CITY OF EDEN, N. C.

A special meeting of the City Council, City of Eden, was held on Monday, December 1st at 5:00 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
Christine Myott
Jim Burnette
Jerry Ellis
Brad Corcoran

City Manager: Brad Corcoran
City Clerk: Sheralene Thompson

Department Heads: Kelly Stultz, Mike Dougherty

Representatives from News Media:

MEETING CONVENED:

Mayor Grogan called the special meeting of the Eden City Council to order and asked for a motion to set the agenda. A motion was made by Council Member Tuggle seconded by Council Member Ellis to set the agenda. All Council Members present voted in favor of this motion. This motion carried. Mayor Grogan then explained that Mrs. Kelly Stultz, Director of Planning & Inspections, would begin by presenting the Non-Residential Maintenance Code Changes and Code Enforcement Issues presentation.

Council Member Ellis entered the meeting at 5:09 p.m.

<u>Consideration of Non-Residential Maintenance Code Changes and Code Enforcement</u> Issues:

The memorandum explained that the staff had been asked to discuss the changes to the existing Non-Residential due to the adoption of enabling legislation by the North Carolina General Assembly. Additionally they wanted to discuss other code enforcement issues relating to the process required for enforcement, the times allowed for compliance and some problem areas that Council needed to review.

Non-Residential Code Changes

- The City of Eden currently has a non-residential maintenance code. (*Eden City Code Chapter 4, Article VI: Non-Residential Building Maintenance Standards*)
- New amendments reflect changes to the N.C. General Statutes
- New amendments will bring our current code in line with state statutes.
- NC G.S. Part 6, Article 19, Ch. 160A-439 establishes minimum standards of maintenance, sanitation and safety relating to non-residential structures; provides

for repair, closing or demolition as a result of public necessity caused by conditions that are dangerous to the public health, safety and welfare.

- Applies to all non-residential buildings or structures now in existence or which may be built within corporate limits
- Only applies to buildings within the City limits.

Exceptions: Historic Structures

- Local historic landmarks
- Listed in National Register of Historic Places
- Located in National Register district or locally designated district
- Council determines that structure has individual significance or is a contributing structure to the character of the district
- Not condemned as unsafe
- Then Council may require that building only be vacated and closed until brought into compliance.

Exceptions: Vacant Manufacturing Facility or Vacant Industrial Warehouse

- May not require structure to be repaired, improved, etc. to preserve original use
- May require that building be vacated and closed
- Repairs may be required only when necessary to maintain structural integrity or to abate health or safety hazard.
- Vacant manufacturing facility or industrial warehouse must be vacated and closed (by City order) for 5 years before Council may order demolition.
- If owner fails to comply within 90 days, Director SHALL demolish and remove the building.

Vacated and Closed Non-Residential Buildings

- If ordinance has been adopted and order issued requiring building to be repaired or vacated and closed
- And the building has been vacated and closed for 2 years since the order issued
- Then, if Council finds that owner has abandoned intent to repair,
- And closed building poses a danger to health, safety and welfare of the community
- Then Council may adopt ordinance to demolish
- Ordinance shall require that owner either
 - (i) Demolish and remove building within 90 days or
 - (ii) Repair building within minimum non-residential maintenance standards within 90 days
- If owner does not comply, the Director SHALL demolish and remove the non-residential building.

