

CITY OF EDEN, N. C.

The regular meeting of the City Council, City of Eden, was held on Tuesday, February 15, 2011 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
	Gene Hagood
	Jim Burnette
	Jerry Ellis
City Manager:	Brad Corcoran
City Clerk:	Sheralene Thompson
City Attorney:	Erin Gilley
Administrative Assistant:	Deanna Hunt

Representatives from Departments:

Representatives from News Media: Latala Payne, Eden News; Roy Sawyers, RCENO

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:

Pastor Angie Toth, Centenary United Methodist Church, gave the invocation followed by the Pledge of Allegiance led by Fire Chief Tommy Underwood.

RECOGNITION AND PROCLAMATION:

Mayor Grogan asked the following citizens to come forward: Representatives from the Eden Chapter of the NAACP, Mr. Malcolm Allen, President and Mrs. Elizabeth Lassiter, and also Ms. Elretha Perkins, who provided up a historical display at City Hall. Mayor Grogan then proceeded to read the following proclamation in recognition of Black History Month.

**City of Eden
Proclamation
National African American History Month**

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Whereas, the history of African Americans is unique and rich; and one that has helped to define what it means to be an American; and

Whereas, each February we pause to reflect on the contributions of the African American community to our national and local identity, and African American Month gives us an opportunity to learn more about this important part of our nation’s story; and

Whereas, this month, we pay tribute to the noble struggle of African Americans for equality in society and under the law, and we commit ourselves to advancing civil rights for all Americans; and

Whereas, we join with all Americans in celebrating our diverse heritage and culture and continuing our efforts to protect democracy for all people, and recognizing the vital achievements of our local African American residents; and

Now, therefore, be it proclaimed that the City of Eden proudly proclaims February 2011 as “African American History Month” in the City of Eden.

Adopted this 15th day of February, 2011.

By: John E. Grogan, Mayor
City of Eden

ATTEST:
Sheralene S. Thompson, City Clerk

Mr. Allen thanked the city for setting aside time to reflect on the contribution and going forward with a joint effort to make Eden better economically and socially for all. After reflecting on the various accomplishments and inventions of their ancestors, they realize that they are a race of many gifts. No group of people should be painted with one brush and he encouraged people of today to use their gifts to be a productive society.

SET MEETING AGENDA:

Mayor Grogan stated that he wanted to add to the Consent Agenda item 12(g) amendment to Chapter 9 of the City Code.

A motion was made by Council Member Burnette seconded by Council Member Ellis to add to the Consent Agenda item 12(g) amendment to Chapter 9 of the City Code and also to set the meeting agenda. All Council Members voted in favor of this motion.

PUBLIC HEARINGS:

- (a) Consideration of a request and ordinance to grant a 10/70 watershed provision exemption for the property located at 527 Summit Road. Request submitted by BHH Engineering, PLLC, Agent for Rivera Real Estate. ZONING CASE Z-11-03.

The city has received a request to increase the impervious surface in the Smith River Water Shed/Protected Area for property located at 527 Summit Road. The request was submitted by BHH Engineering, PLLC, representative for Rivera Real Estate.

The Planning and Inspections Department recommends approval of the request with the condition that an engineer’s

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certification of runoff control for the built-upon area is received. All other requirements of the City of Eden Land Use Regulations must be satisfied.

After consideration the Planning Board recommended that the request be approved based upon the stated conditions being met.

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

Ms. Stultz explained that the request is to grant a 10/70 watershed provision exemption for the subject property.

The property is located in the WS-IV area of the Smith River watershed. The watershed ordinance requires that the built-upon and density limits for new development shall not exceed 36% built-upon area in the watershed area. However Article III, Sec. 1(B)(3)(c) of the ordinance (commonly known as the "10/70 provision") provides an exemption which states that new development and expansions may occupy up to 10% of the protected area (except the critical area) with up to 70% built-upon area (impervious surface) on a project by project basis, subject to certain provisions. The 10/70 provision does not change any underlying zoning requirements such as setbacks and buffer requirements. The provision only applies to non-residential development which has taken place since July 1, 1993 and not to any development which existed before that date. There are approximately 4,235 acres within the City's jurisdiction of the Smith River watershed. This is the first application the City has received for the 10/70 provision. The subject property contains approximately 7.045 acres. The proposed impervious for the site is 4.820 acres or 68.42% impervious surface.

