

CITY OF EDEN, N. C.

The regular meeting of the City Council, City of Eden, was held on Tuesday, November 18, 2014 at 7:30 p.m. in the Council Chambers, 308 E. Stadium Drive. Those present for the meeting were as follows:

Mayor:	(absent)	Wayne Tuggle, Sr.
Council Members:		Donna Turner
		Jim Burnette
		Angela Hampton
		Jerry Epps
		Darryl Carter
		Neville Hall
		Jerry Ellis
City Manager:		Brad Corcoran
City Clerk:		Sheralene Thompson
City Attorney:		Erin Gilley
Representatives from Departments:		
News Media:		Katie Mann, Eden News

MEETING CONVENED:

Mayor Pro Tem Burnette 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:

Mr. Lemuel Hardison, Pastor, North Spray Christian Church, gave the invocation followed by the Pledge of Allegiance.

CLOSED SESSION:

- a. Closed session according to G.S. 143-318.11(a)(4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body.

A motion was made by Council Member Ellis seconded by Council Member Hall to go into Closed Session according to G.S. 143-318.11(a)(4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body. All Council Members voted in favor of this motion. This motion carried.

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OPEN SESSION:

A motion was made by Council Member Ellis seconded by Council Member Turner to return to Open Session. All Council Members voted in favor of this motion. This motion carried.

SET MEETING AGENDA:

Mayor Pro Tem Burnette stated that he had been asked to add two items to their agenda by staff. The first item was an ordinance establishing a 60 day moratorium on development approvals for coal ash landfills.

A motion was made by Council Member Epps seconded by Council Member Hampton to add an ordinance establishing a 60 day moratorium on development approvals for coal ash landfills to the agenda. All Council Members voted in favor of this motion. This motion carried.

Mayor Pro Tem Burnette explained that the second item was a resolution calling for a public hearing to be held by the City Council in the question of adopting an ordinance establishing a 60 day moratorium on developmental approvals for certain land uses.

A motion was made by Council Member Carter seconded by Council Member Ellis to adopt the resolution calling for a public hearing to be held by the City Council in the question of adopting an ordinance establishing a 60 day moratorium on developmental approvals for certain land uses. All Council Members voted in favor of this motion. This motion carried.

Mayor Pro Tem Burnette explained that the ordinance would be added to New Business as item 8a, the resolution would be item 8b and former item 8a (Consideration of Boards & Commission Appointments) would be item 8c and former item 8b (Consideration of Bids for the N. Hundley Drive Storm Drainage Replacement Project would become 8d.

A motion was made by Council Member Epps seconded by Council Member Hall to set the meeting agenda. All Council Members voted in favor of this motion. This motion carried.

PUBLIC HEARINGS:

- a. Consideration of approval of an appropriation from the General Fund in an amount not to exceed \$392,629.61 for the following project parameters: A contractual obligation by Gildan Activewear (Eden) to invest up to \$12,700,000 in net new taxable machinery and equipment and \$10,400,000 in building improvements in two phases following the project parameters outlined in the performance agreement. The Company agrees to maintain the net new taxable machinery and equipment beginning December 31, 2015 and ending December 31, 2019 following project parameters. The incentive is based on

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80% of the company investment for five years. Rockingham County is offering the same investment. The company currently employs 310 full-time employees and agrees for the benefit of the County and the City to create, fill and maintain an employment level of 16 additional full-time positions for a total of 326 full-time employees following the project parameters as outlined in the performance agreement. The Company also agrees to maintain these full-time positions through direct employment beginning December 31, 2015 and ending December 31, 2019 following the project parameters. (Gildan Activewear Performance Agreement).

Time is requested at the November 18th City Council meeting to hold a public hearing on the incentive package for Gildan Activewear (Eden.) The City Council will consider approval of an appropriation from its general fund in an amount not to exceed \$392,629.61 which will be distributed to the company in annual installments following the project parameters.

The consideration for such incentive package shall be a contractual obligation by Gildan Activewear (Eden) to invest up to \$12,700,000 in net new taxable machinery and equipment and \$10,400,000 in building improvements in two phases following the project parameters outlined in the performance agreement. The Company agrees to maintain the net new taxable machinery and equipment beginning December 31, 2015 and ending December 31, 2019 following project parameters. The incentive is based on 80% of the company investment for five years. Rockingham County is offering the same investment.

The Company currently employs 310 full-time employees. The Company agrees for the benefit of the County and the City to create, fill, and maintain an employment level of 16 additional full-time positions for a total of 326 full-time employees following the project parameters as outlined in the performance agreement. The Company also agrees to maintain these full-time positions through direct employment beginning December 31, 2015 and ending December 31, 2019 following the project parameters. It is anticipated that the investment will generate increased tax base and other revenues.

Mayor Pro Tem Burnette called for a public hearing and asked Mr. Mike Dougherty, Director of Business & Economic Development, to come forward.

Mr. Dougherty explained that this was Gildan's fourth expansion in four years and this expansion has necessitated their carrier to also move to a different area on Summit Road so it has actually had a two-fold effect for us and in the past we have seen that Gildan has normally exceeded those employment parameters.

Mayor Pro Tem Burnette asked if anyone was present who wanted to speak in favor or in opposition of this performance agreement. As no one came forward to speak, he then declared the public hearing closed.

A motion was made by Council Member Carter seconded by Council Member Ellis to approve the Performance Agreement – Gildan Activewear Incentives. All Council Members voted in favor of this motion. This motion carried.

- b. Consideration of approval of an appropriation from the General Fund in an amount not to exceed \$555,853.79 in two phases which will be distributed in annual installments for the project parameters. A contractual obligation by SGRTEX, LLC

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to invest up to \$35,370,000 in net new taxable machinery and equipment and building improvements in two (2) phases following the parameters outlined in the performance agreement. The Company agrees to maintain the net new taxable machinery and equipment beginning December 31, 2015 and ending December 31, 2021 following project parameters. The incentive is based on 80% of the company investment for five years. Rockingham County is offering the same incentive. The Company also agrees to create 84 full-time positions in two (2) phases following the project parameters as outlined in the company performance agreement. The Company also agrees to maintain these full-time positions through direct employment beginning December 31, 2015 and ending December 31, 2021 following the project parameters.

Time is requested at the November 18th City Council meeting to hold a public hearing on the incentive package for SGRTEX LLC. The City Council will consider approval of an appropriation from its general fund in an amount not to exceed \$555,853.79 in two phases which will be distributed to the company in annual installments following the project parameters.

