

CITY OF EDEN, N. C.

The regular meeting of the City Council, City of Eden, was held on Tuesday, April 17, 2007 at 7:30 p.m. in the Council Chambers, 308 E. Stadium Drive. Those present for the meeting were as follows:

Mayor:		John E. Grogan
Mayor Pro Tem:		Wayne Tuggle, Sr.
Council Members:		Donna Turner
		Darryl Carter
		Jerry Epps
		C.H. Gover, Sr.
	(Absent)	Bruce Nooe
		Christine Myott
City Manager:		Brad Corcoran
City Clerk:		Kim J. Scott
Deputy City Clerk:	(Absent)	Sheralene Thompson
City Attorney:		Tom Medlin
Representatives from Departments:		
Representatives from News Media:		John Barbour, <u>Eden Daily News</u>

MEETING CONVENED:

Mayor Grogan 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:

Rev. Johnny Cox, Eden Fieldcrest Road Church of God was present to give the invocation followed by the Pledge of Allegiance. Prior to the invocation, Mayor Grogan asked for a moment of silence to remember the people at Virginia Tech along with their families and their losses.

ADDITIONS OR DELETIONS TO AGENDA:

At the request of Council Member Gover, (Consent Agenda) Item 9(g) was pulled from the Consent Agenda for further discussion.

PUBLIC HEARINGS:

(a) Consideration of a zoning text amendment and ordinance to amend Section 11.24(a) Residential–Suburban zoning district, Section 11.24(c-2) Residential-4 zoning district and Section 11.29 Definitions section of the City of Eden Zoning Ordinance regarding development standards for manufactured homes. Request submitted by the Planning Board. ZONING CASE Z-07-02.

Minutes of the regular April 17, 2007 meeting of the City Council, City of Eden:

At a regular meeting in February, City Council scheduled this public hearing to hear comments regarding a zoning text amendment request filed by the Planning Board. The request is to amend the Zoning Ordinance as follows:

- (1) Amend Section 11.24(a) R-S Residential Suburban District, Conditional Uses, Manufactured Homes;
- (2) Amend Section 11.24(c-2) R-4 Residential-4 District, Conditional Uses, Manufactured Homes; and
- (3) Add text to Section 11.29 Definitions, Manufactured Home.

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

Mayor Grogan called for a public hearing and asked Mrs. Kelly Stultz, Director of Planning and Inspections to come forward with a report.

Mrs. Stultz stated that this Zoning Case was initiated by the Planning Board and unanimously approved by them.

Safe affordable housing is a quality of life issue of great concern in our community. In Eden, as in most other communities, manufactured housing plays a significant role in the provision of such housing. However, our regulations for the installation of manufactured housing have not kept up with industry or community standards.

Changes in the construction of manufactured homes since the 1970's, have made this type housing safer and more secure. The City of Eden Zoning Ordinance does not include any regulations concerning types of underpinning and foundations, entrance standards, age of the home or any delineation of types of mobile homes. As we strive to make manufactured housing more readily accepted, these type regulations are very important. Therefore, these amendments to the ordinance as proposed are intended to address these issues.

The amendment proposes several classes of manufactured homes. This classification system will promote compatibility with the surrounding area.

Mrs. Stultz stated in the mid 1990's the Eden City Council decided to create a manufactured home overlay district. As a part of that, they amended the zoning definitions to include a Class A Manufactured home. That is a double-wide with a minimum of 1000 square feet heating living space, a two to 12 pitch roof and other things that would make those mobile homes compatible with existing neighborhoods. One of the things that has been in our ordinance since the early 1980's, the state required that they include manufactured housing in our jurisdiction was that if you had a manufactured home, you had to have an outside storage building of a minimum square feet. She stated that most would like to have extra storage, but they do not require that for any other type of housing. So the regulations they have for the Council to consider this evening, they strongly believe are important, will help provide more places for manufactured housing to be accepted.

Council Member Tuggle stated when he read through the information and he saw underpinning, he remembered quite a few years ago living in a mobile home, if he had to put masonry under a mobile home he probably could not have purchased the mobile home. When he looks at what

Minutes of the regular April 17, 2007 meeting of the City Council, City of Eden:

underpinning is, and he was sure there were conditional uses for it, and there are certain times they would use masonry and other times they would not, and other materials could be used, he asked Mrs. Stultz for some kind of clarification as to how underpinning is used and when and how it is used and what conditions there would be.