The subject parcel is located to the south of an R-20 parcel containing a church, and to the east of a large R-20 parcel containing a residential use with a large wooded area which buffers the subject property. The property to the south of the subject property is an I-1 parcel containing a trucking company. Across Summit Rd. to the east of the subject property is I-2 property which contains the industrial entrance to Miller-Coors and a parcel of R-20 property containing a residence.

Staff is of the opinion that the application meets all the requirements of the watershed ordinance with the exception of Article III, Sec. 1(B)(3)(c)(2) which requires an engineer's certification of runoff control for the built-upon area. Staff recommends in favor of the request, conditional on receipt of this certification.

Mayor Grogan asked if anyone wanted to speak in favor of this request.

Mr. Joe Maddrey, 910 Seymour Ct., explained that he was the attorney representing Millis Trucking who owns this tract of land. He noted that Mr. Mark Wyatt, the manager of Millis and Mr. Brent Huss, the engineer were also with him. He pointed out that as Ms. Stultz had mentioned, this was the first time that an application like this has been made. They have about 4,235 acres in a watershed and 423 acres subject to being 70% impervious. He pointed out that this was a 7 acre property, not a rezoning and the present zoning requirements of setbacks and buffers were still in place. Nothing the Council would do tonight would change that. He pointed out that the code that talked about giving you this authority for up to 10% states that among considerations on your part, was potential level of hazards to water supply, soil condition, drainage, undisturbed areas, proximity to waterways, all of this the

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engineer has submitted to the Planning Department and they have reviewed every aspect of it. He then asked that the manager of Millis Trucking address the Council.

Mr. Mark Wyatt, 115 Martinwood Road, the Manager of Millis Trucking, explained that they would like to use as much of the property they can as Council would allow and that way they can grow to their full potential. Also they go strictly by the requirements of the rezoning. They put in an application with NCDOT for the driveway and they deemed that they did not need to put a right turn lane in coming from Aiken Road because there will not be that much traffic.

Mayor Grogan asked if there were any questions of these gentlemen. He then asked if anyone would like to speak in opposition.

Ms. Tonya Williams, 705 Summit Road, explained that she was their speaking for her father as well, who owns the adjoining property. She stated that she was there to ask them not to pass this and also leave it 36% as this was a traditional neighborhood of R20 property. She pointed out that it was R20 behind it and in front of it and there was a church beside of it and then her and her sister and all the way down the road it was all residential.

She noted that right now there was a sign up there that says MCB Truck Trailer Workshop and Repair and there was a phone number. She asked if that was what was going to be built there and if so, she questioned where all this water would go. She also questioned if it would be built up like it was supposed to be. Right now the water slopes down and it was headed towards that property. If that property was to be built up would it be sending it back to the residential areas?

She also mentioned that on January 19, 2010, Mr. Wyatt showed a drawing of a 10' privacy fence along with two rows of Leland Cypress trees and on the map now they were showing they only have a 6' high fence. It also said that the fence would be between the properties and on this new map there was no fence at the back of this property and that property was zoned R20 with also two story houses. They only had 20' all the way around if you allow this to pass. She noted that they were talking about 20' between the property owners and them and one 6' fence and you hear trailers all the day long.

Ms. Misty Weadon, 695 Summit Road, explained that her house was not shown on the site plan but the only thing between her and the proposed site was the church and the fields. She then presented the Council with some photographs of views taken out of one of her bedroom windows. She noted that if you look on the right hand side it shows the church fellowship building and you can see where a house was located before it was changed to a business. They can see how close this will be to her house, so a 6' fence, shrubs or trees was not going to help at all. She pointed out that she had a two story house and it would not help at all. She added that if she had counted correctly, on the site plan it showed over 850 trucks and trailers and she did not think they would want that beside their house. She noted that in the December 2009 minutes Council Member Tuggle had commented that he would hate to be that house or that church and how far do you go into residential areas and where do you stop it. She explained that she was there asking them to stop it tonight.

After no one else came forward to speak in opposition he then declared the public hearing closed and asked the Council for a decision.

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Ms. Stultz stated that she would also share with them that as to buffers and those kinds of things; right now their ordinance only requires 6 feet.

Council Member Hagood asked if this piece of property was in the critical area or the protected area.

