about item d, the accumulation of rubbish, trash, junk and combustible items. He asked if there was any other portion of the code that she felt was in violation or just that section.

Mrs. Stultz replied also the one that says that conditions that injure or cause discomfort to the community at large.

Mr. Medlin stated that was Section 6-37(i). He asked if the Council had any questions. As no one from Council had questions, Ms. Evetts was asked if she had questions.

Ms. Evetts explained that she was Brittini's mother and she, her husband and Brittini owned the lot together. She explained that they had owned Brenda's Home Center for about twelve (12) years when everything happened to this area. They lost their business and everything. They owned the three lots down there beside the Sale Center and toward the river. They also owned, in the beginning, 28 ½ acres out in the county. They were not allowed to put it in the county or the city and they did not own anything else. She explained that they were trying to make a living and all they wanted to do was restore something to make a living with and that was all. She added that she did not know what to do, she was not begging, but all she wanted to do was be able to make a living for her family.

She stated that they had talked to Mrs. Stultz and were trying to restore this home. She stated that she had the deed to it and they have been down there numerous times (to Planning Department). They had the title and bought the mobile home with the idea of restoring and selling it. They got it really cheap from Love Mobile Homes lot. She noted that one of the inspectors came out and inspected it and said it was inhabitable. At the time they talked to Mrs. Stultz, she said they could put a house on there and fix it if it was habitable. She noted how much rain there had been and part of that property down there was muddy. They fixed the bad parts on the outside and it needed a lot of work done on it, but they had not been able to do it,

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either weather wise or money wise. The weather had straightened up a little bit and now they were beginning to get some money, so all she was asking for was to get a little bit of time, and they had cleaned just about everything off.

Mayor Price asked how long it had been down there.

Mrs. Stultz replied that it was there for a couple of weeks before they sent the notice out. When they took it apart, it was sitting there with the siding half off and all those sorts of things. They had been through this issue on both pieces of property numerous times over the last couple of years. She stated that they could not allow those kinds of manufactured homes to be stored in that state of disrepair on these lots.

Mr. Medlin commented that if that was all the evidence, it was up to the Council to decide if the facts justify finding a violation of Section 6-37(d) and 6-37(i). He noted they had in their packet, a notice of code violations, under notice of findings, those were pretty much the same as what the code sections say, but Section 6-37 talks under the nuisance section of the code. He read, "conditions constituting a public nuisance it is hereby found that there are within the corporate limits of the city the following enumerated and described conditions and the same are hereby found deemed and declared to constitute public nuisances wherever the conditions may exist and the creation, maintenance or failure to abate such public nuisances is hereby declared unlawful."

He continued with reading Item (d), "the accumulation of rubbish, trash, junk or combustible items, causing or threatening to cause the accumulation of stagnant water or causing or threatening to cause the inhabitants there in of mosquitoes, harmful insects, rats, mice, snakes or vermin of any kind."

He read the second item, Item (i), "that conditions are such that they injure or cause discomfort to the community at large, endanger life, generate disease, have a detrimental effect on the public health, safety and welfare." He explained that if they should find one or both of those conditions to exist, based on what they have heard, then that would be one item that they needed to vote on.

Ms. Evetts stated that down on this end of town, there were several mobile home lots and there were some houses down there that have been there a lot longer and as long as all that other stuff and she thought it had been moved. She checked it out a couple of days ago and it had not been moved and there was stuff that had been pushed over the back of that same lot. There were lots of old houses that was as bad as this one and what they have got sitting on the back of their lot there was jack stands that were metal. She added that there was nothing in it, there were some old tires that could be disposed of but as far as anything else that could hold water, she did not know of anything else.

Mrs. Stultz pointed out that the site that she was speaking of was Item (d) on the agenda.

Mrs. Evetts stated that they have been back there for several years and they cleared off the sale center that was next to them. They did the majority of that and it belonged to Charles Rumbley.

Mr. Medlin explained that the order of business was whether or not the Council would make a motion of a finding of a violation of Section 6-37(d).

A motion was made by Council Member Grogan seconded by Council Member Tudor to the finding of a violation of Section 6-37(d). All Council Members present voted in favor of this motion. This motion carried.

Mr. Medlin explained that secondly, the Council needed to decide whether or not to make a finding of a violation of Section 6-37(i).

A motion was made by Council Member Grogan seconded by Council Member Tudor to the finding of a violation of Section 6-37(i). All Council Members present voted in favor of this motion. This motion carried.

