

CITY OF EDEN, N. C.

The regular meeting of the City Council, City of Eden, was held on Tuesday, July 20, 2004 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:	Christine H. Myott
Council Members:	Donna Turner
	Billy Vestal
	Jerry Epps
	C.H. Gover, Sr.
	Bruce Nooe
	Wayne Tuggle, Sr.
City Manager:	Brad Corcoran
City Clerk: (absent)	Kim J. Scott
Deputy City Clerk:	Sheralene Thompson
City Attorney:	Tom Medlin
Representatives from Departments:	
Representatives from News Media:	Steve Lawson, <u>Eden Daily News</u> , Lisa Doss, <u>Eden's Own</u> , Mike Moore, WLOE

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:

Father Thomas Selvaraj, St. Joseph-Of-The Hills, was present to give the invocation.

PROCLAMATION:

Mayor Price asked Police Chief Gary Benthin and Captain Reece Pyrtle to come forward in recognition of National Night Out. He noted that Eden's would be held this year at Freedom Park on August 3rd, from 6:00 p.m. to 8:30 p.m. He then read the following proclamation:

**PROCLAMATION
NATIONAL NIGHT OUT**

WHEREAS, the National Association of Town Watch (NATW) is sponsoring a unique, nationwide crime, drug and violence prevention program on August 3rd, 2004 entitled "National Night Out"; and

WHEREAS, the "21st Annual National Night Out" provides a unique opportunity for the City of Eden to join forces with thousands of other communities across the country in promoting cooperative, police-community crime prevention efforts; and

WHEREAS, citizens of Eden play a vital role in assisting the Eden Police Department through joint crime, drug and violence prevention efforts in the City of Eden and is supporting "National Night Out 2004" locally; and

WHEREAS, it is essential that all citizens of Eden be aware of the importance of crime prevention and impact that their participation can have on reducing crime, drugs and violence in the City of Eden; and

WHEREAS, police-community partnerships, neighborhood safety, awareness and cooperation are important themes of the "National Night Out" program;

NOW, THEREFORE, I, Philip K. Price, Mayor, do hereby call upon all citizens of the City of Eden to join the Eden Police Department and the National Association of Town Watch in supporting "21st Annual National Night Out" on August 3rd, 2004.

July 20, 2004

City of Eden, N. C.

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

FURTHER, LET IT BE RESOLVED THAT, I, Philip K. Price, do hereby proclaim Tuesday, August 3rd, 2004 as “National Night Out” in the City of Eden.

s/Philip K. Price
Philip K. Price
Mayor

ATTEST:

s/Sheralene Thompson
Sheralene Thompson
Deputy City Clerk

ADDITIONS OR DELETIONS TO MINUTES:

Mayor Price noted that the City Attorney had asked that Item 8(d) be removed for a technicality.

A motion was made by Council Member Vestal seconded by Council Member Gover to remove Item 8(d) from the agenda. All Council Members voted in favor of this motion.

PUBLIC HEARINGS:

(a) Consideration of a zoning text amendment request and an ordinance to amend Section 11.24(f) – Business-Central zoning district and Section 11.24(c)(3)(c)(12) Board of Adjustment section of the City of Eden Zoning Ordinance pertaining to establishing a special use permit for residential uses in the Business-Central and Business-General zoning districts. Request submitted by the City of Eden City Council. ZONING CASE Z-04-02.

The memorandum to Council explained that at their regular meeting in May 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 11.24(f) Business-Central zoning district and Section 11.24(c)(3)(c)(12) – Board of Adjustment section of the City of Eden Zoning Ordinance pertaining to establishing a special use permit for residential uses in the Business-Central and Business-General zoning districts.

The Planning and Inspections Department recommended approval of the text amendment request. The Planning Board considered this request during their regular meeting on April 27, 2004 and again on June 22, 2004 and recommended that the City Council approve the request.

Mayor Price called for a public hearing and asked Mrs. Stultz to come forward with a report.

Mrs. Kelly Stultz, Director of Planning and Zoning, explained that the Planning and Inspections Department recommended approval of this text amendment and the Planning Board considered this request at their regular meetings of April 22, 2004 and again on June 27, 2004 they recommended that the Council approve this request.

She explained that the issues surrounding this particular zoning text amendment were varied and filled with passion from many parts of the community. For the last two years, particularly the City Council and staff and various merchant's associations associated with the traditional downtown areas have begun working together to see progress for improving them. One of the issues that came from that was concerns about the regulations of housing in those downtown areas.

She stated that as a planner, everything that she had read and everyone she had talked to told her that housing in the downtowns, when done properly, was a great thing for the building owners. It gives them some extra income and keeps the buildings viable and for the businesses. She used as an example, if people live downtown they were more apt to buy their drugs at Mitchell's Drug if they live over one of the buildings on Washington Street and businesses would see benefits from that. Also when there were eyes on the street at all hours of the day and night, the businesses were safer.

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

She explained that they have had lots of debate about various portions of this amendment and she had sent an alternative version at the suggestion of two members of Council earlier today. The issues in the amendment as proposed surround the kinds of buildings that could be utilized. When she began to look at this with a member of Council yesterday, she realized that there were two sentences that she wrote that after she read them were a bit fickle. She asked the Council to look at 12(a) in the proposal "only existing buildings may be utilized", unfortunately something was left in there that had been there from another amendment before the Planning Board gave their final notations. She noted that if they looked at (d), "Residential uses are allowed only on upper floors of multistory buildings. The ground floor of these structures must be used for commercial use only. In the case of single story buildings no more than 50% of the structure may be used for residential purposes, and this must be at the rear of the building."

Mrs. Stultz stated that she would share that over the course of the last few days she understood that some of their folks who have had lots of passion on this issue were in agreement with those provision with the exception that there was a group of voices who would prefer that they never allow apartments in single story buildings in the downtown areas.

She noted that they each had what the Planning Board sent them and the alternative version that was proposed. What they know at this point was that they all declared a moratorium and those 120 days were going to lapse and it was time for a decision as to how they wanted to handle it.

Mayor Price noted 12(e), "adequate parking must be provided for all residential uses". He stated that was not in the new version.

Mrs. Stultz replied that the alternate that was being proposed as a second option that perhaps the parking requirements already in the zoning ordinance would be adequate enough. Parking was one of those things that downtown developers have a big debate over. One of the biggest complaints that she hears from merchants in various areas were concerns about downtown residents or business owners parking in customer spaces during business hours. That was an issue that they really wanted to address. She added that she also understood that if the Council declared two hour parking in all of those areas and they persuaded the Police Chief to give back some focus at their request, then those issues have the potential to be helped by that.

She noted that the various experts have different opinions about where parking was required. She stated that it was suggested to her today that if they take out parking requirements it would leave it up to the Board of Adjustment on a case by case basis when someone applied for a Special Use Permit. She stated that she had been encouraged by former City Attorney, Charles Nooe and their current City Attorney, Tom Medlin to nail down things as much as possible.

Council Member Epps asked if they left it like it was, would they still have that privilege to which Mrs. Stultz replied that the version that came from the Planning Board, the parking requirements were in that version. The alternate version that was proposed, and there was also the suggestion to take out those design standards that there were some questions about and the parking requirements, and initiate another amendment to go back and revisit those issues.