The consideration for such incentive package shall be a contractual obligation by SGRTEX, LLC to invest up to \$35,370,000 in net new taxable machinery and equipment and building improvements in two (2) phases following the parameters outlined in the performance agreement. The Company agrees to maintain the net new taxable machinery and equipment beginning December 31, 2015 and ending December 31, 2021 following project parameters. The incentive is based on 80% of the company investment for five years. Rockingham County is offering the same incentive.

The Company also agrees to create 84 full-time positions in two (2) phases following the project parameters as outlined in the company performance agreement. The Company also agrees to maintain these full-time positions through direct employment beginning December 31, 2015 and ending December 31, 2021 following the project parameters. It is anticipated that the investment will generate increased tax base and other revenues.

Mayor Pro Tem Burnette called for a public hearing and asked Mr. Dougherty, to come forward.

Mr. Dougherty explained that Mr. Phil Raeford was in the office and was the chief operating officer. They had an open house last week with good responses.

Mayor Pro Tem Burnette asked if anyone was present who wanted to speak in favor or in opposition of this request. As no one came forward to speak, he then declared the public hearing closed.

A motion was made by Council Member Epps seconded by Council Member Turner to approve the Performance Agreement. All Council Members voted in favor of this motion. This motion carried.

- c. Consideration of approval of SKAT bus resolution in support of the North Carolina Department of Transportation 5310 program that is designed to enhance mobility of seniors and those with disabilities. The city's issuance of this resolution will allow ADTS to participate in this program.

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The Aging, Disability and Transit Agency (ADTS) of Rockingham County has asked that the Eden City Council pass a resolution in support of the North Carolina Department of Transportation 5310 program that is designed to enhance mobility of seniors and those with disabilities.

The City's issuance of this resolution will allow the ADTS to participate in this program. The benefit to the City is a significant reduction in monetary support it will supply to the skat bus program.

Mayor Pro Tem Burnette called for a public hearing and asked Mr. Dougherty, to come forward.

Mr. Dougherty explained that the city's contribution had gone up dramatically however this year they were going to be the applicants for this program and because of that the city's contribution will be reduced.

Mayor Pro Tem Burnette asked if anyone was present who wanted to speak in favor or in opposition of this request. As no one came forward to speak, he then declared the public hearing closed.

A motion was made by Council Member Epps seconded by Council Member Hall to approve the application of the grant. All Council Members voted in favor of this motion. This motion carried.

A motion was made by Council Member Ellis seconded by Council Member Hampton to approve and adopt the resolution. All Council Members voted in favor of this motion. This motion carried.

### **PUBLIC TRANSPORTATION 5310 PROGRAM RESOLUTION**

**WHEREAS**, Article 2B of Chapter 136 of the North Carolina General Statute and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

**WHEREAS**, the North Carolina Department of Transportation will apply for a grant from the US Department of Transportation, Federal Transit Administration and receives funds from the North Carolina General Assembly to provide assistance for public transportation projects; and

**WHEREAS**, the purpose of the Section 5310 program is to enhance mobility for seniors and individuals with disabilities throughout the country, by removing barriers to transportation services and expanding the transportation mobility options available. Toward this goal, FTA provides financial assistance for transportation services planned, designed, and carried out to meet the special transportation needs of seniors and individuals with disabilities in all areas.

**WHEREAS**, NCDOT has been designated as the State agency with principle authority and responsibility for administering the Section 5310 Program for small urbanized and rural areas.

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

That the City of Eden, NC hereby assures and certifies that it will comply with the federal and state statutes, regulations, executive orders, and all small administrative requirements related to the applications made to

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and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U.S.C.

That S. Brad Corcoran, City Manager, is hereby authorized on behalf of the City of Eden to submit a grant for federal and state funding, provide the required local match, make the necessary assurances and certifications, and be empowered to enter into an agreement with the NCDOT to provide public transportation services.

Adopted this the 18<sup>th</sup> day of November, 2014.

James C. Burnette,  
Mayor Pro Tem

NEW BUSINESS:

- a. Consideration of approval and adoption of an ordinance establishing a sixty day moratorium on development approvals for coal ash landfills.

Mayor Pro Tem Burnette asked Ms. Kelly Stultz, Director of Planning & Inspections to come forward.

Ms. Stultz - the ordinance that they were asking them to consider is a part of our normal zoning process as we deal with uses that become to be necessary or changes that need to be made. The reason that we are handling this particular situation in this way is so that we can meet statutory changes that have been made by the General Assembly. I would like to introduce to you Dr. Rebecca Fry, from the University of North Carolina and she is going to speak to you on part of this issue.

Dr. Fry – good evening Council Members, it is a pleasure to be here, I am going to be presenting just a few slides about the research that I do in Chapel Hill and as my title slide shows many of the contaminants that we find in coal ash have potentially harmful health effects. Just for introduction I am in the school of public health, I am faculty there, teach and do research. I am part of the Lineberger Cancer Center, the curriculum toxicology, and I am also the deputy director of UNC's superfund research program where we focus on contaminated sites around the state and how we deal with these contaminants. As a disclaimer I am an academic I do research and I teach and I am here to present my research.

And my goals in my job are to improve public health and my goal tonight is to present to you on the health effects of toxic metals in children and adults. Just as a way to give you introduction in to how I started in this business, About 15 years ago the princess of Thailand, this is a picture of princess Chulabhorn, came to MIT where I was doing a post-doc, she had concerns over arsenic exposure in her region around Pablo, Thailand and she was worried about health affects in children.

And over about a 4 year period of doing research with the government one of the things that we showed was that in the infants who experienced this arsenic exposure they were

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turning on proteins that were known to be associated with problems in the body like inflammation that can lead to cancer.

So when I started my lab at UNC I wanted to continue to pursue this, started a collaboration with the Department of Health and Human Services and a collaborator in my department, Mark Saer who is a geospatial analyst, and together we analyzed a database of 63,000 private well records in the State of North Carolina so I am showing you a map of different counties in the state. In counties that are dark gray or black we have concerns for elevated levels of inorganic arsenic, which is a known carcinogen in private wells. We have over 2 million people who are drinking from private wells in North Carolina and some of these wells were extremely high, up to 800 parts per billion in some of the counties and these levels are levels you will see in third world countries.

We have recently published; following up on that study, we published about 2 months ago other metals that are also found in private wells arsenic, cadmium, manganese, and lead and we worked with the State of North Carolina Birth Defects Monitoring Program to integrate this data with birth defects trends across the state and sadly show that there are associations between levels of toxic metals in North Carolina and trends in birth defects.

So coal ash as I am sure you are very well aware is the waste material left over after coal is burned and it contains some of these metals that I have been studying for a very long time, arsenic, cadmium, lead, mercury, and many others and most of them toxic.