Unacceptable Conditions

- Interior support structures (walls, joists, other basic structural members) not structurally sound; holes
- Exterior walls unable to bear loads safely; not sufficiently weatherproofed to prevent deterioration
- Floors with insufficient support; roofs not structurally sound or maintained to prevent damage from elements
- Fire, wind or other damage
- Dilapidation, decay, unsanitary conditions, disrepair
- Lack of adequate ventilation, light, heat or sanitary conditions.
- Buildings (and environs) with accumulation of garbage, trash or rubbish; garbage and solid waste must be in approved containers or stored in safe, sanitary manner.
- Flammable, combustible, explosive or other hazardous materials shall be stored according to International Fire Code
- Loose or insufficiently anchored overhanging objects
- Insufficiently protected holes, breaks, obstructions, etc. (buildings and environs) in walks, driveways, parking lots, alleys or other areas accessible and generally used by persons on premises.
- Broken glass, loose shingles, loose wood, crumbling stone or brick, loose or broken plastic or other similar hazardous conditions; exterior surfaces maintained to prevent deterioration.
- Objects protruding from walls or roofs which are unsafe or not properly secured (i.e. abandoned electrical boxes, conduits, wires, brackets, etc.)
- Chimneys, flues, vents, etc., not structurally sound; draft producing equipment in use must provide sufficient draft, be in safe working order.
- Exterior porches, landings, stairs, balconies or fire escapes not structurally sound; banisters or railings must be provided, in good repair
- Rotted or weakened cornices; must be treated or painted
- Improperly attached gutters or downspouts which may be hazardous to pedestrians, traffic or adjacent property
- Signs (all types) and supporting members that may cause a safety hazard.
- Exterior surfaces not properly maintained; where 50% of painted surface is peeling or flaking, entire surface must be repainted
- Windows with cracked or broken glass, or in danger of failing or shattering; must be tight fitting with proper sashes and free from rotten wood, broken joints, etc.
- Doors, windows, other means of ingress or egress which have been temporarily closed must be boarded or secured in a secure manner; must be properly sealed and painted.
- Planning & Inspections Dept. may determine any conditions dangerous to public health.

Owner/Occupant Responsibilities

• Premises kept in safe, clean, sanitary condition

- Owner/occupant responsible for elimination of infestation in or on the premises
- Plumbing fixtures maintained in safe, sanitary condition
- No garbage or solid waste stored or allowed to accumulate on premises except within City receptacles
- Occupant must notify owner of any defects which would not otherwise be known by owner
- These conditions apply whether a building is occupied or vacant

Non-Residential Maintenance Enforcement Timeline

- Complaint made to Inspections Department
- Preliminary investigation (inspection)
- Notice issued to property owner stating charges and notice of hearing not less than 10 days nor more than 30 days after serving notice
- Hearing held
- Order issued

If cost of repair <50% of value, then order to repair or vacate within reasonable time

If cost of repair >50% of value, then order to repair or demolish within reasonable time

- Written appeal may be made to Board of Adjustment within 10 days of order
- a. If owner fails to repair or vacate, ordinance shall be adopted to repair or vacate and close the building
- b. If owner fails to repair or demolish, ordinance shall be adopted to demolish and remove building
- Appeals may be made to Superior Court

Council Member Burnette asked if the real difference then was that this gives them the legal right to do this other than the historic and the textile.

Mrs. Stultz replied that was right, and they can do those, there was just additional time put in there and some additional protections for those. In a lot of ways it was a good thing. She asked them to assume they have a Council Member who had complained about a particular industrial building that was mostly vacant, partially used and it would really be expensive to take down. If the Council all adopted this they can start a case and there was more time for them to pressure them before they get to the point of having to spend the cash. She noted that one happened to be in the Spray Historic District and it was a former textile building so it has the manufacturing protection as well. It helps the city and it helps them (owner). She stated that they can force the windows to be repaired and the outside painted without having to go to the expense of tearing it down.

Council Member Tuggle commented that what bothered him the most was the Lemons' property and the ordeal you [have to] go through and how much they end up spending to refurbish the thing as opposed to tearing it down.

Mrs. Stultz replied that one of the things that this changes; it would not allow them to refurbish it. Either they [owner] do it or vacate it and close it or they tear it down.

Council Member Tuggle stated that he just hated that every time they turn around it seemed like they end up with these things and it costs a couple hundred thousand dollars and they just did not seem to recoup the money.

Mrs. Stultz replied that the Lemons' building was \$152,000 but at any rate this would not allow that, and so at this point they really have to follow the statutes.

Council Member Burnette questioned why this was going to make them better and how much would it cost.

Mrs. Stultz replied that it would not cost any more, staff wise, than the code they already have. It will not allow them to do like they did with the Lemons' building and that was to go in and make repairs. They either do the time or force the owner to do it, or at some point they tear it down. They have needed this and there were other smaller commercial structures and institutional, old school buildings all those kinds of things that cannot be touched with the housing code, then if you wait until they were bad enough to be condemnable then they would for sure have to spend out a lot of money. The hope with a code like this, because it starts off, these things were wrong and you step in earlier, that you can prevent some of that expense on the back end. That was the premise behind doing it to begin with and now they were much safer because the statutes have changed and say this is exactly how we do it.