Ms. Stultz replied that it was in the protected area to which Council Member Hagood asked if 10/70 was only allowed in the critical or protected to which Ms. Stultz replied only protected.

Council Member Hagood asked if it was correct that a truck terminal was not allowed in the critical to which Ms. Stultz replied that was correct and that was based on State regulations not just the standards the City Council decided on. He asked if it was close to any other area that was critical.

Ms. Stultz explained that the critical area for the Smith River Watershed was an area that was a mile based on the ridge line approximately from where the old Fieldcrest intake used to be so this piece of property was considerably further than a mile away from that spot.

Council Member Hagood asked if this whole area was protected.

Ms. Stultz replied that it was on the side of the road this was on. She added that there was some that was not that was located on the other side where the ridge line starts back up near Miller. There was a property at the corner of Summit and Meadow just beyond the Miller property that was proven to be out of the watershed about 15 years ago. At this point they have had no challenges to the watershed designations and she did not think that they would be successful on the opposite side of the road based upon the topography.

Council Member Ellis asked if she was saying possibly less than 200 yards.

Ms. Stultz replied that it was probably a little bit more than 200 yards from his property but it was proven to be out of the watershed, but where they were talking about now was at the furthest edge of the Smith River Watershed in this area, now it goes all the way to the Virginia line and half way to Stoneville in the other direction.

Council Member Tuggle asked if that was closest to where the houses were or was that an area where he can put stuff there anyway. He added that he knew when they have this discussion, his understanding was of course the 70 of the 7 acres was their property and the impervious property will be 4.82 acres of that 7 acres. He asked where those 4.82 acres were located and was it located in areas close to the houses or on the other side where it would not matter anyway.

Ms. Stultz replied that where that will be located will be based on the normal front yard, side yard setback requirement for any property that was zoned I-1 that close to Residential. The buffers will have to go in and the front yard setback will have to be adhered to the side yard setbacks. One reason they went ahead and claimed the whole 7 acres, even though what that means was he was only going to have 4 acres that were impervious that means that 3 acres and some odd will not be disturbed and if they were disturbed they will have to be replanted and buffers put in.

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Council Member Tuggle commented that he was still not sure he understood. Those four acres was part of that and already designated an area that you can put the rock. He asked if that was the area that was closest to the houses or was it in an area that was more away from the houses. If it was close to the houses it does not matter how the Council votes.

Ms. Stultz replied that some of the spaces were close to the church property within 30' to 40', but they could have been either way, before they had a little over two acres. They could have been at the front part and closer to the houses, they could have been there anyway whether they left 36% without curb and gutter or not. It could have been technical enough that the part that was already graveled with barns and things on it before they already tore it down, that would not have counted against them because they predated July 1, 1993, so there could have been a lot of calculations to make this trickier for all of them to determine in house had they not made this 10/70 application. A normal I-1 property would probably be developed about to this level and the normal development with front yard setbacks and those types of things would have to be maintained.

Council Member Epps asked if she was doing anything about the truck washing.

Ms. Stultz replied not a thing and added that all she knew was that they were going to stack trucks. That was certainly a question she would be asking them and there were other things that would have to be done in order to wash trucks on that property.

Council Member Burnette asked if she was the one to answer the question about water run off or was that better directed to the engineer.

Ms. Stultz replied that she saw no circumstance where the property would be built up to push the water the other way based on the ridge line. Their simple sedimentation and erosion control plus their storm water regulations, simple as they were, would not allow that as it was against state law to change the natural flow of water and that includes the direction.

Council Member Tuggle asked so that could not happen.

Ms. Stultz replied that if they did the owners would be in a lot of trouble with the city and with DENR.

Council Member Ellis questioned the amendment that it changed back in 1993 or 1999 was that correct.

Ms. Stultz explained that in 1993 the State required them to adopt Water Supply Watershed regulations.

Council Member Ellis asked what happened in 1999.

Ms. Stultz replied that they changed the State sometime in 1998 that would allow the 10/70 provision and that allowed them to make some decisions for more impervious surface for only commercial and industrial properties and that was for communities like Eden without large engineering departments so they would not go to engineered storm water control until they reach the level of development pressure that would be required. This was a provision that was permitted to them because of their watershed

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designation and at some point, she used an example, just say they decided they wanted to this badly enough that they have submitted an engineer's report and that opened a whole other bag of worms.