Council Member Epps pointed out that in dealing with public property they could end up with cars parking in areas without licenses or tags.

Mayor Price asked if they were the same as apartment complexes which were required to have so many parking places per unit.

Mrs. Stultz replied, if it was like independent apartment complexes, yes they were.

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

Mayor Price asked that if parking was not required, where would tenants park.

Mrs. Stultz replied that was the chicken or the egg sort of thing. They knew that there were a lot of apartments in their downtowns now. Some of the dwellers park in alleys or public lots or in spaces in front of the building, particularly after business hours. She added that she was asked by a Council Member yesterday as to if there had been a problem with parking so far. She explained that she had heard from merchants and there were issues, but some of that were issues with other merchants as well as residents. She cautioned them to give some thought to that before they allowed this to go through and then have a huge problem. Sometimes it was wise to be proactive, however parking requirements were a good thing, but as far as being something that was a deal breaker he thought that the rest of the amendment was so very important for the vitalness of those downtowns that if they have to deal with parking on another go round, she would much rather see that happen than the whole amendment fail.

Council Member Epps asked if she was saying that the amendment would be a good thing now for her to have some more research.

Mrs. Stultz replied that was certainly a fine way to handle it with the Council's initiation that they talked about earlier, that would allow an opportunity to go back and revisit parking and the outside of the building requirements and how they might better handle those than the way she chose. Obviously she still thought the original amendment was a good thing, but of course it was up to them.

Council Member Turner questioned the design standards as there were none in the alternative version.

Mrs. Stultz explained that she thought that as they have talked about those alternatives, one of the things she hoped that they would do if they adopt the alternate was to initiate another text amendment and instruct her to find parking and figure out a way to make the design standards work. A question that was raised that was kind of thought provoking for her as well was if this was going to be required whether the person was doing any alteration to the outside of the building or not and she thought that could certainly be the issue that they would debate. If somebody was not going to touch the outside of the building, she could see the school of thought that they might be stepping a bit beyond what was normal for their community standard to require those, however those design standards for those buildings were the kinds of things that they were encouraged, as part of research they do in the Main Street Program and historic districts, it was always possible for them to choose, with the help of the Preservation Commission, to make those three downtowns different historic districts. The benefit to doing that at some point beyond what they have in there would be that each of them would have their own standards and they could work out a different set of guidelines for Draper Village, Olde Leaksville, The Boulevard and the Cook Block if they chose. However, that was a very long process and would require buying in from a lot of people and she did not want to say that she thought that was a quick fix to having the standards for the building.

Council Member Tuggle commented that he had problems with three different things, the parking, the residences downstairs and too many standards. He stated that he thought they were being so restrictive that they could hardly do anything and he thought it did not hurt to sometimes streamline some things. There was one thing in there that he did like about the parking, it says "between the hours of 8:00 a.m. and 10:00 p.m. Monday through Saturday that residents could not park there" and he worried about the merchants having somebody taking up their spots. He pointed out that they had to be protected somehow.

Mrs. Stultz replied that she and Debbie Galloway, Planner, as well as the Planning Board, had worried about that. There were lots of people in this community who have talked with her about this issue. She noted that Mr. Bob Murphrey, who came to meet with them with the Main Street group, was not a big proponent of requiring parking for these things. He thought they needed to look more towards

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

sticking people who live in the residential areas. Someone raised the question that, say "Mr. Nooe lives in an apartment in Olde Leaksville and decides that he forgot to get his prescription filled and he parks in front of Mitchell Drug." She was still searching for a happy medium. She believed that regulating housing in the downtowns was a good thing and she passionately believed that housing in the downtowns was vital for their future.

She referred to the first floor issue, they had debated that and if they look at the alternative version, that proposal was changed to say that apartments could only be on the upper floors of multi-story buildings and therefore single story buildings would not qualify.

They were fairly confident with what they had, but as things continue to be discussed there was always room for improvement no matter what. If they all were to choose to adopt the amendment the Planning Board sent tonight, there was nothing ever to say that those things were static and the Council could afford to look at any ordinance provision anytime they choose.

Council Member Tuggle stated that the problem that he had with the amendment was, he received it late this afternoon and he hated like everything to sit down and rush through something and come in and they expect him to vote on it he was not going to do it.

Mrs. Stultz apologized and if not for the fact that a moratorium was going to run out...to which Council Member Tuggle replied that he understood but he did not want to be put in a position where he was voting on something where he had read over it and not had a chance to scrutinize it, although most of what he saw he could agree on. He asked that if they adopt this amendment, could it still be adjusted and could they take those things they have talked about into consideration.

Mrs. Stultz replied yes, if the Council chose to adopt the alternate, they could immediately initiate a text amendment to those same provisions and send them back to work.

Council Member Turner asked if they could do the same thing with the original, if they decide to do the more restrictive to which Mrs. Stultz replied either way.

Mr. O.B. Ostwalt, 218 The Boulevard, explained that he lived in an apartment in the back of the bank building on the first floor. He stated that he originally wanted to upgrade the building and make it into apartments upstairs and then put a business downstairs, but because of the crime in that area he was not putting another penny in that building, but he did intend to live on the first floor in the back of it because he bought it. He paid taxes on it and nobody was going to tell him what to do with it. He added that he hoped he was not being abrupt, but he was a person who was willing to fight for what was theirs and it was his.

Mrs. Stultz explained that Mr. Ostwalt was already there, even if the Council changed the regulations that would make him a legal nonconforming. She explained that their ordinance was very specific to that and it went with the property, as long as it was occupied.

Mr. Ostwalt stated that he could not see what difference it was if somebody lived on the first floor or the second floor. He stated that originally, that building had two businesses on the first floor and it had a lawyer's office on the second floor and two apartments. He stated that he owned it, and even if he was grandfathered in, he still disagreed with somebody trying to tell him what to do. He stated that he had received a letter from them one time giving him ten days to get out of his building because people from the city had complained...

Mayor Price pointed out that they were discussing this public hearing and asking for comment about this particular area.

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

Council Member Vestal added that one of the things he wanted to comment about, anyone living as they were right now would be grandfathered in. He explained that unless there was a total change of occupancy, as long as they stay as they were now they would be legal. He continued regarding the part that Mrs. Stultz and Council Member Tuggle covered; there were a lot of things in the other part that he did not agree with. They were talking about a special use permit to a landowner and not a resident. It was hard for a landowner to control where his resident parks. He did not think they needed to regulate the parking through the special use permit. There were other ways that this could be addressed and that was why he wanted to do the amendment so they could go back and spend more time. He agreed with Council Member Tuggle in that they were given this Thursday and this was a complicated document they needed to spend time on. That was why the parking standards were taken out. That would give them the time to address those problems through Mrs. Stultz's office. This alternate version here was basic for what they need at this moment.

Council Member Epps asked the City Attorney about the original version. He asked if they were infringing on anyone's rights as far as parking or using their buildings.

Mr. Medlin replied that they had the right to pass the ordinance to regulate that use. They were legally entitled to do that and anybody who existed was constitutionally protected and grandfathered.