Mrs. Stultz explained that in Class A and in Class B -1 Manufactured Homes, those are generally ones in the Manufactured Home overlay or in predominately single-family site built residential areas. Those would require masonry. In the others, where you would either have a manufactured home subdivision, a development of manufactured housing or the Class B-2's, those would not require underpinning of masonry variety, but would allow other versions. Those things are designed for not aesthetics, but for safety of installation.

When you have a manufactured home, for example, in a subdivision where the lots are rented, it does not make much sense to require them to have a masonry foundation because people move on and off of them and they have tried to take that into consideration.

Mayor Grogan asked if there was anyone present who would like to speak in favor or in opposition to this request. None appearing, the public hearing was declared closed.

A motion was made by Council Member Tuggle seconded by Council Member Carter for approval. All Council Members present voted in favor of this motion.

MONTHLY FINANCIAL REPORT:

There were no questions concerning the Monthly Financial Report.

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

REQUESTS AND PETITIONS OF CITIZENS:

None

UNFINISHED BUSINESS:

- (a) Planning Organization Appointment and/or Reappointment.

The following seats on the Board of Adjustment and the Community Appearance Commission are still vacant. These members need to be reappointed or replaced.

Board of Adjustment – Charles Martin – ETJ (deceased)  
Community Appearance Commission – Mary Collins – Ward 2 (term expired)

This item was tabled.

Minutes of the regular April 17, 2007 meeting of the City Council, City of Eden:

(b) Consideration of Acceptance of Certificate of Sufficiency from City Clerk and adoption of Resolution Fixing Date of Public Hearing on Questions of Annexation Pursuant to G.S. 160A-58.1 for property on Summit Circle.

At the March regular meeting, the Council instructed the City Clerk to investigate the sufficiency of a petition for voluntary annexation for property owned by Shropshire Properties, LLC on Summit Circle. With the assistance of the City Attorney, we have determined that proper signatures were placed on the petition and that Shropshire Properties, LLC are the owners of the property on Summit Circle.

This type of annexation does not have the same requirements as does an involuntary annexation. However, there are requirements with regard to fire service.

The request was to accept the certificate of sufficiency and to call a public hearing for the May regular meeting.

**RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTIONS OF ANNEXATION PURSUANT TO G.S.160A-58.1**

WHEREAS, a petition requesting annexation of the area described herein has been received; and

WHEREAS, the Eden City Council directed the City Clerk to investigate the sufficiency of the petition at their meeting on March 20, 2007; and

WHEREAS, certification by the City Clerk of the City of Eden as to the sufficiency has been made;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Eden, North Carolina that:

Section 1. A public hearing on the question of annexation of the area described herein will be held in the Eden City Hall in the City Council Chamber at 7:30 P.M. on May 15, 2007.

Section 2.

The area proposed for annexation is described as follows:

BEGINNING at a stake set in the edge of Summit Circle, which beginning point if N. 39 deg. 24 min. 251.15 feet from where Summit Circle intersects with Summit road and which beginning point is also a corner of Lots 15 and 94, and running thence N. 45 deg. 06 min. 275.93 feet to a state, thence N. 39 deg. 24 min. E. 93.78 feet to a stake a corner of Lot No. 99, thence with the dividing line between lots Nos. 98 and 99, S. 50 deg. 36 min. East 174.66 feet to a stake set in the edge of Summit Circle, thence with said Summit Circle S. 39 deg. 24 min. W. 120.05 feet to a stake, the point of beginning, and being lots 94,95, 96, 97 and 98, as per Map showing Subdivision NO.1 for S. T. Jackson and George W. Smith, dated August 21, 1947, as per survey by S. H. Pierce, C. E.

BEGINNING at a stake set in the edge of Summit Circle, which stake is also a corner with Lot 98, and running thence with the dividing line between lots 98 and 99, N. 50 deg. 36 min. W. 274.66 feet to a stake; then N. 39 deg. 24 min. E. 100 feet to a stake, THE POINT OF BEGINNING, and being lots 99, 100, 101 and 102, as per map showing Subdivision No.1 for S. T. Jackson and George W. Smith dated August 21, 1947, as per Survey by S. H. Pierce, C. E. (jmg 182)

Section 3. Notice of the public hearing shall be published in the Eden Daily News a newspaper having general circulation in the City of Eden, at least ten (10) days prior to the date of the public hearing.