Council Member Tuggle stated that he noticed in there where it says it has to be vacated for 2 years once the process starts and then you start the process again. Of course, he gave the title to someone else and got rid of the title. He asked if the process starts all over again.

Mrs. Stultz replied no, it just picks up. What really happened with that case was they pushed it through and got an order to demolish but the Council would not spend money to demo it so they wrestled with it and the merchants were angry, the City Council person from that area was calling regularly and they had to do something. They [staff] were told to get a price to bring it up to what was called a "vanilla shell", safe it up, or demolish it. There was not much difference and because they were trying really focusing on downtown rehab, the decision was made to do that thinking at some point they would sell it for \$10,000, which would be more money than they could get back from the vacant lot. She added that a lot of that process has to do with the temperament of the Council that they have when the cases come before it.

Council Member Tuggle stated that he just wanted to make sure that if they come upon this again or a future Council would that with the way this was written, that process could not take place next time.

Mrs. Stultz added that the other option they do have and if they look at how it says, it says they can go ahead and demolish it after two years. She asked them to assume that Council Member Epps owns a building and she had been on him, they have the outside painted and the windows repaired and everything was secured and it was not bothering anybody else, they did not have to necessarily pick up and take it down at the end of two years and that was where the subjective opinion of the Council and the staff comes in. If it was not an eyesore, it was safe and was not creating problems; they did not have to absolutely have to tear it down at the end of that period of time. That was certainly done based on the amount of money available. So there was some flexibility for the Council.

She explained that sometimes code enforcement was just for the benefit of the public. Like Hickory Square Apartments. That thing had been a den of inequity for 30 years. It was a blight on that end of the community and Council at that time made the decision that whatever it took it had to go. She pointed out that they did not have many of those in a community of Eden's size but they do have little gas stations and store buildings that were not cared for and those kinds of things and this was the best way to get at them before they were just to the point of tearing them down.

Housing Code Enforcement Issues

Mrs. Stultz explained that while they were all together and talking about code enforcement, they also wanted to talk about housing code issues. Over the last several months they have seen several cases where they get somebody all the way to the point to being at Council and getting the ordinance adopted to demolish the building and they appear. She stated that they have had a little luck in recent weeks for the most part and when that happens it was just a plea for time and not a plea to actually do anything. She explained that it came to them as a staff, wrestling with what was happening, that perhaps the Council was not all that familiar with all the time that they [owners] have had before it gets as far as coming to the Council.

She explained that the whole premise of the Human Habitations Standards Ordinance was to protect the housing stock in a community. Their goal every time was that if they could possibly work it out with them, give them enough time and they repair it and it becomes a good quality place for someone to live, that was the goal. When it gets to the point of coming to Council, they [staff] have wrestled with them for a long time. She used Mr. Adams (below) as an example. They began it in September of 2007 and he came to them in January 2008 when it was time to come to Council and told them about the sick niece and he was given another six months. When he appeared at the Council Meeting, because the Council was not familiar with the time that was naturally built into the ordinance and did not know the background, they gave him some more time and he still did not do it.

She explained that the natural job of the Council was to make those legislative types of decisions. She stated that they wanted them to know that they were not that unreasonable. She stated that they have the hearings, they give them 60-90 days depending upon the

condition of the house, and if there was any hope of repairing it they give them as long as possible. They monitor them and work with them and try to get the process cared for. So it was important for them to know that they were not just pushing them through as fast as they could, even though there were a lot of times they were getting big time pressure from residents, Council Members and the boss, that a particular house was causing a problem. She then pointed out some interesting facts:

Rental Properties Code Enforcement Issues

- 7,368 Housing Units in the City of Eden
- 35.7% Renter Occupied (2,630 Housing Units)
- 9.8% Vacant (722 Units)

Owners with Multiple Properties

Owner – Ben Adams (6 properties)
Nuisances or building code violations with at least 4 (66%) in 2008
Current action on 1229 Stadium Dr.
Prior issues with some others
216 Matthews Street – Demolished by City 10/2008
214 Matthews Street – Demolished by City 10/2008
1009 Galloway Street – Junk (abated 5/2008)

Owner – Drewey Pulliam (15 properties)
Past issues with numerous current and prior properties
2 houses demolished by City in past several years
Current action on 437 Elam Avenue

Owner – Barry Graves (24 properties)
Current building code violations on 2 properties
One property demolished by owner in 2008 due to building code violations
Numerous other past code issues (all types)

She noted that multiple properties could be managed successfully without issues.