Council Member Epps stated that he wanted to comment that he had an article that referred to Charlotte where they had apartments and businesses all in the same blocks, which was doing real well. He stated that he questioned that if there was a shop owner on The Boulevard who had enough room in the back of the store for them to have a one bedroom apartment, and that might be all they could afford, buying the place and having a small business up front and living in the back, by eliminating the bottom floor, they would be out. He asked if that was correct.

Mayor Price asked Mrs. Stultz if she had said fifty percent of the bottom could be...to which Mrs. Stultz replied that the original alternative allowed it. She noted that her aunt ran a record shop on the Boulevard for years and she and her husband lived in the back of the store in an apartment. Fire code issues have been raised and that was certainly something that the Council could try to nail that down a little better.

Council Member Gover stated that they discussed the safety issue on that fifty percent. Now if they put apartments back there and put a firewall between the two and they block the exit, if they have a fire in front, they were doomed they could not go out the back, so it was a safety factor there.

Mrs. Stultz agreed and she stated that she was going to guess that there could be some issues. They have to have Mr. Vincent, the Codes Inspector, look at the particulars for everybody's case. Obviously both amendments say that anybody that did this kind of thing would have to adhere to all of the state building, plumbing, electrical and fire codes, and the fire code might preclude some of those developments. She stated that when she was doing it, it made sense that if it could not qualify based on the building codes they could not qualify anyway.

Council Member Epps asked if a moratorium could be made to which Mrs. Stultz replied that they would have to have a public hearing to do that and the Council would have to call it tonight, have it in August and they would still have this month, and if that was a risk they were willing to take they certainly could, but she would not advise it.

Council Member Myott referred to the apartment in back. She stated that she would think that they would have to have some way for the people in front to get out the back.

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

Mrs. Stultz replied not necessarily, it depended on the distances and the square footage in the front of the building.

Mr. Medlin added that there was a fire code or some code that addressed that.

Mrs. Stultz agreed and that would regulate that regardless of whether, if the Council decided to allow it in the fire code and the building code would not let them do it, they could not do it anyway. They could never qualify for a permit.

Mayor Price commented that many people knew that he had lived in a building just like this for twenty some years. They built it as a "lark" to begin with, but they have absolutely fallen in love with it. He stated that they could just see all kinds of things positive and negative. He stated that he could remember when his aunt and uncle lived on the Boulevard. A number of people lived upstairs and they had their businesses. He pointed out that it was coming to the community and it was a delightful way to live. He added that it was a great place to save their downtowns. He noted that Mrs. Stultz had mentioned in her comments in the paper, when they go downtown to work, they spend about \$2500 a year and people who live downtown spend about three or four times that.

He stated that he was also concerned about parking and he thought it was something they could work out. He believed that if someone was renting a unit, they were providing a service to their tenant and that tenant deserves the best service in the world. He did not think it was fair for a landlord to say they did not have a parking place. To him, it was just like the fire code, personally he thought there needed to be a hallway down the back and he wished those things had been available to them when they built theirs. He thought that was fair and he referred to the 300 new apartments that have been built and they had to have so many parking places for each of them. Those people paying money to rent places in those downtown areas should a parking place. He stated that he felt it was a business transaction and one that they should look at. He thought it was a convenience and something that a responsible landlord would want to do.

Council Member Vestal commented that to address what the Mayor just said, he asked if there were any off street parking regulations now, like 400' away from the entrance.

Mrs. Stultz replied that there were some regulations in their parking requirements that talk about parking for residential uses and it talked about sharing parking. The three zoning administrators before her had interpreted the provisions of Business-Central where it said that no parking was required in this district to mean that no parking was required in this district. That was something they could redress if the Council decided to initiate an amendment tonight to go back to the provisions, to look at their parking requirements and to maybe change some things in there.

Council Member Vestal stated that was his point. There were parking requirements in some other codes that they could just slide over in this if they had time, but she was trying to rush this through to beat...to which Mayor Price replied that he could understand that but he hoped they understood the importance of people having to pay their good money for rent.

No one else came forward to speak in favor or in opposition of this request.

A motion was made by Council Member Vestal seconded by Council Member Gover to adopt the alternate version of the zoning text amendment (second proposal). Council Members Vestal, Gover, Myott, Nooe and Tuggle voted in favor of this motion. Council Members Turner and Epps voted in opposition. This motion carried.

A motion was made by Council Member Vestal seconded by Council Member Gover that the staff revisit the parking and standards on these issues, with the help of the Planning Board and to initiate text amendments. All Council Members

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

voted in favor of this motion.

A motion was made by Council Member Tuggle seconded by Council Member Nooe to delete mixed uses under 11.24(f) as a permitted use. All Council Members voted in favor of this motion.

Council Member Gover mentioned that he hoped in the future that communication between all the property owners in the business section was better than what has been.

Council Member Vestal agreed that was a good point. He was a property owner downtown and if he had not been on Council, he would not have known this was going on.

Council Member Gover stated that he had had several complaints from the merchants because of this and that was why he voted on the alternative trying to get them educated on it.

Council Member Myott asked if they would include anything in there about merchants not parking in front of their stores.

Mrs. Stultz replied that if they wanted it to be there, she would bring that back for them to see.

(b) Consideration of a zoning map amendment request and an ordinance to rezone property off Denson Road in the city's extraterritorial jurisdiction from Residential-20 to Residential-Suburban. Request submitted by Bruce William Forbes. ZONING CASE Z-04-06.

The memorandum to Council explained that at the regular meeting of the City Council on May 18, 2004 the Council scheduled this public hearing to hear comments regarding a zoning map amendment request filed by Bruce William Forbes. The request was to rezone property off Denson Road in the city's extraterritorial jurisdiction from Residential-20 to Residential-Suburban.

The Planning and Inspections Department recommended approval of the map amendment request. At their June regular meeting, the Planning Board voted to recommend that the City Council approve this request.

Mayor Price called for a public hearing and asked Mrs. Stultz to come forward with a report.

Mrs. Stultz explained that the Council had before them this particular zoning request. The department recommended approval of the request and at their June meeting the Planning Board voted to recommended approval. It was a request to rezone 22.238 acres from R-20 which was the same district as the development behind them was to Residential-Suburban, which was their Residential-Agricultural zone. This property was a very rural agricultural and large lot single family kind of area. Over the course of the last several years, particularly since 1992 when the Council considered a complete zoning overhaul and a map change, since then there has been large numbers of residential-suburban requests from property owners in the extraterritorial area. In 1979, when the ETJ was first adopted and that area was brought under their land use control, one of the decisions that was made at the time was a that anything that the Council was not absolutely sure what it should be zoned, they zoned it R-20 as a holding zone, because it was a very low intensity, limiting kind of residential use that would be a holding zone until development pressure or requests or Council initiated amendments to change the zoning out there. The staff, Planning Board and the Council over the years has made changes to a lot of those kinds of parcels. She stated that she had been asked two questions about this and one was always a spot zoning question. She explained that there was illegal and legal spot zoning and in her opinion 22 acres was not a "spot". Even if it were, the only time that they could not spot zone something was if they did it and in a cupreous and arbitrary faction. She used as an example, somebody that was about to do something on their own property which was a permitted use, 7500 people in this community

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

were wound up about it, and the Council just decided to rezone it to stop it. That might be cupreous and arbitrary. Or some other gain the Council might make by changing zoning on the property.