This the 17th day of April, 2007.

April 17, 2007

City of Eden, N. C.

Minutes of the regular April 17, 2007 meeting of the City Council, City of Eden:

s/John E. Grogan, Mayor

Attest:

s/Kim J. Scott, CMC, City Clerk

\* \* \* \* \*

CERTIFICATE OF SUFFICIENCY

RE: Summit Circle

To the City Council of the City of Eden, North Carolina:

I, Kim J. Scott, CMC, City Clerk, do hereby certify that I have investigated the petition attached hereto and have found as a fact that said petition is signed by all owners of real property lying in the area described therein, in accordance with GS 160A-58.1.

In Witness whereof, I have hereunto set my hand and affixed the seal of the City of Eden, this the \_\_\_\_ day of \_\_\_\_\_, 2007.

s/Kim J. Scott, CMC  
City Clerk

A motion was made by Council Member Epps seconded by Council Member Myott for approval of this request. All Council Members present voted in favor of this motion.

NEW BUSINESS:

- (a) Consideration of a Resolution Directing the City Clerk to investigate a Petition for annexation received under GS 160A-31 for property located at 294 Dishmon Loop and 2029 Mill Avenue.

The City has received a voluntary annexation request for property at 294 Dishmon Loop and 2029 Mill Avenue.

A motion to adopt a Resolution Directing the Clerk to Investigate a Petition received under GS 160A-31 is in order.

\*\*\*\*\*

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE  
A PETITION RECEIVED UNDER G.S. 160A-31

WHEREAS, a petition requesting annexation of an area described in said petition was received on March 15, 2007 by the City Council; and

WHEREAS, G.S. 160A-58.1 provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

WHEREAS, the City Council of the City of Eden deems it advisable to proceed in response to this request for annexation;

April 17, 2007

City of Eden, N. C.

Minutes of the regular April 17, 2007 meeting of the City Council, City of Eden:

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

The City Clerk is hereby directed to investigate the sufficiency of the above described petition and to verify as soon as possible to the City Council the result of her investigation.

This the \_\_\_\_ day of April, 2007.

s/John E. Grogan, Mayor

ATTEST:

s/Kim J. Scott, CMC  
City Clerk

Council Member Tuggle mentioned that one of the attachments from the gentleman making the request, he talked about easements from some of the property owners and really not getting permission from property owners to tap onto the existing sewer line that is already there. He stated he assumed this was a right of way sewer. He asked for clarification and when they have property owners that live 300 feet outside the City limits, he asked for an indication as to what it cost the city for him to tap on, is it his responsibility and he assumed this person would have to follow the guidelines set forth by Eden.

Mrs. Stultz replied that there were a couple of issues with this as generally they do not allow people to have their lines in the public right of way. There have been several in this particular area that have been allowed to connect over the years. A lot of the reason for that is that there are septic tank issues in that particular neighborhood. This particular request is one that is the kind of request that is the impetus for a lot of the work they did with the policy the Council adopted requiring people, if they are going to get sewer service, at least request that they be annexed.

At this point, the petition will be investigated if the Council approves, to assume that it is correct and next month they will likely bring the Council a recommendation back along with other information about whether or not staff would recommend that they annex this one at all. It is remote. The person's property is not developable without sewer and so there are some extenuating circumstances. The cost for whatever has to be put in if the Council chooses to allow this lot to be connected to sewer would be that of the owner.

Council Member Tuggle asked if there was already an 8 inch line running on the property close to it now to which Mrs. Stultz replied there are some lines in the street and an 8 inch line up the way. If they can get easements from adjoining property owners, they would not need to get in the right of way, but their request would still be before the Council because they cannot connect to sewer without the Council's permission.

A motion was made by Council Member Tuggle seconded by Council Member Myott for approval of the request. All Council Members present voted in favor of this motion.