So this ash can be released into the environment from blowing, spilling, leaching from storage units into air, land and drinking water and this leaching poses an acute risk of not only cancer but other end points in the body, neurological.

We also have concerns about the safety of transportation that coal ash can spill, there can be concerns over contamination during these efforts.

In terms of the toxic metals they serve no useful purpose in the body as opposed to essential metals which we need and their presence in the body can lead to toxic effects and do harm. All of the health effects that I am about to show you in the next few slides can be found at a website called the ATSDR, that is the Agency for Toxic Substances and Disease Registry.

So arsenic, one of the metals that I have been focusing on as I said for more than a decade has health effects in children that includes being born at low birth weight, risk of infection, there is a recent study from New Hampshire Children's Environmental Health Initiative that shows that arsenic in New Hampshire puts infants at risk of respiratory infection, birth defects as I showed in the former slides and in adults and even in adults who only experienced an in utero exposure we can have health effects of cancer and diabetes.

Cadmium also present in coal ash has been associated with lower birth weight, lung disorders and cancer in adults, kidney damage, brain damage.

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Lead can have severe impact on neurodevelopment reducing IQ points in children, in adults we can see the evidence of that neurodevelopmental effect in terms of impaired concentration, reduced IQ, can also inhibit hemoglobin production associated with hypertension and influence reproductive effects.

And finally mercury associated with neurodevelopmental defects and impacts on the nervous, digestive, immune system, lungs, and kidneys.

One of the concerns that we have of course for many of these metals is that they can bio accumulate, so they can occur in the rivers and in its sediments be taken up by fish that are then consumed by humans and so that exposure once at the base of a river impacts human health.

So some of my research as I showed you focuses on concerns to the developing fetus because this is the time when our organs and our bodies are developing and so these are critical times for protection. Some of the research that I do actually shows that there is a new information in biology something called the epigenome, which are modifications that occur on top of our DNA and the implication of these changes is that exposures in a baby can actually have trans generational effects so exposure to someone today can influence the health of their grandchildren later in life. And I presented some of that research last week in San Jose at the Annual Superfund Conference.

So that is it, those are my slides, thank you very much for your attention. I also did want to highlight that because of the toxicities of these metals it is critically important that we have appropriate forms of regulation for coal ash. Thank you.

This is a picture of my lab posing at UNC's Old Well.

*A copy of the PowerPoint presented by Dr. Fry is located in the office of the City Attorney.*

Ms. Stultz – additionally I'd like to ask you to hear from Mr. Chris Thompson, he has more than 25 years of experience dealing with landfills in North Carolina.

Mr. Thompson – good evening Mayor Pro Tem, Council, Mr. Manager. I don't have slides for you tonight I'll just go through what I did prepare. My name is Chris Thompson. I am here at your invitation to explain why it is important to regulate the location of landfills through zoning and to protect public health and safety. So these are some more basic things than what you just saw.

My background is in civil engineering and prior to retiring from the City of High Point last year, I spent the previous 18 years basically by supervising the solid waste aspects of collection and disposal. I was the supervisor of the Kersey Valley landfill, the material recovery facility, Ingleside composting facility and the closed Riverdale landfill which is an inactive hazardous waste site which Ms. Fry may be familiar with.



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I am not a zoning expert, but as a department head I have sat through several years of zoning hearings at city council meetings, and I know what they are and what they are designed to do. I was involved with the City of High Point's efforts to rezone and permit land for multiple expansions at Kersey Valley landfill which is a municipal solid waste landfill, you guys may already be familiar with MSW so if you hear that, that's what that is. I was also supervisor of solid waste when a private company went through zoning in High Point to take over construction and demolition debris recycling and landfilling.

Landfills and solid waste collection are regulated in many ways. Modern MSW landfill containment systems meeting the required Sub-title D regulations are generally safe. They are lined with highly impermeable clay liners, high density polyethylene membranes and engineered leachate collection systems. However, the storage of waste is not the only concern when it comes to health and safety. It is the operation and location of a landfill that must also be considered, and some of these issues are not addressed through state regulations, and therefore must be addressed in the zoning process.

A few key things to consider for the well-being of the general public's safety and health that may be addressed in zoning include: Traffic, dust and mud control, leachate handling, windblown debris, vermin control, and hours of operation.

It is through zoning that a city addresses health and safety concerns related to transportation of waste and access to the solid waste facility. Some waste trucks can be too heavy for your city streets. Other trucks may be too large for safe maneuvering through residential streets to reach a landfill entrance. The state doesn't address this issue. It is the city's job, through zoning, to make sure that trucks have adequate access without blocking roadways and that they use streets and intersections appropriate and safe for that type of traffic.

A city may also be concerned about tractor trailers hauling waste on the same roads as school buses, and it may be necessary to take those preferred access roads and they may have to be widened, or structurally improved, and have turn lanes added. These are safety protections that the city handles through zoning.

If the site that is chosen for a landfill happens to be across the street from a school, you would want to make sure that the landfill entrance is placed in a location that avoids conflicting movements with school buses. Again, this safety issue is controlled through zoning.

Typically, the Permit to Operate that you are granted from the North Carolina Department of Environment and Natural Resources (NCDENR) will determine how a landfill operator handles dust suppression on site. But it is up to the city to decide whether the trucks are allowed to leave the site covered in landfill mud that falls onto city streets and creating potential bad and unsafe road conditions. There are methods you can do to prevent that.

Water becomes leachate when it comes into contact with trash. Leachate is wastewater from a landfill that passes through the compacted waste by gravity and into a leachate

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collection system. Leachate may contain all sorts of chemicals and substances that, if untreated, pose threats to public health. It may also have some of the metals that were aforementioned. The best means of handling leachate is through a sanitary sewer main and treatment in a wastewater treatment plant. Whether the treatment plant is at capacity or can handle this waste is a determination made by the city during local approval. Zoning provides a mechanism for a city to make these decisions.

It is also important to be the best neighbor that you can be as no one likes a landfill as a neighbor anyway. Managing and maintaining an aggressive litter pick up crew is important as wind undoubtedly will create some challenging issues. Just as the dust and mud can create an unsafe condition on the roads, windblown litter can be a nuisance and could potentially be a health concern as well.

One thing that can get out of control if a landfill is not operated properly with daily cover and routine grounds is vermin. This includes rodents as well as birds that are not desired, particularly in abundance. Vermin in large numbers creates concern for public health as the potential for disease is increased. Zoning can address litter issues that contributes to this potential threat to public health and safety.