Mrs. Stultz explained that anytime they zone Business-Neighborhood in this community, that was actually a spot, because there was no commercial development anywhere around it, but it was indeed a legal kind of zoning. This was a zoning case where she had had lots of questions from the neighbors and concerns have been expressed about a trailer park. Since they had a zoning ordinance in 1968, there has not been a new trailer park permitted. No one has applied for one and they have not permitted one. If the gentleman who owned this property chose to subdivide it after the Council rezoned it R-S, the smallest lot he could use would actually be 5,000 square feet larger in R-S than R-20. She stated that she thought this was a good request and a good thing for this area. Probably at some stage they would want the Council to initiate a land use study for this area because much of this area should be zoned residential-suburban. The great benefit to that was if they use it for some kind of agricultural use if they have a normal sized house and 20 horses and they need a big barn, under their R-20 regulations they could not have but 50% of the square footage of the house.

Council Member Gover questioned spot zoning and noted that Mrs. Stultz just shot down 18 years of Board of Adjustment. He thought that if they did not have another R-20S touching that property, it was spot zoned.

Mrs. Stultz replied that there was spot zoning and illegal spot zoning.

Mr. Medlin added that they did not have to have another R-S to abut it in order to avoid spot zoning. They could have parcels such as this rezoned and it not be spot zoned.

Mayor Price indicated that Mr. Bruce Forbes had signed up to speak. He asked Mr. Forbes to come forward.

Mr. Bruce Forbes, 150 Leffew Drive, explained that basically he wanted to put a mobile home or double wide in as he had two kids who would want to go to college, so whatever money he could save rather than having to build another house would work real well now. That was the main reason he was looking to get it rezoned.

Council Member Vestal asked if he would be allowed to do these things in R-S to which Mrs. Stultz replied that he could have an R-S however the city's ordinance only allowed him to have one house on one zoning lot. In order to do any of that he would have to go through the standard subdivision process that anyone else could do, and again, in R-S he could have less lots than he could in R-20. Council Member Vestal pointed out that he thought he needed to be aware of that.

Ms. Shirleen Pratt, 381 Garrett Road, explained that she owned property beside of Leffew Drive. Mr. Hawkin's house was just a short distance and there was a narrow drive the driveway that just leads to his garage, it was probably 18' wide and 200' long, but beyond that it was just a single lane road and if he was just going to have one or two doublewides back there, it would not make any difference, but if he was going to develop it into a number of them, the road would have to be widened and the only property there to widen it on would be hers and her husband's. That was her concern.

Mrs. Stultz explained that the subdivision ordinance certainly required that in order to subdivide a piece of property they have to touch a public right of way and their ordinance was very serious about that. In order to make an entire subdivision, she had reference to the one off of Highway 87 several times, to do an entire subdivision they would have to build streets and all those things just like they would anywhere else. So, this gentleman would be limited by his access to a public right of way and only public entities have the ability to condemn that sort of thing and they could not stop him from getting to what he has now but he

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

would not necessarily have the right to go beyond anything that was public. Right now all he could have was that R-S house he has and she had talked with him again and he was aware of that. They did allow flag lots, but only one, which was a lot that if they chose to subdivide that way; it literally looked like a flag and a pole.

Mrs. Pratt stated that she was concerned about her land because the only place there that he could take a road would be on her land.

Mrs. Stultz replied that he could not take it without her permission.

Council Member Epps asked if he had to have it rezoned to put a modular in there.

Mrs. Stultz replied, not to have a modular put in, a modular could go anywhere in their jurisdiction that a stick built house could go. He would have to get it rezoned from R20 if he were going to subdivide a lot off and put a doublewide in there.

As no one else signed up to speak, Mayor Price declared the public hearing closed.

A motion was made by Council Member Epps, seconded by Council Member Turner to accept the recommendation of the Planning Board. All Council Members voted in favor of this motion. This motion carried.

(c) Consideration of an amendment and adoption of ordinance to Chapter 1 Article 6 of the Eden City Code pertaining to membership on the Main Street Advisory Board.

The memorandum to Council explained that the number of members of the Main Street Advisory Board has been changed to fourteen to add members with special training or experience in the fields of finance, construction, commercial real estate, economic or downtown development, business, architecture, or city planning. We are also encouraging representation by at least one person employed by a major employer within the City and membership that will reflect the demographic composition of the City per the most recent decennial census.

Mayor Price called for a public hearing and asked Mr. Mike Dougherty, Business Development Director, to come forward for a report.

Mr. Dougherty explained that they have just finished the first year process with Main Street. The resource team came in June and they also met with them in January in Morganton. They recommended that they expand their Advisory Board to include people with finance, construction, commercial real estate, economic or downtown development, business architecture, city planning and also encouraging representation by one of the major employers in the city and that was what they have.

Mayor Price asked if this proposal was to add up to fourteen (14) members to which Mr. Dougherty replied in the affirmative.

Mayor Price asked if there were any comments to speak in favor of or against this request. As no one came forward to speak, Mayor Price declared the public hearing closed.

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

MONTHLY FINANCIAL REPORT:

(a) Financial Report.

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

Council Member Tuggle stated that he had noticed some of the communications they have where it said something about a bit of concern about the Self Insurance Fund and the Emergency Communications.

Mayor Price asked Mrs. Lori Ford, Finance Director, if she would like to comment.

Mrs. Ford explained that the Self-Insurance Fund was hard to tell right now. Right now it looked like it was in pretty good shape, however the auditor entry requires that anything that was not paid over 6/30 would go right back into the fund, so that might make their claims run actually a little higher. They have had some significant claims on their insurance fund this year. She did not expect it to exceed its fund balance in any shape, fashion or form as she expected it to balance out in the long run.

The Emergency Communication was the 911 money for the Police Department. It was ahead right now and the expenditures for this revenue lagged behind a couple of months, so she was expecting in the next few months for those revenues to catch up and that fund to balance out as well.

A motion was made by Council Member Tuggle seconded by Council Member Myott to accept the Financial Report as presented. All Council Members voted in favor of this motion. This motion carried.

REQUESTS AND PETITIONS OF CITIZENS:

Mr. Drewey Pulliam addressed Council:

Mr. Drewey Pulliam, Summit Road, explained that he wanted to see if they would overturn the decision they made on tearing the house down at 444 Early Avenue. He understood that property used to be the old Judge Peter's home and the house was not in that bad of shape. He stated that he had bought a whole lot of houses and fixed them up and this was one of them. He had about \$18,000 invested in it and he was sure if he tore it down he would not have any less, in fact after talking with Mrs. Stultz, he could actually be charged for tearing it down. He stated that if he had the money to pay to tear it down he could have the money to fix it up to start with.

He also wanted to mention that he had lived on Summit Road back before Eden was ever Eden. He was outside the city and he and about 14 others had John Smith run a waterline up the road and they paid for it out of their own pockets to get city water. So far the only thing he got from the city was trash pick up. He was supposed to be getting sewer service which he guessed the contractor must have come to the top of the ground too fast when he was putting it in or something because there were about 4 houses left out and his was next to last.