- (b) Consideration of Greenway Bid Acceptance. (Request for approval to proceed for Island Ford Leg of Smith River Greenway)

The Council was provided with a copy of the bid analysis on the Smith River Greenway project. We have worked

Minutes of the regular April 17, 2007 meeting of the City Council, City of Eden:

to get the cost down as much as possible. With the changes we have made, we have reduced the amount of additional funds needed for the project to \$414,564. This is considerably lower than the estimate at the retreat. The dollar amount needed takes into consideration the Annie Penn Trust grant. This figure will be lowered by as much as \$50,000 if we receive the grant from NC Recreation and Trails for the River access at the trailhead. Funds in this grant can be used for various items associated with the trailhead.

The successful bidder is Hodgin Construction. They are not a local firm but they are using local sub-contractors where possible. In order to proceed, they needed the City Council to give the official notice to proceed. Then the contractor can get his bonds and other documentation and we can get the contact.

Mayor Grogan noted that the Council had copies of bids in their packets and in order to move forward, a decision has to be made tonight so those bids will stay in place.

A motion was made by Council Member Turner seconded by Council Member Tuggle for approval of this request.

Council Member Gover stated he thought in the Budget Retreat, the Council listed priorities and now the Greenway is in front of the priority that was established during the retreat.

Mayor Grogan stated he stands corrected, but he believed at the retreat, the City Manager told the Council that this would have to be voted on before they receive the budget.

Council Member Gover stated since he had been there (on Council, he had heard) about the tightness of money in the General Fund. They were in desperate need of No. 1 and No. 2 properties and his curiosity was if the money for these projects, over what they were looking at, was so extremely important... (tape did not pick up end of this sentence).

Mr. Medlin, City Attorney, clarified that the motion was to award the bid to Hodgin Construction.

Council Member Myott asked if this money was already appropriated to which Mr. Corcoran replied no, previously the Council had a little over four hundred and some odd thousand dollars as they may remember of which about half of that was spent on the design. This is additional money that needs to be appropriated and that is why it is before the Council this evening to complete the first phase and this money will come out of fund balance.

Action on the motion was as follows: In favor were: Council Members Epps, Turner, Tuggle, Myott and Carter. In opposition was: Council Member Gover. Note: Council Member Nooe was absent. The motion carried.

(c) Consideration of a Resolution Supporting Urban Progress Zone Designation.

**RESOLUTION SUPPORTING URBAN PROGRESS ZONE DESIGNATION**

**WHEREAS**, the City of Eden strives to promote economic development opportunities and improve quality of life for all of its citizens; and

**WHEREAS**, the purpose of the State of North Carolina Urban Progress Zones is to provide economic incentives to stimulate new investment and job creation in economically distressed urban areas; and

Minutes of the regular April 17, 2007 meeting of the City Council, City of Eden:

**WHEREAS**, two areas within the City of Eden meet the criteria for designation as Urban Progress Zones; and

**WHEREAS**, more than twenty percent of the population in these areas is below the poverty level according to the most recent federal decennial census;

**NOW, THEREFORE, BE IT RESOLVED** that the Eden City Council does hereby request a written determination from the Secretary of Commerce of the State of North Carolina declaring that these areas satisfy the criteria and qualify under as Urban Progress Zones under G..S. 143B-437.09.

Adopted this 17th day of April, 2007.

s/John E. Grogan, Mayor, City of Eden

Attest: s/Kim J. Scott, City Clerk

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

CONSENT AGENDA:

(a) Approval and adoption of minutes: March 2 and 20, 2007.

(b) Approval and adoption of City Acceptance of S. Pierce Street.

The City has received a request for street acceptance of the S. Pierce Street extension from Station 0+0 to Station 10+45. Staff recommends acceptance of the street without exceptions.

(c) Approval and adoption of City Acceptance of Nantucket Drive, Portsmouth Drive and Lennon Drive.

The city has received a request for street acceptance and a Maintenance Guarantee for Nantucket Drive from Station 0+00 to Station 2+96, Portsmouth Drive from Station 0+00 to Station 4+22 and Lennox Drive from Station 0+00 to Station 1+51 located in "The Village" off of Cox Street. Staff recommends acceptance of the streets without exceptions.

(d) Approval and adoption of Certificate of Public Convenience and Necessity (Taxicab Franchise).

Angela Chapman, an applicant for a Certificate of Public Convenience and Necessity, has properly filled out all paperwork for the Certificate. She will be taking over A-One Cabs, a business currently run by her father, Lynn Booth. The Police Department has found no convictions and recommends awarding her the certificate.