Finally your hours of operation. NCDENR has authority to impose operating hours, but this is usually not the state's concern. It is a local concern, and this is one of the many issues handled through the zoning process. Without a condition governing hours of operation, a landfill operator could operate heavy equipment under bright lights 24 hours a day despite the presence of residential neighbors nearby. Living adjacent to bright lights and noise is a health concern, and the city where I worked for 25.5 years would not have allowed such operating hours.

Almost every county and city I am aware of has zoning ordinances that determine where a landfill can be located. The questions a city or county must ask don't interfere with the regulations imposed by NCDENR but are designed to provide the best service to the community while maintaining the welfare of the citizens they serve. Thank you.

Ms. Stultz – we would ask that you vote twice. First to consider the ordinance adopting the moratorium this evening and then the resolution that will call a public hearing for a moratorium to be instituted on December 2.

A motion was made by Council Member Epps seconded by Council Member Hampton to approve and adopt the ordinance establishing a sixty day moratorium on development approvals for coal ash landfills. All Council Members voted in favor of this motion. This motion carried.

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**AN ORDINANCE ESTABLISHING A SIXTY DAY MORATORIUM  
ON DEVELOPMENT APPROVALS FOR COAL ASH LANDFILLS**

**WHEREAS** N.C. Gen. Stat. § 160A-381(e) authorizes cities to adopt temporary moratoria on certain development approvals; and

**WHEREAS** N.C. Gen. Stat. § 160A-381(e) further provides for the immediate establishment of moratoria without notice to the public or a public hearing in cases of imminent and substantial threat to public health or safety; and

**WHEREAS** one of the worst coal ash spills in the history of the United States occurred on February 2, 2014 in the planning jurisdiction of the City of Eden at the Duke Energy Dan River Facility, spilling over 27 million gallons of coal ash containment pond water and 78 million pounds of coal ash into the Dan River; and

**WHEREAS** coal combustion residuals and coal combustion products (“coal ash”) are heavily regulated because of the high concentrations of arsenic, mercury, lead, and over a dozen other heavy metals, many of them toxic and a danger to the public health; and

**WHEREAS** landfills are heavy industrial uses of land that, without appropriate considerations regarding location, can have significant impacts on the health, safety and welfare of citizens; and

**WHEREAS** the City of Eden has no zoning ordinances of general application governing the proper and appropriate location of landfills or the proper location of disposal sites for coal ash; and

**WHEREAS** on or about November 6, 2014, Duke Energy informed the city’s planning department that it had just submitted information to the North Carolina Department of Environment and Natural Resources for sedimentation and erosion control activities and plans for soil borings, road construction and other land disturbing activities to determine if certain properties are suitable for a landfill; and

**WHEREAS** Duke Energy further informed the City of Eden that, in the absence of other zoning regulations, it intends to construct a coal ash landfill within the city’s extraterritorial jurisdiction on property that is adjacent or proximate to the Dan River and residential neighborhoods; and

**WHEREAS** a visual inspection of properties near or adjoining the Duke Energy Dan River Facility site on November 12, 2014, indicated that these properties have just been surveyed; and

**WHEREAS** on or about November 12, 2014 a Duke Energy representative informed the City of Eden city manager, mayor and mayor pro tem that when Duke Energy told the public that it would be storing coal ash “on site” that it really did not mean “on site” but rather another property near the Dan River facility, and that one of those properties could be property owned by Hopkins, LLC or other sites. This statement was nonbinding, and Duke Energy potentially could use any site large enough for a landfill, regardless of location; and

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**WHEREAS** a survey by the City of Eden planning department has determined that there are over 25 sites in the City of Eden or its extraterritorial jurisdiction that are large enough to support a landfill for coal ash; and

**WHEREAS** on November 13, 2014, Duke Energy issued a press release announcing that it had just submitted detailed coal ash excavation plans to NC DENR, and among the materials provided was the statement that it was considering landfill solutions; and

**WHEREAS** it is the official decision and determination of the City of Eden Planning Director that Duke Energy has taken no actions and received no permits that would vest Duke Energy by statute or by common law with rights to proceed under the current City of Eden Zoning Ordinance to construct a coal ash landfill or disposal site; and

**WHEREAS** almost all counties and most cities greater than 5,000 residents have ordinances of general application that establish zoning districts, setbacks, landscaping and general location requirements for landfills and other solid waste disposal activities; and

**WHEREAS** until NC DENR decides to issue permits to construct and operate a landfill that limit the waste streams allowed, Duke Energy could potentially design a landfill and apply for permits to accept and receive any form of solid waste, in addition to coal ash, that is allowed in landfills in North Carolina; and

**WHEREAS** it is not the intent of the City of Eden to place any restriction or condition upon the management of coal combustion residuals and coal combustion products not already placed by the State of North Carolina through N.C. Gen. Stat. Chapter 130A, Article 9, Part 2I (Coal Ash Management); and

**WHEREAS** it is not the intent of the City of Eden to adopt any ordinance that conflicts with or is in any manner inconsistent with the provisions of the Coal Ash Management Act of 2014; and

**WHEREAS** it is not the intent of the City of Eden to adopt ordinances governing the methods of disposal of coal ash but to adopt zoning ordinances of general application governing the appropriate locations and procedures for approving the locations of coal ash landfills and the location of other means of disposal of coal ash for the protection of public health and safety but only as appropriate through zoning regulations common in all North Carolina jurisdictions; and

**WHEREAS** it is the intent of the City of Eden to allow and provide for a procedure for the approval of appropriate locations for the disposal of coal ash; and

**WHEREAS** N.C. Gen. Stat. § 160A-381(e) does not require a public hearing or public notice to establish a moratorium when the municipality determines that there is a reasonable basis to conclude that failure to regulate an activity through zoning could pose an imminent threat to public health and safety; and

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**WHEREAS** the City of Eden, acting through its elected officials, has determined, based upon available evidence, that there is a reasonable basis to conclude that without zoning regulations in place there is an imminent threat to public health and safety if Duke Energy took steps to vest its rights to proceed under the current Zoning Ordinance; and

**WHEREAS** recently enacted Senate Bill 729 (Session Law 2014-122) provides that local zoning ordinances are presumed to be valid and enforceable to the extent the ordinance imposes requirements and restrictions that are generally applicable to development; and

**WHEREAS** no provision in Senate Bill 729 (Session Law 2014-122) prevents a city from using the powers provided in N.C. Gen. Stat. § 160A-381(a) and (e) to adopt ordinances establishing zoning regulations affecting or regulating landfills for coal ash; and

**WHEREAS** it is the intent of the City of Eden to adopt amendments to its zoning ordinance and to establish procedures expeditiously so as not to interfere with reasonable timelines necessary for the disposal of coal ash from the containment pond at the Dan River Facility; and

**WHEREAS**, based and relying upon press releases and private conversations with Duke Energy representatives that its first steps to remove coal ash would involve transport to a landfill in Virginia and only secondarily to dispose of the remaining coal ash in a landfill, a sixty day moratorium on development approvals would not impose any unreasonable restriction upon Duke Energy's timelines or prevent Duke Energy from proceeding with site studies; and

**WHEREAS** November 18, 2014 is the earliest date the City of Eden City Council could meet to consider a moratorium.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Eden, State of North Carolina, that:

**Section 1: Moratorium Established**

A moratorium is immediately established on development approvals for coal ash landfills in the City of Eden and its extraterritorial jurisdiction, to continue in effect until 11:59 p.m. on January 17, 2015, unless earlier terminated or supplanted by another moratorium pursuant to N.C. Gen. Stat. § 160A-381(e).