Also, he had been there for years and running a business and she says it was in a nonconforming state. He also had one of the inspectors out and he had a flush ball hanging in the commode and the water was standing, it was turned in and they came out and inspected it and the inspector gave so many days to do something about it and he had that all taken care of as far as the water running out. He asked them to pump the tanks, the city used to pump tanks, they promised him sewer, well Miller Brewing has been out there twenty years and he still had not got it. He stated that he just felt that they had it in for him.

Mayor Price stated that there were a number of things and the city staff would contact him in regard to the sewer and get that straightened out. As for the Early Avenue property, that had been talked about a great deal and Council had made a decision and if any member of Council wanted to change it they could put it on the agenda for next month.

Ms. June Adams addressed Council:

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

Ms. June Adams, 609 Hay Street, explained that she represented the Community Appearance Committee for Ward 4. She stated that she was in favor of the demolition of 403 Morgan Road, Porter's store building. They thought that it should have gone down years ago. It was a fire hazard as well as a health hazard.

Mrs. Marianne Aiken addressed Council:

Mrs. Marianne Aiken, 700 Riverside Drive, also explained that she was always interested in improving the appearance of their Spray neighborhood and Morgan Road was a real artery and there were some bad eyesores on that street. It was a shame that the old Porter's store was in the condition that it was in. It was a good example of what preservationists call "demolition by neglect" and she was very much in favor of removing it. There were also a few other places nearby that needed attention.

Mrs. Elsie Williams addressed Council:

Ms. Williams, 408 Victor Street, explained that she also was in favor of tearing down the building. It was not only an eye sore, but everything was rotten. They lived less than a block from it and could see rats coming out of this building. She was also concerned about children playing in the building.

Mr. Jeff Williams addressed Council:

Mr. Williams, 408 Victor Street, explained that he agreed with everything that Mrs. Williams had stated. He then mentioned the house right behind it as it was also in bad shape.

UNFINISHED BUSINESS:

(a) Consideration of traffic calming recommendations for Park Avenue and Highland Drive.

The memorandum to Council explained that three years ago the City Council and the Planning Board began receiving requests from citizens regarding traffic problems on several local streets. The issue of traffic calming has been one that has seen increased attention in communities across our state and nations since the early 1990's.

Since World War II, there has been an exponential increase, all across our nation, in the use of the automobile and in large lot suburban type development. As a result of these societal changes, engineers and planners have spent a great deal of time and energy on decreasing traffic congestion. The usual solutions were to widen streets, put in turn lanes and eliminate parking on the street and any other available tool that might increase traffic flow. As cities such as ours have developed, we have seen the measures sometimes causes the opposite effect. Particularly in residential streets that become cut-through streets.

One of the least expensive and reported to be the most effective first steps in a traffic calming program is painting centerlines and traffic lanes on these streets.

Mrs. Stultz explained that this was a particular issue that the Council had talked about for the last two or three years. She noted that Council Member Epps was interested in this and she had discussed it with him.

She explained that the city did do a sort of pilot plan behind Douglass School with Council Member Myott's help and there was a speed bump there that had done a fine job. She noted that they did know that the style of development and the changes that have been made on their street system over the course of the last forty years have changed the way traffic moves across their community. There have been several streets that were older established neighborhoods that have become cut throughs and there have been repeated requests from some of those areas to try and do something about it. Initially they had requested that signs be put up that said "Caution Children at Play" but at the time the former City Attorney, Mr. Nooe, did not feel that was such an excellent plan and it has been debated for a long time.

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

Mrs. Stultz stated that this was one of those things that she had read an awful lot about and it was an issue that was carried on across the country. One of the things that she wanted to recommend was what other communities have done, particularly small ones like Eden with limited resources, which was to begin with some less expensive measures to try and improve issues in this neighborhood. She stated that she would like to have a traffic study done on Highland Drive and Park Avenue to find out just exactly what kind of speeding they were having. Have the Police Department observe what was going on there and also take a look at painting traffic lanes. All of the stuff that she had read and people she had talked to suggested that one of the first things to do was to make travel lanes. She pointed out that they all knew that if they went down a really wide street, people have a natural tendency to fly down the middle if there were no lanes there. She was not going to tell them that she could promise that it would alleviate those problems but it was the cheapest thing to try first. She suggested that they paint those lines and lanes. She noted that the Municipal Services Director, Mr. Sexton, told her it was about 40 cents a linear foot, which was cheaper than speed humps, which recent estimates could go from \$2500 to \$5000 depending on who did them and how wide the street was.

She stated that this was something that continued to be a problem and she thought that if they start to try some of those things and it worked, the Planning Board was recommending that they did like other communities and create an application process for those measures. She suggested that they try to establish a way to make sure they were doing what the residents want.

Mayor Price asked if they would paint center lines to which Mrs. Stultz added and lanes. Mayor Price asked if that was a center line left and right.

Mrs. Stultz replied yes, and some city's have done it where you do the traffic study and you paint a center line and then do the study again and paint the other lanes. Sometimes they narrow the travel portion and paint a bike path like the new subdivision that was going in behind the mall. She explained that when you narrow what was available for a travel lane there was an automatic slowing down. She noted that a couple of neighborhoods up north have done some creative things, such as the residents in an affluent neighborhood in New Jersey who went out and bought what amounted to older expensive looking cars, put tags on them and insured them and then they staggered them parked along the street. What that amounted to, it made everybody have to ease in and out. She noted that if they had ever been down Patrick Street, when people were parked along the side, you know you could not go fast. So, those things have helped. She added that she was not suggesting that they solve their junk car problem by painting them and putting them on the side of the streets but she did think that this was an issue they could look into and try to do it as cheaply as they could.

Mayor Price commented that there had been some discussion about putting on street parking, as well as center lanes. He asked if that had fallen by the wayside.

Mrs. Stultz replied that she did not want to ask them to do that unless the Police Department indicated that they thought it was a good plan when they did the study. She added that was certainly something that would be up to the Police Chief and his staff to make that recommendation. She added that she would tell them that safe on street parking slowed travelers. She noted that the road through Bear Slide was used by lots of people as a cut through to avoid the intersection at Kings Highway and Highway 14. That was not a good plan for that residential area because the street was not built to hold that traffic. She added that they have a series of streets that they get regular complaints about.

Council Member Gover asked if she was asking for a traffic study first.

Mrs. Stultz replied that it was two traffic studies to establish the speeding and then some paint before they did anything...to which Mayor Price pointed out that they have already done a traffic study on Park and Highland. Mrs. Stultz agreed and noted that it was three years old. She stated that she figured they would give

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

the Police Department the option if they thought it would be better to do another one or not.

Mayor Price pointed out that they have them right there. He asked Chief Benthin for his thoughts.

Chief Benthin stated that he would be glad to do more studies but he did not think the recommendation would be any different.

Mayor Price asked if he thought they should put something in place to slow traffic.

Chief Benthin replied that he thought the idea of putting center lines and side lines was excellent and he knew of several places that he believed that would help.