Council Member Ellis asked why there has been not 10/70 brought before Council in the past 13 years.

Ms. Stultz explained that development pressure plus the particular parcels that have been developed for commercial and industrial in that time, every area in Eden was not in the watershed and most of Draper Village was outside the watershed. She added that Highway 14 was not in the watershed until it goes way north so a lot of their higher development areas were not in the watershed or the watershed areas were already developed out.

Council Member Burnette commented that he would like to hear the engineer respond to the water runoff. He stated that there was concern expressed about water runoff and which way it will go. He asked if he could clarify that.

Mr. Brent Huss, DHH Engineering, explained that he thought that they really could not do that but just say if they could do it, they would not want to because in order to change the direction of the water flows you would have to do a lot of grading and that would be a very costly endeavor so the intent was to go in and remove the topsoil and go back and gravel it so the overall drainage pattern will not be changed.

Council Member Hagood stated that in the ordinance it says developments using this option shall provide an engineer's certification of runoff control for control of the first one inch of run off from all built up areas. He asked if that was correct.

Mr. Huss replied that was something they worked with Ms. Stultz on and basically what that was saying, with grass when it rains, water runs through the grass slower than it would if it hits pavement. There were different ways to slow it down so the water will run off a little quicker on the gravel to where it slows down with best management practices.

Council Member Hagood pointed out that what was next to that has already been used and you know you see a lot of standing water there.

Mr. Huss replied that he did not see it having that problem as there was a nice slope on that property.

Council Member Burnette stated that in light of what they have heard and everything that was going to be controlled in terms of run off and this was a very small usage of the entire 4,000 some acres, he made a motion, seconded by Council Member Tuggle to approve the request and adopt an ordinance to grant a 10/70 watershed provision exemption for the property located at 527 Summit Road. Action on the motion was as follows: Council Members Tuggle, Burnette, Turner and Epps voted in favor. Council Members Carter, Ellis and Hagood voted in opposition. This motion failed as the affirmative vote was less than two thirds.

- (b) Consideration of a zoning map amendment request and ordinance to rezone a portion of the property located at 347 W. Kings Highway from Residential-20 to Business-Highway 1. Request submitted by Phillip R. Hunnicutt, Co-Owner of River Breeze, LLC. ZONING CASE

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NO. Z-11-04.

The City has received a zoning map amendment request filed by Phillip R. Hunnicutt, Co-owner of the property located at 347 W. Kings Highway. The request is to rezone the rear portion of the property located at 347 W. Kings Highway from Residential-20 to Business-Highway #1.

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

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

Ms. Stultz explained that the request is to zone approximately 1.5 acres from Residential-20 to Business Highway-1. The R-20 Residential district is established as a district in which the principal use of the land is for single family residences. The regulations of this district are intended to protect existing residential areas with minimum lot sizes of 20,000 square feet and to encourage, in selected portions of the incorporated area, the subdivision of undeveloped property into lots with a minimum of 20,000 square feet. The Business Highway-1 district is established solely for the developing business area along NC 14 and the intersecting streets in the general vicinity of Morehead Hospital. These districts are designed to serve the needs of the traveling public and the local citizens. The district provisions are designed to encourage low density development on large lots in the strategically urbanizing areas. It is very important that the district(s) be developed in accordance with high standards. In working toward this objective, permitted uses in this district are limited to those uses compatible to existing uses and that would not be offensive to the contiguous residential and institutional districts.

The subject property contains a former commercial garden center (currently vacant). It is located to the south of undeveloped R-20 property which is owned by the City of Eden, and which contains part of the Smith River Greenway. The property lies along the Smith River (to the west), and adjoins a large tract of wooded, undeveloped O & I property to the east. To the south of the subject property is a parcel of BH-1 property containing a commercial business (Riverhouse, formerly Grogan's Garden Center).

The property was split-zoned BH-1 (front portion) and R-20 (rear portion) at the time it was originally zoned. The entire property was used as a commercial garden center, along with the former Grogan's property along Kings Highway, for many years until becoming vacant several years ago. Staff is of the opinion that the entire property should be zoned as BH-1 since it has always been used as commercial property.

Based upon the character of the area and the other commercial uses in the area, staff recommends in favor of the request.