Mr. Medlin explained that the next item for Council was what would be the order, as far as how they wished to order the abatement of that process. He noted that the order was that they were to abate or remove this condition within a certain number of days. He stated that the prior order the inspections department gave them was fifteen (15) days. The Council could enter whatever

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period of time they want to give to remove this property and if not, then they would direct the Planning & Inspections Director to pursue the enforcement provisions as outlined in the code.

Council Member Gover questioned how many days they would need to remove this.

Ms. Evetts stated that the problem was, they did not have any place to put it because they were going to fix it and sell it.

Council Member Grogan commented that this had been going on for several years. He added that he did have empathy, but he also lived in Eden and he and other people come into this town and that was one of the biggest eyesores that this town has had for not the past fifteen (15) days, but more like a couple of years, so he would make a motion they be given ten (10) days to get the place cleaned up.

Council Member Gover pointed out that they had already been given fifteen (15) days.

Mr. Medlin explained that in reading the statute, back in February of this year they had just amended this particular provision. Before it said twenty (20) days and it was changed to fifteen (15) days from the date of the notice of the order of abatement, so that was why the number fifteen (15) was in the ordinance.

Council Member Gover questioned what date it would start.

Mr. Medlin replied that it could either be within fifteen (15) days so that it no longer violated those two statutes, by either bringing it up to code or removing and if they did not then there was a procedure that the city could do it. He added that the clock started today.

A motion was made by Council Member Grogan seconded by Council Member Tudor to abate and allow fifteen (15) days to clean up the property. All Council Members present voted in favor of this motion. This motion carried.

(b) Consideration of legal action for a zoning violation for property located at 415 Elam Avenue.

The memorandum presented to Council explained that the Planning and Inspections Department notified the owner of the property at 415 Elam Avenue of a zoning ordinance violation. The owner was given 30 days to appeal but has not done so.

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

(c) Consideration of an ordinance for the demolition of a building located at 124 Short Morgan Street.

The memorandum provided explained that the Council was asked to adopt an ordinance for the demolition of the subject property 30 days from September 16, 2003.

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

Mrs. Stultz commented that she had promised that when they did those sorts of orders again that they would have a price of what it would actually cost to take it down. This particular one was \$4800 and that was the worst case scenario. They did hope the Fire Department would be able to burn it down.

Mayor Price asked if there was a lien against the land and she replied that it was.

Council Member Tudor commented that the public wanted those places cleaned up and he had worried Mrs. Stultz to death about this.

A motion was made by Council Member Grogan seconded by Council Member Gover to approve the ordinance. All Council Members present voted in favor of this motion. This motion carried.

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(d) Consideration of legal action for a zoning violation for property located at 416 N. Van Buren Road and adjoining property.

The memorandum provided explained that the Planning and Inspections Department notified the owner of property at 416 N. Van Buren Road and the adjoining property of a zoning ordinance violation. The owner was given 30 days to appeal but has not done so.

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

(e) Consideration of approval of Municipal Maintenance Agreements, Traffic Control Devices – Schedules A and Resolution Authorizing the City to enter such contract.

The memorandum provided explained that the Municipal Maintenance Agreement was for the installation, repair and maintenance of highway signs and supports on the State Highway System streets within the City of Eden.

This was a cost reimbursement agreement between the NCDOT and the City of Eden under which the municipality installs and maintains signs and supports on the streets on the State Highway System within the municipality.

General Statute 136-66.1 authorizes municipalities to contract with the NCDOT for the installation, repair and maintenance of highway signs and supports the State Highway System streets within the municipalities.

The City of Eden bills the Division Office quarterly for the reimbursement of the cost of the signs and supports pursuant to the agreement. The NCDOT reserves the right to adjust the reimbursement rate periodically to reflect current market rates and/or may adjust the reimbursement rate three (3) percent each annum in consideration of recent inflation rates. This was subject to availability of maintenance funds and the performance of the municipality.

RESOLUTION

The following resolution was introduced by Philip K. Price, Mayor. A motion was made by Council Member Gover that it be adopted, which was seconded by Council Member Myott. Upon being put to a vote the resolution was duly adopted.