Owner – Rent A House, LLC – Shane Hensley
(41 properties: 3 commercial, 38 residential)
Only minor issues (high grass, etc.) with very few properties

She then explained the minimum housing enforcement timeline:

Minimum Housing Enforcement Timeline

- 1. Complaint made to Inspections Department or complaint must come from occupant (or owner) or Petition from at least 5 neighbors.
- 2. Preliminary investigation (inspection)
- 3. Notice issued to property owner stating charges and notice of hearing not less than 10 days nor more than 30 days after service notice.
- 4. Hearing held.
- 5. Order issued

Unfit for human habitation, but subject to correction at reasonable cost: repair or vacate within reasonable time

Dilapidated dwelling: vacate and close or repair or demolish within reasonable time (exceptions for historic structures)

6. If owner fails to comply, ordinance shall be adopted to repair or vacate, vacate and close, or repair or demolish.

She then explained the periodic inspections program that could reduce some of the issues.

Periodic Inspection Program

- NC General Statutes permit the Department to engage in a periodic inspection program
- Such a program, if enacted by the City Council, would provide several benefits to the City and Code Enforcement efforts:

Designed to promote maintenance

Usually focuses on residential rental units

A strong tool in the fight against substandard housing

- Problem of substandard housing severely impacts the public health, economic viability and safety of communities
- In 2007 the NC Housing Coalition found that NC spent \$95,000,000 on childhood illnesses and injuries attributable to living in substandard housing
- Researchers have found that property values are reduced by one third in neighborhoods that are run down
- The "broken window theory" provides evidence that dilapidated housing sends a message that "no one cares" and that crime is acceptable in these neighborhoods.
- Staff would like to look into a periodic inspection program for Council to consider in 2009
- Benefits of such a program have proven to include:

Reduced number of house fires

Increased compliance

Fewer demolitions

Fewer complaints

Mrs. Stultz explained that they would like to have the Council's permission to prepare some things for the Manager to look at and bring some to them during the budget process next year to consider such a program. She stated that she had talked to some communities that do it, and sometimes they target specific areas and focus on those and sometimes they

do it city-wide for all rental units on a tri-annual basis, or when the occupant changes. The only way that she could ever see they would do that was to create a business license for rental units which was what other communities do and use those funds to pay for a person and the truck that would be required in a normal year to add to her staff to make all those inspections. It was certainly not something that she would recommend without additional staff and without some way to pay for it. She pointed out that people who own lots of rental properties, that was a business, just like running a hardware store and they should have to pay for that privilege.

She then stated that there were some other issues that they thought the Council might want to consider initiating an amendment or allowing the staff to present something to them about and they were as follows:

Other Code Enforcement Issues:

Contractor Storage Yards Auto Towing & Repair Businesses Downtown Buildings Used for Storage Other Issues? – Stadium Drive High Grass Mowing Standards

- Current ordinance only requires 25' from property line on 2+ acre properties
- Recommend changing to require entire lot to be mowed on property that has been maintained as lawn

Council Member Burnette commented that back on the residential code, he had seen what was done with Mr. Adams in the fact that he came back and started doing something and that they were very considerate of that, he thought that even though he knew the process he was certainly unaware of the time that was spent. He stated that he did not know how the others felt, but one of the things that would help him was that when they bring this to them, it would be good to see all the history of actions that have been taken with that particular individual. He added that he knew that they get a spreadsheet but it only shows 2 or 3 dates on there and they were kept updated so they only see the latest ones. So if they saw that entire history he thought it would be a lot easier to take some action. As far as the rental property, he asked what percentage of their rental property housing was a problem.