Mayor Grogan asked if anyone would like to speak in favor or in opposition of this request.

Mr. Phil Hunnicutt, 824 Jay Street, explained that he was speaking in favor of this zoning and this was just a correction of a zoning oversight. He stated that he would be glad to answer any questions.

As no one else came forward to speak Mayor Grogan declared the public hearing closed.

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A motion was made by Council Member Hagood seconded by Council Member Ellis to approve the zoning map amendment request and adopt an ordinance to rezone a portion of the property located at 347 W. Kings Highway from Residential-20 to Business-Highway 1. All Council Members voted in favor of this motion.

REQUESTS AND PETITIONS OF CITIZENS:

Mr. David Turner, Commander of American Legion Post 254, explained that he was there to request permission to erect some flags at Freedom Park. His colleague Mr. Richard Puchilowski has spoken with Johnny Farmer, the Director of the Parks and Recreation trying to get the criteria for making this request. He stated that he was very aware that anything erected in the park has to follow strict criteria and represent all branches of service showing fairness to all who have served. He explained that their request was to be allowed to erect flag poles that represent the branches of services that include the Navy, Army, Air Force, Marines, Coast Guard and they would like to add the flag of North Carolina and the POW flag. He stated that the American Legion Post will be responsible for building the bases, purchasing the flag poles and the flags. This will be at no cost to the city. It was their opinion that this will add beauty and character to Freedom Park and honor all veterans and their families for their sacrifices and services to this great country. He stated that everyone who visited the park will see the pride that they have in this community and nation and their service to this country. If this request was granted he asked that these flags be the only representation allowed in the designated area. They already have a Veteran's Park in Wentworth with monuments. The choice of Freedom Park as a name was something that Post 254 was proud of and they simply want to honor that name with this contribution to the city.

Mayor Grogan thanked Mr. Turner and asked him if he had a designated area in the park for that.

Mr. Turner replied that when you come in there was an American flag and that will be flying higher than the other flags. So, that flag pole was about 25' and they would erect 20' flagpoles on the side and they hope to get up to 8.

Mayor Grogan thanked him and stated that everyone up there appreciated what him and all others who have served their country.

Mr. Turner added that he was a VFW and an American Legion honor guard and they appreciated the chance to serve their community.

UNFINISHED BUSINESS:

(a) 2011 Boards and Commissions Appointments.

The following seats remain unfilled for the City Boards and Commissions. Below is a list of members whose terms expired in 2010 or who have missed in excess of their allotted absences. You can choose to reappoint the current members or appoint new people to fill these positions. In the case of excessive absences, (three consecutive or 33% of meetings), please consider whether these persons have the time or the ability (for whatever reason) to attend regular meetings and participate in the activities of the board or commission.

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We respectfully request that you try to fill these vacancies at the February meeting.

Ward 1

All appointments filled

Ward 2

All appointments filled

Ward 3

All appointments filled

Ward 4

All appointments filled

Ward 5

Board of Adjustment: Charles Johnson – term expired in 2010

Community Appearance Commission: Betty Martin – term expired in 2010 Planning Board: Pat Roland – term expired in 2010

Ward 6

All appointments filled

Ward 7

All appointments filled

Mayor

Community Appearance Commission: Betty Turner – missed 6 out of 8 meetings (75% - 4 excused; 2 unexcused)

Tree Board: Jane Lloyd – term expired in 2010

*ETJ Appointments

Board of Adjustment: Steve Underwood – term expired in 2010; missed 1 out of 1 meeting (100% - unexcused)

* ETJ appointments must be made by City Council and sent to County Commissioners for final approval.

Council Member Carter reappointed Mr. Charles Johnson to Board of Adjustment; Pat Roland to Planning Board and appoint Shante McLaughlin to Community Appearance representing Ward 5.

Mayor Grogan reappointed Ms. Jane Lloyd to Tree Board and Mr. Steve Underwood to ETJ Board of Adjustment.

A motion was made by Council Member Hagood seconded by Council Member Ellis to appoint Charles Johnson (Ward 5) to Board of Adjustment, Steve Underwood (Mayor) to ETJ Board of Adjustment, Shante McLaughlin (Ward 5) to Community Appearance, Pat Roland (Ward 5) to Planning Board and Jane Lloyd (Mayor) to Tree Board. All Council Members voted in favor of this motion.