(e) Approval and adoption of a Traffic Study Request in reference to Placement of Stop Signs at the Intersection of Grant Street and Dogwood Drive and adoption of ordinance.

On March 12, 2007, a request was received in reference to placement of stop signs at the intersection of Grant Street and Dogwood Drive.

The speed limit on Grant Street is currently 25 mph. The speed limit on Dogwood Drive is currently 35 mph.



Minutes of the regular April 17, 2007 meeting of the City Council, City of Eden:

Grant Street and Dogwood Drive are located in a residential area. There is a downward slope when traveling east on Grant Street toward Dogwood Drive and The Osborne Baptist Church PVA entrance. The property on the south side of Grant Street has a raised elevation, causing a vision obstruction for eastbound Grant Street Traffic and northbound Dogwood Drive Traffic. Dogwood Drive is the only street in the residential area that does not have a 25 mph speed limit.

The Police Department’s recommendation would be to reduce the speed limit on Dogwood Drive to 25 MPH and to place stop signs at the intersection of Grant Street, Dogwood Drive, and the Osborne Baptist Church PVA Entrance (for eastbound traffic on Grant Street and westbound traffic on the Osborne Baptist Church PVA Entrance). The Police Department also recommends painting stop bars and a fog line. Enforcement of the speed limit should continue along with enforcement of the new stop signs.

(f) Approval and adoption of a Traffic Study Request in reference to review of the placement of Stop signs on Highland Drive, Madison Street, and Park Avenue.

On March 2<sup>nd</sup>, 2007, I received a traffic study request in reference to review of the placement of stop signs at Highland Dive, Madison Street and Park Avenue.

Comparison of speeds from traffic surveys before and after placement of the stop signs.

	<u>BEFORE</u>	<u>AFTER</u>
Highland Drive	25.57 MPH	27.91 MPH
Madison Street	30.36 MPH	28.91 MPH
Park Avenue	27.30 MPH	25.03 MPH

Due to the minor change in numbers and the short amount of time after placement of the stop signs, it is difficult to determine if these stop signs are changing traffic flow on these streets. The Police Department makes no recommendation on the stop signs but recommends increased enforcement on Highland Drive, Madison Street and Park Avenue.

9(g) Approval and adoption of Amending Budget Ordinance/Solid Waste Charges for Senior Citizens. (This item was pulled for discussion – see discussion below)

(h) Approval and adoption of Color Removal Polymer Bid – Results and Recommendation.

Three pre-qualified vendors submitted formal bids for supplying the City’s color removal polymer needs. The table below summaries the bids received.

<u>Vendor</u>	<u>\$/Pound</u>
CIBA Specialty Chemicals Suffolk, Virginia	\$0.052
Stockhausen Greensboro, NC	\$0.599
SNF/Polydyne, Inc. Riceboro, Georgia	\$0.466

The recommendation was the acceptance of SNF/Polydyne’s low bid of \$0.466 per pound for FY 2007-2008

April 17, 2007

City of Eden, N. C.

Minutes of the regular April 17, 2007 meeting of the City Council, City of Eden:

(i) Approval and adoption of Request to Award Contract – Freedom Park 1.0 MG Elevated Water Tank Composite Water Tank.

Freedom Park 1.0 MG Elevated Composite Water Tank:

The bids for the second bid opening were received by 4:00 PM, April 9, 2007. A total of two (2) bids were received for this project.

The lower bid submitted was from Landmark Structures of Fort Worth, Texas, with a total bid amount of \$ 1,737,000.00.

Funds for a portion of this project are included in the FY 06-07 budget, with additional funds to be allocated for FY 07-08 in order to pay for the completion of the project.

ARCADIS G&M of North Carolina, Inc. is in the process of certifying the bids received and will issue a separate Recommendation of Award for this project. A copy of that letter will be provided as soon as received in order to award this project during the regular April meeting of the City Council.