WHEREAS, the Department of Transportation, an agency of the State of North Carolina, pursuant to the provisions of G.S. 136-41.3 and G.S. 136-18, propose to contract with this Municipality for the maintenance of signs and supports on the State Highway System streets within this Municipality in accordance with the policy of the Department and for which this Municipality shall be reimbursed by the Department of Transportation; and

WHEREAS, in order to promote the general welfare of the Municipality, it is hereby determined to be in the best public interest for the Municipality to enter into a contract for the maintenance of signs and supports on the State Highway System streets within the Municipality in accordance with the Policy of the Department.

NOW, THEREFORE BE IT RESOLVED that the Municipality is hereby formally authorized to enter into a contract with the Department of Transportation for the maintenance of signs and supports on the State Highway System streets within the Municipality, and the Mayor and Clerk (or Manager) of the Municipality be and they are hereby empowered to execute the required Agreement between the Municipality and the Department of Transportation.

I, Kim J. Scott, Clerk (or Manager) of the Municipality of Eden, North Carolina, do hereby certify that the foregoing is a true and correct copy of excerpts from the minutes of the meeting of the governing body of this Municipality of the 16th day of September, 2003.

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

(f) Consideration of General Purpose Funding: Senior Center.

The memorandum provided explained the State of North Carolina allocates funds each year and has increased the funding to \$5,807 this fiscal year. Also, the State increased the matching funds from the city to 25% from the original 10%. The total amount the city will be responsible for in fiscal year 2003-2004 will be \$1,936. The funds to match this grant will be derived from the Senior Center account in the Parks and Recreation budget.

The Parks and Recreation Department Program Description for use of the funds will include purchasing a Defibrillator, Phone Tree and the remaining funds to supplement a part-time salary.

The Defibrillator will be stationed at the Garden of Eden Senior Center and carried on trips taken by our older adults. The Phone Tree will be used to contact our users regarding trips, classes, etc., various times during the day.

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

Minutes of the regular September 16, 2003 meeting of the City Council, City of Eden, continued:

(g) Consideration of traffic study – Dumaine Street.

The memorandum explained that on August 27, 2003, Angela Martin, principal of Leaksville/Spray Elementary made a request for a traffic study of Dumaine Street.

Presently, Dumaine Street is an east bound, one-way street that intersects with Highland Drive. This street is a service road for several residents including an apartment complex.

Mrs. Martin wants the city officials to consider changing Dumaine Street to a two-way street. According to Mrs. Martin, this would create another entrance for vehicles and create a more welcome or open atmosphere for parents.

This street was wide enough for two-way travel, but making this change there would be more traffic on Highland Drive an area already congested with a bus exit and a separate vehicle exit controlled by one crossing guard. If Dumaine Street were made a two-way street, additional school crossing guards would be needed to work and monitor this congested area. The existing traffic route where College Street is being used as an entrance onto school property is the safest and sufficient route for this area.

The recommendation of the Police Department was to maintain Dumaine Street as a one-way street.

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

(h) Consideration of traffic study – Hopper Lane/Park Avenue intersection.

The memorandum explained that a request was made on August 25, 2003 for a traffic study of the intersection of Hopper Lane and Park Avenue. An “S” curve connects Caleb Street and Hopper Lane and this intersects with Park Avenue. An area resident complained that vehicles in this area were traveling too fast for the existing “S” curve upon approaching the intersection of Park Avenue. The complainant has experienced property damage from traffic accidents involving excessive speed in the past.

At this time there was no stop sign or any other traffic control device at the Hopper Lane and Park Avenue intersection.

The recommendation of the Police Department was to install a stop sign at the intersection of Hopper Lane and Park Avenue.

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

9. CONSENT AGENDA:

(a) Approval of minutes: August 19, 2003.

(b) Approval and adoption of a motion to hold a public hearing and to consider an ordinance to rezone property on W. Meadow Road from Residential-12 to Office & Institutional. ZONING CASE Z-03-12.

The memorandum presented to Council explained that the city has received a request from Eddie Barker to amend the zoning map. The request was to rezone property on W. Meadow Road from Residential-12 to Office & Institutional.

The Planning and Inspections Department recommended approval of the request. The Planning Board considered this request at a special meeting on September 9, 2003.

(c) Approval and adoption of a motion to hold a public hearing and to consider an ordinance renaming a portion of Hopper Lane to Caleb Street. (Planning Board tabled this item until next month)

The memorandum presented to Council explained that the Engineering Department requested that a portion of Hopper Lane be renamed as a part of Caleb Street.

This case was reviewed by the Planning Board at a special meeting on September 9, 2003.