NEW BUSINESS:

- (a) Request to adopt an order of collection for nuisance abatement fees to be collected as delinquent property taxes.

The Council was given a list of properties which have had nuisance violations and the costs associated with the abatement of the violation (copies of the invoices have been delivered to the City Clerk with the Order of Collection).

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These particular liens are collected in the same manner as delinquent property taxes. We need for you to formally establish these liens and then to authorize legal action. When we appear in court, your formal action will be proven through the minutes and the execution of the attached Order of Collection.

A motion was made by Council Member Tuggle seconded by Council Member Carter to adopt an order of collection for nuisance abatement fees to be collected as delinquent property taxes. All Council Members voted in favor of this motion.

- (b) Request for consideration of approving a resolution for a State loan with principal forgiveness for East Kuder Street subsystem sewer rehabilitation project.

We are seeking approval to submit an application to the Clean Water State Revolving Fund (CWSRF) in late February. The application is to request funding for continuing the sewer rehabilitation work on the East Kuder Street Sewer Subsystem as part of our overall effort to improve our sewer collection system. This outfall and subsystem sewer mains are in need of rehabilitation. These sewer lines are forty years old and have recently begun to be a source of numerous blockages and some overflows.

The approximate cost of this project will be \$2,500,000 and we will ask for a loan for this amount with principal forgiveness of \$1,000,000. If we were awarded a loan with principal forgiveness, the Council would have to formally accept it at that time.

One obligation the City would have to accept a loan with principal forgiveness is to continue to keep water/sewer rates so that they are equal to one and one half times the median household income for City of Eden. This is defined as High Unit Cost (HUC) and our water rates must be above this calculation. Based on data available today, we believe that our water rates are just slightly above this threshold and no rate increase would be required to accept the requested loan assistance from the CWSRF. We will continue doing research to verify that our current water rate qualifies for accepting this loan before the Council Meeting.

AUTHORIZING RESOLUTION BY CITY COUNCIL OF THE CITY OF EDEN

WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of renovation of wastewater collection system and drinking water distribution, and

WHEREAS, The City of Eden has need for and intends to renovate a portion of their wastewater collection system described as East Kuder Street Sewer Rehabilitation and

WHEREAS, The City of Eden intends to request state loan with grant assistance for the project,

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

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

That the City of Eden will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the City of Eden agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Eden to make scheduled repayment of the loan, to withhold from the City of Eden any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

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

That S. Brad Corcoran, City Manager, and successors so titled, is hereby authorized to execute and file an application on behalf of the City of Eden with the State of North Carolina for a (loan or grant) to aid in the construction of the project described above.

That John E. Grogan, Mayor, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

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

Adopted this the February 15, 2011 at Council Chambers in City Hall of Eden, North Carolina.

John E. Grogan, Mayor

ATTEST:

Sheralene S. Thompson
Clerk

A motion was made by Council Member Ellis seconded by Council Member Burnette to approve and adopt the resolution for a State loan with principal forgiveness for East Kuder Street subsystem sewer rehabilitation project. All Council Members voted in favor of this motion. This motion carried.

(c) Consideration and adoption of Parades and Special Events Ordinance.

We have prepared an amendment to Article VII of the City Code which is currently titled and referred to as our Parade Ordinance. Attached you will find a copy of the proposed ordinance. We have included the proposed amendments in red font.

This amendment includes adding a permitting process for special events. A special event is defined as any organized event that will be located on or within city owned property or city right-of-way, causing traffic to be blocked or obstructed. Along with requiring a permit for these events, this ordinance also proposes to require such applicants to pay a police security fee for these events. This security fee will be based upon the cost of any required extra off-duty police officers. This fee will be based solely upon the cost of public safety and in no way based upon political, social or religious grounds or reasons or based upon the content of the views of the applicants.

Ms. Erin Gilley, City Attorney, explained that this was an amendment to the current parades ordinance. They currently require permits for parades and in this ordinance they proposed a permitting process for special events. Parades were pretty much explanatory and special events would be any assembly or gathering of more than 10 people or more on city property or right of way that would require obstruction or blocking of that right of way or city property, blocking or obstruction of traffic. The permitting will require an application and a fee and that will be approved by the City Manager. In addition to the amendment they also included a security fee that will be applied to special events and that was basically because blocking a street and obstructing traffic requires extra money and time from the Police Department and that additional fee will be assessed by the Police Chief or his designee and it will be passed on to the applicant.