**Section 2: Description of Imminent Threat to Public Health and Safety**

The toxic quality of coal ash has been the most widely discussed topic in the City of Eden in 2014. It is well known, from government and scientific sources, that coal ash contains many toxic chemicals and high concentrations of heavy metals such as arsenic, chromium, mercury, uranium and lead, which are well-documented to cause cancers, neurological disorders, brain injury, and death, among other major health concerns. Although most aspects of coal ash management and disposal are governed by state and federal regulations that pre-empt local ordinances, it is through zoning that a municipality exercises its police powers to protect public

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health and safety to determine the safe and appropriate locations of certain uses and the access, traffic regulation, setbacks, hours of operation and other matters affecting health and safety not regulated by state and federal laws. In the absence of such ordinances of general application, the City of Eden is not able to perform its non-preempted functions to protect the public health and safety.

### **Section 3: Problems and Conditions Necessitating Moratorium**

The safe methods for disposal of coal ash and coal combustion products are established under the Resource Recovery and Conservation Act, N.C. Gen. Stat, Chapter 130A, Article 9, and 15A NCAC 13B .1600 et. seq., but these federal and state laws do not address general matters that are commonly controlled through zoning ordinances. In the 21<sup>st</sup> century, land use planning and zoning are the primary means by which local communities determine the proper locations for certain uses and the rules and standards under which they may be developed consistent with the rights of owners of adjoining and nearby properties.

A landfill for coal ash or any coal combustion product would require the transport of a highly toxic substance. Without zoning controls, the City has no mechanisms for determining whether such transport would be through public streets, or past homes, schools and hospitals, nor would the City have a means for requiring that certain routes would be used instead of others. Additionally, trucks could be used for hauling coal ash that exceed the weight limits for city streets and use intersections where truck traffic would create materially dangerous conditions.

Landfills generate leachate that often requires use of public sewer; cause noise that can disrupt residential neighborhoods; produce dust that would make certain locations improper; and, without other controls, can have hours of operations allowing bright lights that would be disruptive of adjoining or nearby residents if transport and disposal activities occurred at night.

It is also through zoning ordinances that municipalities require certain uses to receive a special or conditional use permit through which the developer can demonstrate that, under the conditions and location proposed, the use will not substantially injure the value of adjoining or nearby properties. Because of the public attention caused by Duke Energy's spill of 39,000 tons of coal ash and the media's efforts to inform the public of the dangers of coal ash, it is not unreasonable to require any entity developing a landfill for coal ash to demonstrate that neighbors' property values will not be injured.

### **Section 4: Alternative Actions Considered and Why Inadequate**

The City Council has considered asking Duke Energy to choose a site or a landfill that would be acceptable to the City and all neighbors under any zoning scenario. However, Duke Energy has engaged in actions over the past ten months that lead the City Council to conclude that Duke will only act in its own best interests and the interests of its shareholders, and to take all steps necessary to meet timelines imposed by the State of North Carolina regardless of the implications to the local community as a result of its actions. The City's distrust of Duke Energy was only exacerbated when Duke Energy recently asked to meet with city officials but refused to leave written copies of its presentation and refused to provide business cards that would identify

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the Duke Energy's representatives at the meeting. If the City proceeded to adopt text amendments through normal procedures, it is possible for Duke Energy to request and receive certain permits that potentially would vest Duke's rights to proceed under a Zoning Ordinance that does not regulate the placement and location of landfills. Accordingly, the City determines that anything short of a moratorium is inadequate to protect the public and the City of Eden.

The City does not concede that Duke Energy could take actions to vest its rights to proceed outside of any zoning regulations by requesting a building permit or other determination but, out of an abundance of caution, establishes this moratorium to prevent such issue from arising and to protect the citizens of the City of Eden and its extra-territorial jurisdiction.

#### **Section 5: Development Approvals Subject to Moratorium and How Moratorium Address Problems**

This moratorium only applies to development approvals in any form, including, but not limited to, building permits, sedimentation and erosion control permits, zoning permits, land disturbance permits, and letters requested by interested parties for confirmation of zoning status or confirmation of no zoning regulations, when such permits, approvals and requests relate to a project being developed for the disposal of coal ash in a landfill.

#### **Section 6: Express Date for Termination of Moratorium and Reason for Moratorium Length**

This temporary moratorium shall be effective and continue in full force until 11:59 p.m. on January 17, 2015. It is imposed to maintain the status quo while the City of Eden follows the procedures in N.C. Gen. Stat. § 160A-381(a) and (e) for amending the City of Eden Zoning Ordinance.

#### **Section 7: Schedule of Actions to be taken to Address Problems Leading to a Moratorium**

The City will immediately consider and study the proper zoning districts for coal ash landfills; reasonable development standards for coal ash landfills; the methods for permitting coal ash landfills; and any other actions necessary to protect the public from improperly placed landfills. The City will not study methods for managing coal ash that would be pre-empted under Senate Bill 729 (Session Law 2014-122).

It is anticipated that the City of Eden will also consider at its December 2, 2014 city council meeting whether to impose a moratorium on several other land uses not listed in or regulated by the City of Eden Zoning Ordinance, but for which there is no imminent threat to public health or safety and therefore no basis to establish a moratorium without the minimum statutorily required seven days notice. Among those uses for which ordinances of general application may be developed are other types of sanitary landfills; the use of coal ash for structural fill as a beneficial use when the disposal of coal ash is the primary purpose of the fill and the beneficial use is ancillary or accessory; the recycling or manufacture of products from coal ash; asphalt production; scrap metal storage and recycling; mining and rock quarries; chemical manufacturing; chip mills; rendering plants; concrete plants; and fracking.