A motion was made by Council Member Epps seconded by Council Member Myott to put in travel lanes (paint center lines and outside lines) on Park and Highland Drive.

Council Member Nooe stated that the Chief mentioned several places. He asked what other places he would recommend or would they want to do a couple and then check and see what the impact would be.

Mrs. Stultz stated that those two streets received the most complaints. She mentioned some other complaints in several areas such as Ridge Avenue and Front Street and Chief Benthin added Walter Chambers Street. Council Member Epps added Riverside as well.

Chief Benthin explained that it would be anywhere they have a speed limit of 35 or more and there were curves.

After brief discussion it was decided to do Highland and Park Avenue first.

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

(b) Consideration of appointment to PTCOG

Mayor Price noted that Council Member Vestal has some other things that were requiring his duties at City Hall so he was asking that they appoint Council Member Tuggle to the Piedmont Triad Council of Governments.

A motion was made by Council Member Epps seconded by Council Member Gover to appoint Council Member Tuggle to the PTCOG. All Council Members voted in favor of this motion. This motion carried.

Council Member Vestal thanked Council Member Tuggle for accepting this appointment.

NEW BUSINESS:

(a) Adoption of an ordinance for the demolition of a building located at 129 Roosevelt Street.

The memorandum to Council explained that an estimate for the demolition of the structure on this property is \$3,500. Once the demolition is done at the city expense, actions can be taken to recoup the funds in the same manner as the collection of special assessments.

A motion was made by Council Member Gover seconded by Council Member Tuggle to adopt the ordinance for the demolition of building at 129 Roosevelt. Council Members Gover, Tuggle, Myott, Turner, Epps and Vestal voted in favor of this motion. Council Member Nooe voted in opposition. This motion carried.

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

- (b) Adoption of an ordinance for the demolition of a building located at 202 Roosevelt Street.

The memorandum to Council explained that an estimate for the demolition of the structure on this property is \$3,500. Once the demolition is done at the city expense, actions can be taken to recoup the funds in the same manner as the collection of special assessments.

A motion was made by Council Member Turner seconded by Council Member Tuggle to adopt the ordinance for the demolition of building at 202 Roosevelt.

Council Member Nooe asked if they ever got any information on the status of the city getting funds back on any of those projects.

Mrs. Stultz replied that she had not got it completely but he had not forgotten about it.

Mayor Price referred the question to the City Attorney who could straighten it out when they file for a lien...

Mr. Medlin explained that it was automatic the statute automatically creates the lien and the lien could be collected as any other lien, but they had to initiate an action.

Council Member Nooe explained that the reason he had asked, he saw that in each one of these that the city could pursue those avenues but he had never seen any information where the city had received anything on any of them. He stated that he had asked for it before as it looked like they would have the attorney's fees and the demolition cost up front and whether they received any of them, if they were going to pursue getting paid they ought to know what it costs to take it down.

Mayor Price agreed and asked Mrs. Stultz to go back two years and get this information for the Council to review.

Action on the motion was as follows: Council Members Gover, Tuggle, Myott, Turner, Epps and Vestal voted in favor of this motion. Council Member Nooe voted in opposition. This motion carried.

- (c) Adoption of an ordinance for the demolition of a building located at 403 Morgan Road.

The memorandum to Council explained that an estimate for the demolition of the entire building (401 and 403 Morgan Road) is \$35,000. We are working with the Fire Department and Duke Power to determine if there is a possibility of burning this structure. Once the demolition is done at the city expense, actions can be taken to recoup the funds in the same manner as the collection of special assessments.

Mayor Price commented that Mr. Joe Porter had signed up to speak and he asked him to come forward.

Mr. Porter, 448 Morgan Road, explained that the problem that he had was with the money and finding someone to do what he wanted them to do. He talked with Charlie McIsaac and Bud Stickels. There were two buildings involved. The first one was wood and on the corner (401) and 403 in his opinion was virtually sound. He noted that there was one access problem through the wooden building. He stated that he was asking for a 30 day extension to talk with McIsaac to see if he could tie something down with Mr. Vincent (Inspector) and Mr. Stickels.

Mayor Price asked if he was saying he would like to have 30 days to do something, structural drawings or 30 days to make some repairs.

Mr. Porter replied that it would be to get a plan together. He noted that McIsaac was pretty busy with that subdivision. He had heard references to the cost of demolition being very high because the two buildings were side by side. He stated that he wanted to emphasize that the brick building was not in that bad of

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

shape. The wooden building, the middle section of the roof failed and water was draining into it.

Council Member Epps commented that out of respect, he had had the whole community on him and he would have to vote in favor of the demolition.

Council Member Tuggle asked how long it had been in disrepair and how many opportunities had he had to do something with it.

Mr. Porter replied probably more than he should have, but it had been a financial problem. He stated that he had a retirement fund he was willing to put up and he had talked to Mr. Stickels. He did not get a price from McIsaac, and that was who Mr. Stickels had recommended.

Council Member Tuggle asked if he had a plan in 30 days saying what he would do.

Mr. Porter replied that he would try to finance it if it was approved...there would be several options and to save just the front portion of the wooden building and tear out all the back.

Council Member Tuggle explained that his question was that he wanted a 30 day extension. What would he do in 30 days and how would he change it and make it where it was habitable and not an eyesore.

Mr. Porter replied that he would paint it and tear down the middle section.

Mayor Price pointed out that 401 Morgan had already been voted on to demolish. They were really talking about 403.

Mr. Porter replied that 403 did not have a leaking roof or anything like that. He stated that he had the impression that it was very expensive to just tear down 401 and it would be easier to tear them both down. He added that in his opinion 403 was structurally sound.

Mrs. Stultz explained that the Council had already ordered the demolition of 401. Certainly Mr. Porter could go ahead and do the demolition himself, but it could simply not be saved. She stated that 403 could be saved as there was a possibility to do that but it was pretty much in derelict condition. She suggested that if they chose to do that to give him 30 days to get a plan and encourage him to go ahead and demolish 401.

Mr. Porter stated that he would like to save the front third of 401.

Mayor Price explained that was really a different issue as 403 was the one they were talking about.

Council Member Gover asked Mr. Porter if he thought he could meet with the requirements that Mrs. Stultz had just described and did he think that he could tear that portion down himself.

Mr. Porter replied that he was depending upon Mr. McIsaac. He could not tear it down himself.

Council Member Gover explained that he did have that option to demolish it himself.

Mr. Medlin pointed out that the ordinance before them, 403, merely instructed the zoning officer or the inspector to carry out the purpose of the code, which would still allow him to tear it down in order to save the expense of having to repay the city. The inspector could coordinate that with him. He stated that he could not move forward to repair or demolish without their ordinance. So, they needed to

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

give the inspector that permission that he could let Mr. Porter do it in cooperation with him.

Council Member Epps stated that if they go ahead and pass the demolition then they would work that out with the inspector to which Mr. Medlin replied in the affirmative.

Mayor Price asked for clarification...that if they approve this as presented tonight he still had the option to work with the building inspector...to which Mr. Medlin replied, to tear 403 down.

Council Member Turner asked if that meant he could not repair it.