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Council Member Ellis asked if they would begin charging for their regular parades, such as the homecoming parade or Christmas parades.

Ms. Gilley replied that the security fees do not apply to the parades and the reason they did that was because they were already included in the Police Department's budget. The security fee will only be applied to special events.

Council Member Carter asked if he had heard correctly that the City Manager approves this to which she replied that was correct.

Council Member Hagood questioned the guidelines to charge the fee or not to fee.

Ms. Gilley replied that the ordinance has a provision that says that the City Manager has the discretion to reduce that fee or provide the services to do that and they were thinking along the lines of nonprofit organizations or community events.

Council Member Hagood pointed out that there was nothing in there saying that.

Ms. Gilley explained that there was a clause in there that basically gives the City Manager the discretion to reduce or waive that fee. It does not state in there that it was for community events basically it just gives the discretion to the City Manager to do that.

A motion was made by Council Member Burnette seconded by Council Member Ellis to approve and adopt the Parades and Special Events ordinance as amended per the City Attorney's last handout. All Council Members voted in favor of this motion.

REPORTS FROM STAFF:

There were no reports at this time.

CONSENT AGENDA:

- (a) Approval and adoption of minutes: January 18, 2011.
- (b) Approval of American Legion Post 254 project.

The American Legion Post 254 has approached the City of Eden, and they would like to purchase and have installed 6 – 7 flag poles at Freedom Park to represent each branch of the military, along with a POW/MIA flag.

The American Legion Post 254 would be responsible for raising the funds to complete this project, which is estimated at \$1000 per pole for a total amount of between \$6000 - \$7000.

Staff has spoken to American Legion Post 254 concerning this project, and believes this would be another addition to Freedom Park that the citizens of our city and surrounding areas could enjoy.

The area, in which the flag poles would be located, would be on the right as you come into the park.

Minutes of the regular February 15, 2011 meeting of the City Council, City of Eden:

I would like to recommend this project be approved, and staff will begin working with American Legion Post 254 to make this project a reality.

(c) Approval and Adoption of Budget Amendment #10.

The Planning Department received a grant from the NC Rural Center for the National Banjo Museum Feasibility Study/Market Analysis. The attached budget amendment appropriates these funds to cover expenses in the Planning Department.

	Account #	From	To	Amount
General Fund Revenues				
NC Rural Center Grant - Banjo Museum	10-3336-40000	\$ -	\$ 20,500.00	<u>\$ 20,500.00</u>
General Fund Expenditures				
Planning Professional Services	10-4910-19400	\$ 15,000.00	\$ 35,500.00	<u>\$ 20,500.00</u>

To allocate grant funds received from the NC Rural Center for the National Banjo Museum Feasibility Study/Market Ananylsis.

Adopted and effective this 15th day of February, 2011.

Attest:

Sheralene Thompson, City Clerk

John Grogan,
Mayor

(d) Approval and Adoption of Budget Amendment #11.

The attached budget amendment transfers money from the drug forfeiture account to the General Fund to cover expenditures in the drug forfeiture line items. Below is a breakdown of each line item and the specific expenditures.

Weapons & Protective Gear	\$ 4,700
Training & Travel	\$ 1,900
Communications & Computers	<u>\$ 1,200</u>
TOTAL	\$ 7,800

	Account #	From	To	Amount
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Minutes of the regular February 15, 2011 meeting of the City Council, City of Eden:

**General Fund
Revenues**

Police Fed/State Drug Forfeiture	10-3431-41900	\$	-	\$	7,800.00	<u>\$</u>	<u>7,800.00</u>
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**General Fund
Expenditures**

Police Dept Supplies - Drug Forfeiture	10-4310-29102	\$	-	\$	1,600.00	\$	1,600.00
Police Misc Exp/Drug Forfeiture	10-4310-29902	\$	-	\$	600.00	\$	600.00
Police Travel/Training - Drug Forfeiture	10-4310-39501	\$	-	\$	1,900.00	\$	1,900.00
Police C/O Equip NonDepr/Drug Forf	10-4310-57201	\$	-	\$	3,700.00	\$	3,700.00
						<u>\$</u>	<u>7,800.00</u>

Transferring money from the Federal Forfeiture bank account to the General Fund.