\* \* \* \* \*

On March 29, 2007 the Bid Opening for the subject project was held. However, only one Bid was received on this date. Since fewer than three Bids were received, the project Bid was returned unopened to the Bidder. On April 9, 2007 two Bids were received, opened, and read aloud. The Bid results are attached. The lowest responsive Bidder was Landmark Structures I, L.P. of Fort Worth Texas with a Bid in the amount of \$1,737,000. The high bid, submitted by CB&I Constructors, Inc., was \$1,887,000

The low Bid was approximately 87% of the Engineer's Opinion of Probable Construction Cost of \$2,000,000 estimated during the Final Design Phase. Please be aware that the Engineer's Final Design Phase cost opinion was based on the contractor painting the tank as well, however, these Bid documents did not include the painting requirement, as this work will be performed under an existing agreement with Utility Services Company, Inc.

The Bidders were asked to provide prices for adjustment items as listed in the Bid Form. The purpose of the adjustment prices is to have set prices on items which may ultimately be needed but are unforeseen before bidding. Therefore, time consuming negotiations are not required later in the project. Adjustment prices are included in the Bid Form, but have no effect on the total Bid price. It is recommended that the City accept or reject these prices as indicated in the Adjustment Price Summary attached to this letter. A mutually acceptable unit price for any rejected items will be negotiated, if required, during the project construction.

Landmark Structures is well known for constructing this style and size of tank and enjoys a good reputation in the industry; therefore, we see no reason not to award the contract to Landmark Structures.

After consideration and approval by the City Council, a Notice of Award will be prepared by ARCADIS for signature by the proper City official and inclusion in the contract documents.

Minutes of the regular April 17, 2007 meeting of the City Council, City of Eden:

BID TAB

<u>Plan Holder</u>	<u>Bid Amount</u>
Landmark Structures	\$1,737,000.00
CB&I Constructors	\$ 1,887,000.00

(j) Approval and adoption of Acceptance of Water and Sewer Mains in Phase I of The Village.

Based on the construction observation and testing of the water and sanitary sewer mains installed for Phase I of The Village subdivision, the Engineering Department is of the opinion that is appropriate for the City Council to accept the water and sewer lines located in Phase I of The Village.

Paul Berry Real Estate, LLC has provided a letter guaranteeing the maintenance for the above improvements for a one-year period commencing from the date of acceptance for the approximately 302 LF of 8” diameter water main, 548 LF of 6” diameter water main, and 972 LF of 8” diameter sanitary sewer main installed for the first phase of the subdivision.

A motion was made by Council Member Epps seconded by Council Member Turner for approval of the Consent Agenda items A, B, C, D E, F, H, I, J. All Council Members present voted in favor of this motion.

9(g) Approval and adoption of Amending Budget Ordinance/Solid Waste Charges for Senior Citizens. (This item was pulled from Consent Agenda for further discussion and vote.)

On March 28th we received an email from Ms. Kara Millonzi, Assistant Professor of Public Law and Government, School of Government, The University of North Carolina at Chapel Hill concerning a legal question that had been raised about the legality of having a "Senior Citizens" refuse collection rate. In her email to Mrs. McMichael she stated the following:

"Generally, a local government can provide different rates for different classes of service, but the class distinctions must be based on some utility basis, such as differences in cost of providing services or differences in the type of services provided. Thus, to answer your question, a local government is not authorized to provide a discounted rate to senior citizens for solid waste collection. Class distinctions cannot be based on ability to pay or on senior citizen status. [Note that a city can provide aid to low or moderate income customers under its broad public welfare program. Such aid must be provided as a loan or subsidy from the general fund, however, not as a reduced rate on the public enterprise solid waste collection service."

As a result of this determination, the city will need to modify the existing rate structure thereby eliminating the Senior Citizen Monthly Rate of \$7.02 (Yellow). We will begin billing the Senior Citizens (over 65 and less than 30 gallons) a Monthly Rate of \$8.50 (Blue) effective May 1, 2007. There are currently 994 accounts meeting the over 65 and less than 30 gallons requirement. The Senior Citizens monthly increase will be \$1.48; their yearly increase will be \$17.76. An ordinance was provided to the Council Amending the Annual Budget Ordinance in regards to Sanitation Fees Fiscal Year 2006-2007 for the City of Eden.

Mayor Grogan explained that the City was told by the State that the City cannot show favoritism toward senior citizens. This budget amendment ordinance is going to eliminate the senior classification. He thought what they are going to do at their next budget session is talk about this or they Council may want to talk about it now.