(d) Approval and adoption of a motion to hold a public hearing and to consider an ordinance to rezone property located on Cox Street from Business-General and Residential-12S to Residential-12S/PUDR. ZONING CASE Z-03-14.

Minutes of the regular September 16, 2003 meeting of the City Council, City of Eden, continued:

The memorandum presented to Council explained that the city has received a request from Bartlett Engineering & Surveying, PC to amend the zoning map. The request was to rezone property on Cox Street from Business-General and Residential-12S to Residential-12S/PUDR. The Planning and Inspections Department recommended approval of the request with stated conditions and preliminary approval of the PUD plan as presented. The Planning Board considered this request at their special meeting on September 9, 2003.

(e) Approval and adoption of preliminary and final plans for Woodbriar, Phase 3 for property on Virginia Street. SUBDIVISION S-96-02.

The memorandum presented to Council explained that the Planning and Inspections Department has received a preliminary plat and a final plat for Woodbriar, Phase 3 located on Virginia Street.

This case was reviewed by the Planning Board at a special meeting on September 9, 2003. The Planning and Inspections Department recommended approval of these plats.

(f) Approval and adoption NC Municipal Report of Fire Conditions, Local Firemen's Relief Fund.

(g) Approval and adoption of a resolution appointing Brad Corcoran as the City's Authorized Representative and authorizing the filing of a Capacity Building Grant Application with the North Carolina Rural Economic Development Center for \$40,000 to fund a Sanitary Sewer Evaluation Study (SSES).

AUTHORIZING RESOLUTION BY THE CITY COUNCIL
OF THE CITY OF EDEN, NORTH CAROLINA
Capacity Building Grants Program

WHEREAS, The 1998 Critical Needs Bond Act has authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems and water supply systems, water conservation projects; and

WHEREAS, The City of Eden has need for and intends to construct or rehabilitate a publicly owned treatment works or an alternate wastewater system, for wastewater collection systems or for water supply and distribution systems, project described as The Sanitary Sewer Evaluation Study of the Smith River Sewer Outfall and the associated Kuder Street Pump Station; and

WHEREAS, The City of Eden intends to request grant assistance from the Capacity Building Grants Program for the project;

NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF EDEN, NORTH CAROLINA:

That The City of Eden will arrange financing for all remaining costs of the project, if approved for a grant.

That the City of Eden will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Brad Corcoran, City Manager, and successors so titled, is hereby authorized to execute and file an application on behalf of the City of Eden with the NCREDC (Rural Center) for a grant to assist in the construction of the project described above.

That Brad Corcoran, City Manager, and successors so titled, is hereby authorized and directed to furnish such information as the Rural Center may request in connection with such application, or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That The City of Eden has substantially complied or will substantially comply with all Federal, State and local laws, rules, regulations and ordinances applicable to the project and to the grants pertaining thereto.

Adopted this the 16th day of September, 2003 at Eden, North Carolina.

Philip K. Price
Mayor

Kim Scott
City Clerk (Seal)

(h) Approval and adoption of a resolution committing local funds in the amount of \$4,040 (10.1% of the \$40,000 Capacity Building Grant) to the SSES project.

Minutes of the regular September 16, 2003 meeting of the City Council, City of Eden, continued:

AUTHORIZING RESOLUTION BY THE CITY COUNCIL
OF THE CITY OF EDEN, NORTH CAROLINA
Supplemental Grants Program

WHEREAS, The 1998 Critical Needs Bond Act has authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems and water supply systems, water conservation projects; and

WHEREAS, The City of Eden has need for and intends to construct or rehabilitate a publicly owned treatment works or an alternate wastewater system, for wastewater collection systems or for water supply and distribution systems, project described as The Meadow Greens, Covenant Branch, and Dan River Pump Stations Upgrade Project; and

WHEREAS, The City of Eden intends to request grant assistance from the Supplemental Grants Program for the project;

NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE
CITY OF EDEN, NORTH CAROLINA:

That The City of Eden will arrange financing for all remaining costs of the project, if approved for a grant.

That the City of Eden will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Brad Corcoran, City Manager, and successors so titled, is hereby authorized to execute and file an application on behalf of the City of Eden with the NCREDC (Rural Center) for a grant to assist in the construction of the project described above.