Mrs. Stultz replied that she was afraid to guess. It was not as bad as it was ten years ago because they have really focused on their housing code issues. The study that they shared with them has some statistics for other communities and she thought they were likely to have more than some of them because more than 50% of their housing stock was built before there was a building code and about 40% of that was mill houses. Those were great houses but the mill did not always maintain them. So she thought that if they decided to do a trial period and target an area, she was not really sure how far she was ready to leap off. If they chose a neighborhood and decided to do that as a target area without changing staff or charging anything and see what happened.

The other benefit to doing that was that right now with the apartment complexes, the fire code with an apartment building, they can check the common areas but they cannot get into any individual apartments. The fire staff cannot get in to make sure that every apartment has a smoke detector and things that the code requires and sometimes those things run down to the point of being horrendously expensive to deal with. One of the best benefits is preventative maintenance. If they were going in and out and they know that the Code Inspectors were coming then they would see some compliance that they would not normally get. The other thing was it makes the playing field fair. The good landlords that keep all of their properties up were doing a good job...

Mayor Grogan asked if she did a final inspection on new constructions before occupancy to which Mrs. Stultz replied absolutely. Mayor Grogan asked if she could put on a check off sheet as to whether it had smoke detectors.

Mrs. Stultz replied that they could, but ten years later...and that was just one thing that it could be, as things age, things change. It was one possible way for them to consider. She added that she was not standing there tonight ready to say she thought that they should absolutely do it.

Council Member Epps commented that in government housing they do it like 10%. They go and hit 5 or 6 apartments and keep a record of those apartments. That would be something that would be better than to inspect 70 apartments, hit ten of them. They did not know which ones that will be pulled. Just send a notice you were coming they. Give the residents a notice you are coming and they randomly hit them. That way they would solve that problem and also charge a \$50 fine if they find a battery was out.

Mrs. Stultz replied that smoke detectors were not the only issue; it was just one that came to mind.

Council Member Burnette stated that he guessed if they could get to a preventative type of procedure or process, he was certainly in favor of that. What he was concerned about was implementing something that was going to cost the owners. If they were in compliance and having to pay the same as someone who was not in compliance and they had to bear an unreasonable burden in that way, so to him it should be some sort of punitive type of thing if they were going to do that.

Mrs. Stultz replied that they could and they did not have to. She added that she thought that in Reidsville it was \$15 a unit per year.

Council Member Burnette pointed out that there was Shane Hensley with 41 units and that was a lot of money.

Mrs. Stultz replied that they could do it on a sliding scale, what to what. She had not gotten that far into it to figure out what they would charge. She stated that she just knew

that it was not fair to not charge anything because they were getting a benefit other citizens were not getting.

Council Member Epps asked if she was talking about just having the owner have one certificate and that was his license and he was charged per house whatever...

Mrs. Stultz replied yes or whatever sliding scale, but if the Council was interested in that they could work on it over the next couple of months and if it was okay with the City Manager to maybe consider it at their retreat she was certainly not expecting a decision tonight. She stated that she just wanted to throw it out to give them all something to think about because she knew they have been uncomfortable with the number of houses they have torn down and how much it costs.

Council Member Epps stated that he thought she was talking about targeting sections and that was a good idea.

Mrs. Stultz added that they may decide in February or March, whenever they all meet, to try that.

Council Member Ellis questioned the cities she had talked with.

Mrs. Stultz replied Reidsville, Winston-Salem, and Greensboro. Greensboro has suspended theirs because they did it for so many years. They were really in compliance except for the really bad ones. She added that she understood that they may pick it back up again in two or three years. She noted that Reidsville has had one for a number of years. She also noted that to clarify a concern by Council Member Epps, she explained that she would never recommend that they did it on anything but rental.

Council Member Myott mentioned the house on Johnston Street and stated that each time somebody goes out and looks at it and they will stick the thing up with the violation, but time goes by and if the land owner corrects it, then something else pops up. The swimming pool in the back has had stagnant water in it for years.

Mrs. Stultz stated now that they have changed the statutes so that they can pick up swimming pools, she thought they have something going on that right now. For years there was nothing she could do but drain it. They have drained it a number of times and the rain fills it back up. Now, the ordinance would allow them to fill in swimming pools and if it was above ground they can take it down.