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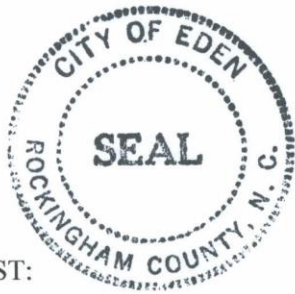
**Section 8: Notice of Moratorium**

This ordinance shall be served electronically and by first class and certified mail, return receipt requested, upon Duke Energy's regional representative who has been designated to speak for Duke Energy on matters related to the City of Eden.

**Section 9: Effectiveness**

This moratorium shall be effective upon adoption.

APPROVED AND ADOPTED this 18<sup>th</sup> day of November, 2014.



CITY OF EDEN

BY:   
James C. Burnette, Mayor Pro Tem

ATTEST:

  
Sheralene Thompson, CMC  
City Clerk

- b. Consideration of approval and adoption of a resolution calling for a public hearing to be held by the City Council on the question of adopting an ordinance establishing a 60 day moratorium on developmental approvals for certain land uses.

A motion was made by Council Member Ellis seconded by Council Member Carter to approve and adopt a resolution calling for a public hearing to be held by the City Council on the question of adopting an ordinance establishing a 60 day moratorium on developmental approvals for certain land uses. All Council Members voted in favor of this motion. This motion carried.



Minutes of the regular November 18, 2014 meeting of the City Council, City of Eden:

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDEN CALLING FOR A PUBLIC HEARING TO BE HELD BY THE CITY COUNCIL ON THE QUESTION OF ADOPTING AN ORDINANCE ESTABLISHING A 60 DAY MORATORIUM ON DEVELOPMENTAL APPROVALS FOR CERTAIN LAND USES**

**WHEREAS** N.C. Gen. Stat. § 160A-381 (e) authorizes cities to adopt temporary moratoria on certain development approvals; and

**WHEREAS** N.C. Gen. Stat. § 160A-381 (e) requires that before adopting an ordinance imposing a development moratorium with a duration of 60 days or any shorter period, the governing board shall hold a public hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date set for the hearing; and

**WHEREAS** the City of Eden has no zoning ordinances of general application governing the proper and appropriate location of sanitary landfills, solid waste disposal facilities, the use of coal ash for structural fill as a beneficial use when the disposal of coal ash is the primary purpose of the fill and the beneficial use is ancillary or accessory or incidental; asphalt production; scrap metal storage and recycling; mining and rock quarries; chemical manufacturing, chip mills, rendering plants, concrete plants and fracking; and

**WHEREAS** the City of Eden wishes to hear from interested citizens whether a 60 day moratorium would unreasonably interfere with projects or approvals that would disrupt or impede economic development or the generation of jobs; and

**WHEREAS** if a moratorium is established, the City of Eden will act expeditiously so that no efforts to develop any of the above-listed uses is unreasonably interfered with; and

**WHEREAS** it is the intent of the City of Eden to adopt zoning ordinances of general application governing the appropriate locations and procedures for approving certain uses not currently governed under the City of Eden Zoning Ordinance.

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

Section 1. A public hearing on the question of adopting an ordinance establishing a 60 day moratorium on development approvals for sanitary landfills, solid waste disposal facilities, the use of coal ash for structural fill as a beneficial use when the disposal of coal ash is the primary purpose of the fill and the beneficial use is ancillary or accessory or incidental; asphalt production; scrap metal storage and recycling; mining and rock quarries; chemical manufacturing, chip mills, rendering plants, concrete plants and fracking in the City of Eden and its extraterritorial jurisdiction shall be held on December 2, 2014.

November 18, 2014

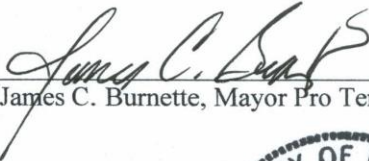
City of Eden, N. C.

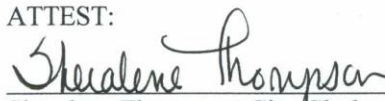
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Section 2. Notice of the public hearing shall be duly published in a newspaper having general circulation in the area not less than seven days before the date set for the hearing. Notice of the time and place of the public hearing shall be given and included in the notice.

APPROVED, ADOPTED AND EFFECTIVE this 18<sup>th</sup> day of November, 2014.

CITY OF EDEN

By:   
James C. Burnette, Mayor Pro Tem

ATTEST:  
  
Sheralene Thompson, City Clerk



c. Consideration of Board & Commission Appointments.

Mayor Pro Tem Burnette asked Ms. Stultz to come forward.

Ms. Stultz explained that it was time again to make annual appointments for City Boards and Commissions.

City Council Members who had appointments were as follows:

Ward 4 – Council Member Epps

Historic Preservation Commission: Louise Price

Planning Board: Fred Ramsey

A motion was made by Council Member Ellis seconded by Council Member Hall to appoint Louise Price to Historic Preservation Commission and Fred Ramsey to Planning Board, representing Ward 4. All Council Members voted in favor of this motion. This motion carried.

d. Consideration of bids for the N. Hundley Drive Storm Drainage Replacement Project.

Mayor Pro Tem Burnette called Mr. Bev O'Dell, City Engineer, to come forward for a report.

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Mr. O'Dell explained that the Bid Opening for the N. Hundley Drive Storm Drainage Replacement project was held at 11:00 AM today. The bids received ranged from \$205,209.00 to \$270,203.00. Attached is a copy of the Bid Tab Sheet showing the bidders and the amount of each bid as read at the bid opening.

The bids have been reviewed, and all complied with the bidding requirements. Citty's Plumbing and Pools, Inc. of Reidsville, NC submitted the lowest responsive bid, with a corrected base bid amount of \$204,849.00. The contractors were given two options for making the currently closed section of N. Hundley Drive usable for vehicular traffic for the upcoming Draper Christmas Parade. Removing the cost for item #90 from the base bid, yields a revised Citty's Plumbing and Pools, Inc. cost of \$200,849.00.

The Engineering Department recommends that the N. Hundley Drive Storm Drainage Replacement project contract be awarded to Citty's Plumbing and Pools, Inc., at the revised amount of \$200,849.00 (with item #90 removed from consideration).

Funds allocated in the FY 2014-2015 budget included \$33,000 in Water Construction and \$63,000 in Sewer Construction for this project. To proceed with the construction of this project, it is requested that \$115,000 be transferred from the Contingency account to the Street Department M/R Storm Drains line item.

Council Member Ellis stated that he appreciated what they have done on this and were pleased to hear this project was being completed.

Mayor Pro Tem Burnette asked if they have used this company before.