Adopted and effective this 15th day of February, 2011.

Attest:

Sheralene Thompson, City Clerk

John Grogan,
Mayor

(e) **Renewal of the Resolution of Consideration.**

Under North Carolina General Statutes, the Resolution of Consideration adopted by the Eden City Council on February 27, 2010, remains in effect for two years. Staff is of the opinion that the Resolution of Consideration should be reviewed and renewed annually to be sure that all properties are included.

The Planning and Inspections Department recommends approval of the requested amendment.

RESOLUTION OF CONSIDERATION

**A RESOLUTION IDENTIFYING THE AREA DESCRIBED HEREIN AS
BEING UNDER CONSIDERATION FOR ANNEXATION AND NOTIFICATION
TO CERTAIN PROPERTY OWNERS OF THEIR RIGHTS TO DELAYED ANNEXATION OF QUALIFIED
PROPERTIES**

BE IT RESOLVED by the City Council of the City of Eden that:

Section 1. Pursuant to G.S. 160A-49(i), the following described area is hereby identified as being under consideration for future annexation by the City of Eden, under the provisions of Chapter 160A, Article 4A, Part 3 of the General Statutes of North Carolina:

Minutes of the regular February 15, 2011 meeting of the City Council, City of Eden:

All those parcels of land identified on the map entitled "Resolution of Consideration Areas" attached hereto and incorporated herein by reference.

Section 2. Owners of agricultural land, horticultural land and forestland within the area under consideration of annexation as described in Section 1 above are hereby notified that they may have rights to a delayed effective date of annexation. G.S. 160A-49(f1) and (f2) provide that land being taxed at present-use value qualifies for delayed annexation, and land that is eligible for present-use value taxation but which has not been in actual production for the time period required by G.S. 105-277.3 may qualify for delayed annexation by making application to the Rockingham County Tax Assessor for certification. For qualified tracts, the annexation will not become effective for most purposes until the last day of the month in which the tract or part thereof becomes ineligible for present-use value classification under G.S. 105-227.4 or no longer meets the requirements of G.S. 160A-49(f1)(2). Until annexation of a tract becomes effective, the tract will not be taxed by the City of Eden and will not be entitled to services from the City of Eden.

Section 3. A copy of this Resolution shall be filed with the City of Eden Clerk.

Section 4. This Resolution shall remain effective as provided by G.S. 160A-49(i).

Adopted this 15th day of February, 2011.

CITY OF EDEN

BY: John E. Grogan, Mayor

ATTEST:
Sheralene Thompson, CMC
City Clerk

(f) Approval of recommendation to award bid on new road tractor for Solid Waste Division.

In the 2010/11 budget it was approved to purchase a new Road Tractor for the Solid Waste Division. Bids were received and opened at a public opening in the City Clerk's office following General Statues of NC Section 143-149 formal bid process on February 4th2011.

There was a total of (4) bids received and opened. TranSource (Mack) was the lowest bid, but their representative David Pegram called Monday morning advising that his bid had a \$10,000 mistake. So he must submit a no bid letter to the City of Eden.

After careful review of all bids it is our recommendation that the City of Eden purchase the 2012 International 7600 from Whites International located at 7045 Albert Pick Road in Greensboro NC in the amount of \$117,386.00. It is also our recommendation to purchase the five (5) year extended transmission warranty at a cost of \$1,515.00 and the 36 month/300,000 mile engine warranty at \$1,250.00. The estimated delivery is expected to be around 180 days once the order has been placed.

(g) Adoption and approval of order to amend Chapter 9 of the City Code.

In order to enforce the parking regulations at the front of City Hall, the Council needs to adopt an amendment to Chapter 9 of the City Code. This ordinance gives the City the ability to enforce parking regulations on City owned or leased property that has been designated as a parking facility. Such regulations or prohibitions must be posted in order to give residents adequate notice.

Please consider this ordinance at your February 15, 2011 meeting, and do not hesitate to contact me if you should have any questions.

February 15, 2011

City of Eden, N. C.

Minutes of the regular February 15, 2011 meeting of the City Council, City of Eden:

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

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.

Respectfully submitted

Sheralene S. Thompson, CMC
City Clerk

ATTEST:

John E. Grogan, Mayor