Council Member Epps noted that there was a house there on Morgan Road, the little lady lives in the front part of it and the back part was empty. He had mentioned this before, the windows were out of that thing and it had deteriorated wood and he thought that when they got into that program they would do some work to it. He stated that he worried that the lady would freeze to death.

Mrs. Stultz replied that this was a completely side issue, but what happened was, they used to be able to get money for those kinds of repairs. That program has changed so that all that money was funneled to all the 25 counties a year.

Council Member Epps stated that somebody was living in it so they must be collecting rent. He questioned who owned it.

Mrs. Stultz replied that she did not know, off the top of her head, but Rockingham County gets \$400,000 every four years that they spend across the county and so the way that program was now, that was not a drop in the bucket. The problem was that Eden residents were used to the City Council getting one of those grants every other year when the cycle came and they were helping a lot of people. She added that they would check on it.

Council Member Epps also mentioned the building right behind what used to be Price Tire, where the generator shop was. He stated that he had suggested 4 or 5 years ago that if he would just seal a window every once in a while it would make the building look better.

Mrs. Stultz replied that if the Council chose to amend the Non-Residential Maintenance Code then they have a better shot of getting that done without having to pay to tear the building down.

Council Member Carter questioned some of the storage buildings. If they board everything up so the public cannot get into it, or the windows or doors were replaced so to speak, was that abating that condition.

Mrs. Stultz replied no it just meant they were vacated and closed and at anytime they stop being vacated and closed the city can move right along where they were.

Council Member Myott commented that they could stay that way forever to which Mrs. Stultz replied that if it was not historic or a mill building, after 2 years they can go in and push it down. Council Member Burnette added, if they adopt the amendment.

Council Member Carter questioned how they could abate it to which Mrs. Stultz explained that the only way you can abate it was to completely fix it.

Council Member Epps mentioned the Porter building and that it was falling apart again.

Mrs. Stultz agreed and added that if they would recall, they were trying to do that as a commercial building and somehow or another he [owner] persuaded the Council that he was going to live in it and he has not done that and they have to wait until it gets bad enough to do a housing code.

Mayor Grogan asked if it was the consensus of everyone that Mrs. Stultz makes some recommendations to the City Manager and the Council look at it at their retreat to which it was agreed. Mayor Grogan then asked if they were to adopt the ordinance.

Mrs. Stultz replied yes, the Non-Residential.

A motion was made by Council Member Tuggle seconded by Council Member Burnette to accept the Non-Residential Maintenance Code. All Council Members voted in favor of this ordinance.

Appointment of City Attorney:

Mayor Grogan explained that the City Manager had discussed with them the process of hiring an attorney. He noted that she would work for the City Council and also under the supervision of the City Manager. She would attend all City Council meetings and any questions or business that needs to be brought to the City Council, she would do.

Mr. Corcoran explained that he would just request a motion, a second and a formal vote to appoint Ms. Erin Gilley as City Attorney, effective Monday, January 5th.

Council Member Burnette explained that he would ask to be allowed not to vote on this issue.

Council Member Myott asked if Council Member Burnette would be able to vote on ordinances and other things that were brought before the City Council.

Mr. Corcoran replied in the affirmative.

A motion was made by Council Member Tuggle seconded by Council Member Turner to allow Council Member Burnette to refrain from voting on this appointment. All Council Members voted in favor of this motion.

A motion was made by Council Member Ellis seconded by Council Member Tuggle to appoint Ms. Erin Gilley as the City Attorney, effective January 5th, 2009. Council Members Ellis, Tuggle, Turner, Myott, Carter and Epps voted in favor of this motion. This motion carried. Council Member Burnette refrained from voting.

Closed Session for discussion of location or expansion of a business or industry according to NCGS 143-318.11(a)(4) and the acquisition of property according to NCGS 143-318.11(a)(5):

A motion was made by Council Member Epps seconded by Council Member Carter to go into Closed Section for discussion of location or expansion of a business or industry according to NCGS 143-318.11(a)(4) and the acquisition of property according to NCGS 143-318.11(a)(5). All Council Members voted in favor of this motion. This motion carried.

Open Session:

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

	Respectfully submitted
	Sheralene S. Thompson, CMC City Clerk
ATTEST:	
John E. Grogan Mayor	