Mr. O'Dell replied that they have done some waterline projects primarily and also some of the sewer work as a sub for Sam W. Smith, Inc. at Indian Hills, but that was just a small portion, mostly it has been water. This will be their first drainage product but the material that was being used will have been the first by any of the local contractors for the city. Some of them have done that particular type of material elsewhere but not here.

A motion was made by Council Member Epps seconded by Council Member Carter to approve the low bid by Citty's Plumbing and Pools, Inc., at the revised amount of \$200,849.00 with item #90 removed from consideration and includes using contingency funds. All Council Members voted in favor of this motion. This motion carried.

#### AUDIT PRESENTATION:

- a. Presentation of the 2013-2014 Audit by Rouse, Rouse, Penn & Rouse

Mayor Pro Tem Burnette introduced Ms. Judy Rouse.

Ms. Rouse explained that she was happy to be there to present the audit. She explained that they have a copy of the audit report for the financial period ending June 30, 2014. The

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audit document has now been formally approved by the Local Government Commission (LGC).

She asked them to turn to page 1 of the Independent Auditor's Report and explained that they have audited the financial position of the governmental activities, the business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information of the City of Eden, North Carolina as of June 30, 2014, and the relating notice of the financial statement which collectively comprised the city's basic financial statements as listed in the table of contents.

She asked them to turn to page 2 and noted the important part was that they have a clean opinion. She stated that in their opinion, based on their audit, the financial statements referred to present fairly, in all material respects, the financial position of the governmental activities, the business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information of the City of Eden, North Carolina as of June 30, 2014, and the respective changes in financial position and cash flows where appropriate thereof and the respected budgetary comparison for the General Fund.

This was prepared based on the State Single Audit Act and of course it includes information required as a result of GASB or what is called Governmental Accounting Standards Board Statement No. 34. Also, it is noteworthy to point out that the Eden ABC Store Financial Statement is also presented in this report (see pages 15-16 and 46) as the ABC Store is a component unit of the City of Eden.

### General Fund

The General Fund is the general operating fund of the City. The General Fund accounts for all financial resources except those that are required to be accounted for in another fund.

Ms. Rouse asked them to refer to page 76, and noted that near the bottom of the page that the Fund Balance in the General Fund increased from \$8,443,021 to \$8,837,901 an increase of \$394,880 or approximately 4.68%. The main reason for this increase is the increase of cash and cash equivalents (near the top of the page) by \$533,845 or approximately 7.65% from \$6,976,098 to \$7,509,943. In addition, near the bottom of the page, the information indicates that the Fund Balance available for Appropriations or called the "unassigned" fund balance equals \$6,108,583 which is a decrease of \$235,421 or approximately 3.71% when compared to the June 30, 2013 total of \$6,344,004. This is due to the fact that \$450,000 is listed at the bottom of the page as "assigned – subsequent year expenditures" for June 30, 2014 and was \$0 for June 30, 2013. The \$450,000 in existing fund balance that was already assigned prior to June 30, 2014 for use during FY 2014-15 in the General Fund is for additional funding in the Contingency line item for use if needed and the Grogan Park Project which involves the use of previously collected donations received from businesses, organizations and individuals.

### Note

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She noted that \$246,437 is shown under the June 30, 2014 Fund Balances: Restricted – Cultural & Recreational line item near the bottom page and \$450,000 (which includes \$200,000 for Grogan Park) is shown under the Fund Balances: Assigned – Subsequent Year Expenditures. This suggests there is actually \$446,437 in restricted funds for Grogan Park but there is only \$246,437. The amounts shown in the audit document had to be shown twice on the balance sheet because of the way it was shown in the budget. This means the “unassigned” fund balance is really \$200,000 more than what’s shown in the audit document or \$6,308,583 as opposed to \$6,108,583.

She asked them to turn to page 92, near the middle of the page it indicates that the total expenditures during FY 2013-14 for the General Fund amounted to \$13,602,165. One-twelfth of that amount is \$1,133,514. As such, three months operating expenses would equal \$3,400,542. The amount unassigned at June 30, 2014 (\$6,108,583) is actually \$2,708,041 over that threshold. According to the most recent data available from the State Treasurer’s Office, the 2013 statewide unassigned fund balance average for municipalities was 42.86% of General Fund expenditures or \$3,452,471 and the statewide average for municipalities without electricity were 44.19% of General Fund expenditures or \$3,092,392. The 2013 statewide average for municipalities without electricity with a population ranging from 10,000 to 49,999 was 49.97% of General Fund expenditures or \$8,105,796. Eden’s unassigned balance of \$6,108,583 on hand on June 30, 2014 equals approximately 44.91% of General Fund expenditures (\$13,602,165) for FY 2013-14.

On page 78 they would find the Revenues for the General Fund. At the bottom of the page she noted that the budget revenues were \$13,480,900 and the actual revenues were \$13,855,809 for a favorable variance of \$374,909 or approximately 2.78%. Overall, the revenues for the General Fund were up from the prior year (\$13,356,170) by \$499,639 or approximately 3.74%. In the current June 30, 2014 financial statements it indicates on page 77 that the actual current year taxes (top of the page) went up slightly from \$5,324,823 for 2013 to \$5,603,421 for 2014 which is an increase of \$278,598 or approximately 5.23%. She also noted that privilege licenses (top third of the page) increased by \$184,259 or approximately 459.74% from \$40,079 for the period ending June 30, 2013 to \$224,338 for the period ending June 30, 2014 due to the electronic sweepstakes. As each of them was aware, the NC General Assembly voted to eliminate privilege licenses for next year which will cost taxpayers approximately \$224,338 per year. It should also be noted there are no current provisions from the NC General Assembly intended to replace any of this lost revenue.

Near the bottom of page 77 they would see the restricted intergovernmental revenues. It should be noted that this group of revenues decreased by \$43,025 or approximately 6.19% from \$694,299 for the period ending June 30, 2013 to \$651,274 due to less restricted grant funds being received during FY 2013-14.

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At the bottom of page 78 they would find the miscellaneous revenues within the General Fund. You will note that the "Donations" line item went from \$23,600 during FY 2012-13 up to \$251,798 for FY 2013-14. This significant increase is due to the fact that the City received donations from individuals, businesses and organizations throughout the year for the future development of the John E. Grogan Park. In addition, they would note that the "Street Repair Reimbursement" line item went from \$69,596 during FY 2012-13 down to \$ 0 for FY 2013-14. The funds from 2013 represented a reimbursement check from Gildan for the street resurfacing work that was completed during FY 2012-13 on Edgewood Road.