That Brad Corcoran, City Manager, and successors so titled, is hereby authorized and directed to furnish such information as the Rural Center may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That The City of Eden has substantially complied or will substantially comply with all Federal, State and local laws, rules, regulations and ordinances applicable to the project and to the grants pertaining thereto.

Adopted this the 16th day of September, 2003 at Eden, North Carolina.

Philip K. Price
Mayor

Kim Scott
City Clerk (Seal)

(i) Approval and adoption of a resolution appointing Brad Corcoran as the City's Authorized Representative and authorizing the filing of a Supplemental Grant Application with the North Carolina Rural Economic Development Center for \$400,000 to fund Sanitary Sewer Pump Station Improvements.

*(j) Approval and adoption of a resolution committing local funds in the amount of \$40,400 (10.1% of the \$400,000 Supplemental Grant) to the Sanitary Sewer Pump Station Improvements Project.

Council Member Vestal questioned the City Manager on Items (g) and (h). He asked about the availability of funds for these and if he had any idea where the money was coming from at this time.

Mr. Corcoran replied that they were grant applications that they intend to submit to the Rural Center for a capacity building grant for another sewer system evaluation study and this would be in the Smith River area. The thought was they would apply for the grant, if they get the grant of \$40,000 then they felt they would be able to fund the matching amount. If they did not get the grant they would not proceed with this project.

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

Minutes of the regular September 16, 2003 meeting of the City Council, City of Eden, continued:

VOUCHERS:

Mayor Price encouraged Council to ask for information regarding voucher questions. He noted that the responses he had received had been thorough.

COMMENTS FROM CITY COUNCIL:

Council Member Tudor commented about the program on Wednesday and he was encouraged about all the good things that were happening as a result of the creation of the Business Development position. He closed by saying they were all looking forward to the Main Street Awards Program.

Council Member Vestal passed some pictures around for Council to view and stated that he did not have any problem with doing studies, but they continually put out money to do studies and it costs the taxpayers money. If they do not follow up on those studies or take some recommendation from them, he felt that they were wasting taxpayer's dollars to initiate them. If they were going to do them, he had no problem with it, but they needed to take some action on them.

He stated that secondly, the pictures (of a house) were taken on Hollingsworth Street. The city had to have that mowed because it was a nuisance. They pay tax dollars for people to mow these yards and to him that was a bigger hazard than the grass would be. If they were going to pay these people they needed to do a better job. (grass clippings thrown up on the house and porch).

Council Member Tudor agreed with Council Member Vestal's comments.

Mrs. Stultz noted that he had been called and was going back up there to clean it up.

Council Member Gover asked the City Manager to explain the status of Pierce Street.

Mr. Corcoran replied that the explanation from Mike Mills, Regional Engineer for the NCDOT, was that the sidewalk and curb and guttering portion on the City Hall side of Pierce was currently slated for spring. Due to the condition of the road, they already had the money appropriated for the surfacing, so they went ahead and did the resurfacing.

Council Member Gover asked if that was for curb and gutter on one side to which Mr. Corcoran replied, only on one side. Council Member Gover stated that they needed curb and gutter on both sides. Mr. Corcoran replied that all of that information had to do with curb and guttering on one side.

Council Member Grogan commented that the people here tonight who were running for election in the City of Eden in November should not go unnoticed. He thought it spoke well of them to take their time and effort to come out to a meeting and observe this City Council. He added that he did not know if they wanted to mimic anything that this Council did, but at least they could see a little bit of what goes on. He assured them it was not an easy situation to be in when they were up there.

He stated that he knew this time, earlier this year there was a meeting that one of the members of this Council was taken to task by a hand full of people because he made a statement that "I went to try to learn to do this job." He stated that he thought they were going to hang him out to dry. "If you don't know this job why did you even run for City Council." He stated that it was just like them, people out there running, like he ran. He did not know anything about the City Council or government, he did learn a little, but one of the things that helped was going to the Institute of Government. He added that if they were elected, hopefully they would take advantage of going, to learn about government and government financing and what was ethical or unethical. He did appreciate them being there tonight and wished them well come November. He thought they were real real fortunate and there again all of them have these opinions and he was just speaking his. He thought they were really real lucky to have the City Manager that they have. They have got some good leadership and he was going to hush.

September 16, 2003

City of Eden, N. C.

Minutes of the regular September 16, 2003 meeting of the City Council, City of Eden, continued:

ADJOURNMENT:

A motion was made by Council Member Tudor seconded by Council Member Epps 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