Mr. Medlin explained that they were telling the inspector to move forward with the demolition. The ordinance was drafted to move forward to demolishing it. The way that it was drafted, the Council has to tell the inspector to move forward and start enforcing the ordinance. His order was to repair or demolish, so if they wish to pass an ordinance that told him to either start repairing in the 30 days, for him to be doing that or after that the city would demolish it. They could pass an ordinance to that effect on 403.

Mayor Price explained to Mr. Porter that if the Council approved this tonight, he would have 30 days to make the repairs to the satisfaction of the building inspector to which Mr. Medlin replied that was correct.

Mrs. Stultz replied that 30 days was an awfully short time for him to be through. He thought that at the end of thirty days if they all want to do that, if he had plans in the office and it was underway and continued to show progress, obviously it was always better to preserve a building. At this point he was the one ordered to demolish 401, and he could certainly do that.

Council Member Vestal questioned that they were told that when 401 was demolished the structural integrity of 403 would be affected.

Mrs. Stultz replied yes, but if Mr. Porter could get an engineer and architect to provide a way to have that done and preserve the building and meet all the code requirements that was certainly an option.

Council Member Epps moved to approve the request to adopt the ordinance as presented.

Mayor Price stated that in essence this ordinance gave the Building Inspector the enforcement to give Mr. Porter 30 days to get this thing repaired or structurally sound...to which Mrs. Stultz replied that in regard to 403, Council Member Epps' motion was to do it as presented. What had been discussed, if Mr. Porter could prove through adequate plans and have it approved by the inspections staff that what he planned to do to this building met all code requirements and that contract and work was underway, in 30 days, they certainly could.

Mr. Medlin noted that he could not draft an ordinance that said "if it is underway within 30 days." He explained that because the ordinance was ordering the inspector to do his job, if the repairs were not complete, he had to either repair or demolish within 30 days with the satisfaction of the inspector. If they want to extend it more than 30, that was fine.

Council Member Nooe suggested they table it until the next meeting and Mrs. Stultz could report the progress.

Council Member Medlin agreed that it was just the question as to whether they want to take it up now or later.

A motion was made by Council Member Epps seconded by Council Member Turner to approve the ordinance with a change that Inspector is ordered to

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

proceed to effectuate the purpose of the code if the owner has not repaired or demolished within 60 days. Action on the motion was as follows: Council Members Myott, Turner and Epps voted in favor. Council Members Nooe, Gover, Tuggle and Vestal voted in opposition. This motion failed.

Mr. Medlin explained that was the ordinance as amended. Now they could either go back to the original ordinance or table it.

A motion was made by Council Member Nooe seconded by Council Member Tuggle to table this request until the regular August meeting of Council. Action on the motion was as follows: Council Member Gover, Myott, Tuggle, Vestal, Turner and Nooe voted in favor of this motion. Council Member Epps voted in opposition. This motion carried.

- (d) Adoption of an ordinance for the demolition of a building located at 155 Brammer Road.

The memorandum to Council explained that an estimate for the demolition of the structure on this property is \$8,000. Once the demolition is done at the city expense, actions can be taken to recoup the funds in the same manner as the collection of special assessments.

Pulled

- (e) Request to initiate an amendment to the Eden City Code as it pertains to nuisances.

The memorandum to Council explained that due to some concerns, the Planning and Inspections Department is requesting that the City Council initiate an amendment to the Eden City Code, call a public hearing and request an ordinance be prepared for the August 2004 meeting.

Mrs. Stultz explained that there was a provision in their nuisance ordinance that says conditions constituting a public nuisance uncontrolled growth of noxious weeds and grass or noxious weeds and other vegetation in excess of 12 inches and then it goes on to say within 25' of a public street highway or alley or within 25' of a property line of an adjoining developed property. One of the issues that created for her was a reverse donut. They send out a nuisance, they need to mow a yard and by the time they get them cut it was very high and according to this ordinance they have to get out there and measure and leave some of the stuff in the middle. It had been like this for a long time and she had several questions from the Planning Board and members of Council and what they would like for the Council to do would be to initiate an amendment to change that.

A motion was made by Council Member Gover seconded by Council Member Tuggle to call a public hearing to amend the Eden City Code as it pertains to nuisances. All Council Members voted in favor of this motion. This motion carried.

- (f) Request to initiate an amendment to the Eden City Code permitting benches, flower pots and other such items on sidewalks in the downtown areas.

The memorandum to Council explained that in the past, members of the various merchants association whose properties adjoin sidewalks have made efforts to make their storefronts more attractive and inviting. At the present time, flower pots, benches and other decorative items are not permitted on the sidewalks in Eden.

This kind of thing occurs frequently in other communities. We would like to ask that you initiate an amendment to the City Code that would permit such activities under controlled circumstances.

Mayor Price asked how much effort this would be.

Mrs. Stultz replied that the Council needed to initiate it. They did know that at the moment their city code did not allow those sorts of things on sidewalks. She added that they should not allow them just any old way out there because stuff like that could be traffic obstructions, but it was a fairly common practice in other

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

jurisdictions to allow merchants to have plants or benches on the sidewalks where the sidewalk width was appropriate. She stated that they would like to have the Council initiate this and work with Mr. Medlin's office and take it back to Planning Board and see if they could come up with some series of regulations and approval to where they were not creating any hazards but were allowing them to improve the building front.

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

(g) Consideration of the Landscape Maintenance Contract.

The memorandum to Council explained that during the 2004-2005 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 Department sent out requests for proposals and advertised for bids in the local newspaper. We received two bids, Lewis Nursery, Inc., in Cascade, Va, and Irving Farms in Stoneville. Of these two bidders, Irving Farms was the lowest with a total of \$44,136 or \$3,678 per month. An amount of \$50,000 was budgeted for landscape maintenance for the 2004-05 fiscal year.

Mrs. Stultz explained that they received two bids. They would like to recommend the low bidder (Irving Farms).

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

(h) Consideration of proposed disposition of land – Lambert Drive.

The memorandum to Council explained that for many years Jones Norman of 1046 Trogdon Drive has utilized and maintained a portion of city owned property that surrounds his lot on the east side of Lambert Drive. On his behalf, Tommy Fleming is requesting that a portion of that city owned land be granted to Mr. Norman's estate to avoid potential problems with future owners of Mr. Norman's house and lot.

City Engineer, Bev O'Dell, explained that basically this would be just 30' to which Mayor Price questioned if it was 175' at the back of those lots or to the side.

Mr. O'Dell replied it would be on the side. The city actually owned 110' there. Then of course it widens up to join with the public works complex. Right now Lambert Drive was dedicated as a 40' right of way, which left them with of course 70'. He explained that this would allow them each 30' of that. The city would retain an additional 5' adjacent to the existing Lambert Drive. If they went through the proper procedures they could dedicate that additional 5' on each side as right of way, thereby having 50' in the future. Currently they have 40'.

Council Member Gover stated that he had 35' marked off on the map. He asked if he was saying 30'.

Mr. O'Dell replied they would give sell, trade whatever, 30', but no more than that.

Council Member Gover asked if he was suggesting they sell the 30' on each side to the property owner or whoever.