Minutes of the regular April 17, 2007 meeting of the City Council, City of Eden:

Council Member Gover replied he wanted to talk about it now. He asked No. 1, do we need a legal opinion on this statute.

Mr. Medlin replied it is not a statute, it is the North Carolina Federal Constitution, but the opinion came from an attorney at the Institute of Government. They said they believed that it was inappropriate to classify a water and sewer rate structure based on age. Any classifications need to be, in this case, not water and sewer but solid waste collection, based on usage or something of that nature which is what the rest of our rate structure is based on.

Council Member Gover asked, in other words, if he was approving this to which Mr. Medlin replied he agreed with the opinion.

Council Member Gover asked, No. 2, if there are any other programs we may be involved in that would come under such scrutiny.

Mr. Medlin replied not that have been brought to his attention.

Council Member Gover asked, No. 3, this whole program was set up for an incentive to recycle. We were trying to meet the 25% of the State of North Carolina recycled goods, was when they came up with this program. Now, what he would like to recommend to the Council tonight is that we take an average of the blue dot, which is \$8.50 and yellow dot, which is \$7.02. Since those people are trying to do the recycling, adding he would like to know what percentage has been met already. He recalled the last time he had heard, they were 9% and have not met the 25% so if they could just make an average rate out of this instead of putting it all in ... Council Member Epps added instead of calling it a senior citizens rate, just call it a rate 1 or ...

Council Member Gover replied that was correct, that way they will still do the recycling like they have been.

Mr. Corcoran replied what they would have to do, if they are getting rid of the yellow rate which was for age 65 and older and in addition to that, not only did they have to be age 65 or older but they had to not be utilizing not more than 30 gallons of the 90 gallon container. Then the next rate, what was the blue for anyone that was 30 gallons in the container and under age 65. The problem is again, you have several thousand accounts, they have 900 accounts of the yellow, they have almost 2000 at the blue, so if they go to a blue or a combined rate, they are actually going to lose money. The cost for solid waste right now is \$600,000 more than the revenue. And, the budget that is going to be coming out is going to be proposing a rate increase in solid waste fees.

Council Member Gover replied he still said it was set up to recycle. Mr. Corcoran replied and they can still do that. The red rate is up near twelve bucks, the orange rate is about ten bucks and the rates that will be in the budget will be separate. There will be an A rate, a B rate and a C rate, but he was just telling him that if they go to an combined rate, they are going to lose money because all of those people that are blue are now going to be paying less. He stated he was telling them further since he already knows, that in less than two weeks, the budget is going to include a proposed increase in solid waste fees.

Minutes of the regular April 17, 2007 meeting of the City Council, City of Eden:

Council Member Gover replied that he was a red (button) and he paid \$25.88 which he was (his container) was fully loaded.

Mr. Corcoran replied he paid that for two months so he pays \$12.00 per month.

Council Member Gover replied he was trying to give the people a break. He stated his suggestion was if they went to an average which would be \$7.76. You take the \$7.02 and the \$8.50. He stated he was trying to encourage more recycling. If everyone would recycle, they would be down to that, they would be short anyway.

Mr. Corcoran replied, obviously it was the Council's decision, but his recommendation is strongly that they not do it.

A motion was made by Council Member Gover to table (this item) to further study it.

Mr. Corcoran replied that the Council has a legal opinion before them.

Council Member Epps asked if they would be violating the constitution if they do not do something.

Mayor Grogan suggested a motion and if it passes that they ask the City Manager and Solid Waste people to get together and come up with some recommendations, they have heard his recommendation to some degree and then they will go

A motion was made by Council Member Gover to table this request ..... This motion died for lack of a second.

A motion was made by Council Member Tuggle seconded by Council Member Turner for approval. Action on the motion was as follows: In favor were: Council Members Epps, Turner, Tuggle, Myott and Carter. In opposition was: Council Member Gover. Note: Council Member Nooe was absent. The motion carried.

VOUCHERS:

No questions.

ADJOURNMENT:

A motion was made by Council Member Tuggle seconded by Council Member Carter to adjourn. All Council Members present voted in favor of this motion.

Respectfully submitted,

---

Kim J. Scott, CMC  
City Clerk

April 17, 2007

City of Eden, N. C.

Minutes of the regular April 17, 2007 meeting of the City Council, City of Eden:

ATTEST:

---

John E. Grogan  
Mayor