Mr. O'Dell explained that this was primarily initiated by a realtor on behalf of Jones Norman. The idea was to either give or sell to the adjacent property owners. He added that he really would not recommend going out to the general public and selling. He stated that he would think there would be some contingency upon the sale to make it in addition to those lots, 30x175'. The only people who would benefit from it would be those two property owners.

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

Mrs. Stultz added that if it went to someone other than the adjoining property owners, they would then create two nonconforming lots and they really could not do that with their own zoning ordinance.

Mr. O’Dell also pointed out that if they were going to do that, they should just keep it and maintain it.

Mayor Price asked if they were really taking that 35’ lot down to 30’ or actually the city was going to retain 5’.

Mr. O’Dell explained that there was a 35’ section on each side of Lambert Drive that was a small portion of a big lot that goes around Municipal Services.

Mayor Price asked if that went back 175’ from the corner of Trogdon to which Mr. O’Dell replied that was correct. Nothing was discussed about some of the land that was in the rear of Mr. Norman’s property. That could be a future issue.

Council Member Nooe asked the City Attorney if property like this that the city wanted to get rid of, did it have to go out to the public or could it be offered to the adjoining property owner.

Mr. Medlin replied that he was going to ask that if they were going to do this just make their motion to allow them to dispose of the property and let him look into how they could accomplish it, because he was not sure they could just give it away to private citizens. He added that he thought there were ways they could go through private sales.

Council Member Nooe suggested that they see what the fair market price was and offer that.

A motion was made by Council Member Nooe seconded by Council Member Myott to dispose of the property at the fair market value and the City Manager determine that fair market value and offer that. Council Members Myott, Nooe, Vestal, Epps, Tuggle and Gover voted in favor of this request. Council Member Turner voted in opposition. This motion carried.

CONSENT AGENDA:

- (a) Approval and adoption of minutes – June 15, 2004.
- (b) Approval and adoption of Main Street Advisory Board Members.
- (c) Approval and adoption of a motion to grant permanent storm drainage easement to NCDOT for Pierce Street widening project.
- (d) Approval and adoption of Budget Amendment No. 1.

This is the first budget amendment for the year.

Budget Amendment #1	Account #	From	To	Amount
General Fund Revenue				
Fund Balance Appropriated	10-3991-91000	\$ 650,000.00	\$ 699,742.05	<u>\$ 49,742.05</u>
				<u>\$ 49,742.05</u>
General Fund Expenditures				
Powell Bill C/O Streets	10-4515-52000	\$ 143,700.00	\$ 162,200.00	\$ 18,500.00
Finance C/O Equipment	10-4130-57000	\$ -	\$ 10,000.00	\$ 10,000.00
Eng – Professional Services	10-4350-19500	\$ 11,000.00	\$ 16,135.00	\$ 5,135.00
Eng – M/R Equipment	10-4350-35400	\$ 2,400.00	\$ 2,840.00	\$ 440.00
SW-PAYT Supplies	10-4710-21400	\$ 4,500.00	\$ 4,895.00	\$ 395.00

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

Rec – Equipment Non-Dep	10-6120-57001	\$ 22,500.00	\$ 24,780.00	\$ 2,280.00
Eng – Prof Serv Programming	10-4350-38100	\$ 5,800.00	\$ 7,800.00	\$ 2,000.00
Plan – CAC Expense	10-4910-29904	\$ 5,000.00	\$ 15,992.05	\$ <u>10,992.05</u>
				\$ <u>49,742.05</u>
Water/Sewer Fund Revenue				
W/S Fund Balance Appropriated	30-3991-99100	\$1,000,000.00	\$1,117,517.01	\$ <u>117,517.01</u>
				\$ <u>117,517.01</u>
Water/Sewer Fund Expenditures				
W/C Professional Services	30-8120-19500	\$ 25,000.00	\$ 40,000.00	\$ 15,000.00
S/C Professional Services	30-8130-19100	\$ 25,000.00	\$ 85,000.00	\$ 60,000.00
W/R M/R Building	30-7120-35100	\$ 8,000.00	\$ 9,750.00	\$ 1,750.00
C/D M/R Building	30-7125-35100	\$ 30,000.00	\$ 37,210.00	\$ 7,210.00
W/F M/R Equipment	30-7120-35400	\$ 58,000.00	\$ 83,881.00	\$ 25,881.00
C/D M/R Equipment	30-7125-35400	\$ 30,000.00	\$ 31,396.01	\$ 1,396.01
W/R M/R Equipment	30-7130-35400	\$ 50,000.00	\$ 50,180.00	\$ 180.00
W/R M/R Building	30-7130-35100	\$ 9,750.00	\$ 15,500.00	\$ 5,750.00
W/R Safety Equipment	30-7130-21300	\$ 2,500.00	\$ 2,850.00	\$ <u>350.00</u>
				\$ <u>117,517.01</u>

Adopted and effective this the 20th day of July, 2004.

Attest:

s/Sheralene Thompson
Sheralene Thompson Deputy City Clerk

s/Philip K. Price
Philip K. Price, Mayor

(e) Approval and adoption of a North Carolina Governor’s Highway Safety Program Resolution.

RESOLUTION SUPPORTING THE NAMING OF THE NEW SMITH RIVER BRIDGE AND THE HIGHWAY 87 BRIDGE

WHEREAS, two major bridge replacements in the City of Eden are planned or currently under construction; and

WHEREAS, these two bridges will be landmarks for years to come; and

WHEREAS, such landmarks are worthy of dignified and appropriate names; and

WHEREAS, these two bridges are in historically significant locations of great importance to the City of Eden;

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL, CITY OF EDEN, that the North Carolina Department of Transportation is hereby requested to:

1. Name the new bridge over the Smith River, near the traffic circle, the “Island Ford Bridge” in recognition of the fact that it marks the well used route where the early settlers of the area regularly forded the river; and
2. Name the new bridge over the Dan River on Old Highway 87 (South Hamilton Street) the “Leaksville Landing Bridge”, in recognition of the adjacent structures still visible in the river, marking the landing for the river traffic that nurtured the town of Leaksville as early as the 1790’s.

This the 20th day of July, 2004.

July 20, 2004

City of Eden, N. C.

Minutes of the regular July 20, 2004, meeting of the City Council, City of Eden, continued:

s/Philip K. Price
Philip K. Price
Mayor

ATTEST:

s/Sheralene Thompson
Sheralene Thompson
Deputy City Clerk

(f) Approval and adoption of a Resolution – Designation of Applicant’s Agent – North Carolina Division of Emergency Management.

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

VOUCHERS:

There were no questions regarding vouchers.

CLOSED SESSION:

Closed Session in accordance with GS 143-318.11(a)(4) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations.

A motion was made by Council Member Tuggle seconded by Council Member Gover to go into Closed Session in accordance with GS 143-318.11(a)(4) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. All Council Members voted in favor of this motion. This motion carried.

OPEN SESSION:

A motion was made by Council Member Myott seconded by Council Member Nooe to return to open session. All Council Members voted in favor of this motion. This motion carried.

ADJOURNMENT:

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

Respectfully submitted,

Sheralene Thompson
Deputy City Clerk

ATTEST:

Christine H. Myott
Mayor Pro Tem