On page 92 they would find the Total Expenditures for the General Fund. Near the middle of the page they would note that the total budgeted operating expenditures were \$13,911,000 and the total actual expenditures for the General Fund amounted to \$13,602,165. This was a favorable variance of \$308,835 or approximately 2.22%. Overall, the expenditures for the General Fund were down from the prior year (\$14,338,022) by \$735,857 or approximately 5.13%. Some of the reasons for this decrease are as follows. First, in the Street Department (page 88) there was \$599,051 that was spent during 2013 for C/O Improvements which was additional street resurfacing projects. In 2014 only \$11,227 was spent in C/O Improvements for a year-to-year reduction in spending equal to \$587,824. Second, in the Fire Department (page 87) it indicates their expenses associated with C/O Vehicles decreased by \$230,200 from \$230,200 to \$0. Third, in the Police Department (page 87) it indicates their expenses associated with C/O Vehicles decreased by \$435,899 from \$435,899 to \$0.

As each of them aware, the General Fund is reimbursed by the Water and Sewer Fund for expenses within the General Fund that are related to Water and Sewer activities but charged to the General Fund. Page 113 (near the top of the page) indicates that the Water & Sewer Fund reimbursed the General Fund for these utility service fees in the amount of \$1,190,039 which is an increase of \$88,197 or approximately 8.00% from the \$1,101,842 that was reimbursed during FY 2012-13.

### Special Revenue Funds

Ms. Rouse then moved to the Special Revenue Funds (page 94) and explained that they are used to account for the proceeds of specific revenue sources (other than special assessments, expendable trusts or major capital Projects) that is legally restricted to expenditures for special purposes. The City had four (4) Special Revenue Funds during FY 2013-14: Emergency Communications Fund, Municipal Service District Tax Fund, the Community Development Block Grant Fund and the NC Department of Commerce Building Reuse Grant Fund.

The Emergency Communications Fund (pages 95-96) accounts for the E911 monies that are received and includes expenditures related to the E911 system for emergency communications. It had a June 30, 2014 fund balance of \$91,721 (page 95) which is an increase of \$75,689 or approximately 472.11% when compared to the June 30, 2013 fund balance of \$16,032. As each of you is aware, we are in the process of consolidating our

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E911 services with Rockingham County and the City of Reidsville in the new E911 center in Wentworth.

The Municipal Service District Tax Fund (pages 97-98) includes the tax that was voted on by the Washington Street and Draper Village Merchants and is designated for various projects within those areas. It had a June 30, 2014 fund balance of \$9,668 (page 97) which is an increase of \$3,938 or approximately 68.72% when compared to the June 30, 2013 fund balance of \$5,730.

The Community Development Block Grant Fund (pages 99-100) includes the revenues and expenditures related to the Stone Creek Apartments and the NC Department of Commerce Building Reuse Grant Fund (pages 101-102) includes the revenues and expenditures related to the building reuse grant.

Additional information concerning the Special Revenue Funds can be found on pages 93 thru 102.

#### Water & Sewer Fund – Enterprise Fund

Ms. Rouse explained that the Water & Sewer Fund is used to account for the City's water and sewer operation. The Fund Balance in the Water and Sewer Fund for the period ending June 30, 2014 was \$6,558,302. This is a decrease of \$416,901 or approximately 5.98% when compared to the June 30, 2013 total of \$6,975,203. This is calculated by taking the fund balance at June 30, 2013, \$6,975,203 and then subtracting the expenditures over revenues and other financing sources number found at the bottom of page 114 which is equal to \$416,901. On June 30, 2012 the Fund Balance in the Water and Sewer Fund equaled \$8,939,268 and on June 30, 2011 the Fund Balance in the Water and Sewer Fund equaled \$11,333,437. Due to insufficient revenues to meet their ongoing capital improvement needs they have used a total of \$4,775,135 in fund balance during just the past three years (\$11,333,437 down to just \$6,558,302). This is a reduction of approximately 42.13% in just the past two years.

Page 103 includes the Comparative Balance Sheets for the Water & Sewer Fund comparing the period ending June 30, 2014 to the period ending June 30, 2013. Near the bottom of this page it indicates that the net assets in the Water & Sewer Fund decreased by \$730,539 or approximately 1.58% from \$46,235,426 to \$45,504,887. The information at the top of the page indicates that the combined cash & investments decreased by \$250,956 or approximately 4.43% from \$5,663,559 in the prior year down to \$5,412,603 for FY 2013-14. Near the top of the page you will also note that the total current assets decreased by \$102,616 or approximately 1.34% from \$7,647,386 in the prior year compared to \$7,544,770 for FY 2013-14. Near the middle of the page you will note that the capital assets net of accumulated depreciation decreased by \$196,298 or approximately 0.39% from \$50,394,882 to \$50,198,584.

In the middle of page 103 they would note that the total assets of the Water and Sewer Fund went down from \$58,042,268 to \$57,743,354. This is a reduction of \$298,914 or

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approximately 0.51%. The total assets includes the entire water and sewer infrastructure, including all of the water and sewer lines throughout the city. It should be noted that they have taken another year of depreciation on all of their assets. Once a specific improvement is put into operation the auditors start depreciating it. The middle of page 104 illustrates this fact. She asked them to note that the depreciation expense increased by \$316,887 or approximately 12.79% from \$2,478,535 during FY 2012-13 to \$2,795,422 during FY 2013-14.

At the bottom of page 103 they would see where their total liabilities (things that were owed by the Water and Sewer Fund) decreased by \$431,625 or approximately 3.66% from \$11,806,842 to \$12,238,467.

The Income Statement for the Water & Sewer Fund is on page 104. Starting at the top of the page the Water & Sewer Fund total operating revenue amounted to \$7,521,928 for FY 2013-14 compared to \$6,949,331 for the prior year. This was an increase of \$572,597 or approximately 8.23%.

Near the bottom of page 104 it indicates that the capital contributions decreased by \$836,500 or approximately 45.61% from \$1,833,913 to \$997,413 due to a decrease in the number of grants the City received during the course of FY 2013-14. The actual changes in capital contributions are as follows:

<b><u>Project</u></b>	<b><u>FY 2013-14</u></b>	<b><u>FY 2012-13</u></b>
CWSRF – Kuder Street	\$ 887,257	-----
Rural Center Grant – Water Model	\$ 40,000	-----
CWMTF Grant – N. Smith River	-----	\$ 742,183
CWSRF Princ. Forgive – Dry Creek	-----	\$ 540,831
Golden Leaf Grant – Mega Park	-----	\$ 371,965
Rural Center Grant – Matrimony Creek	-----	\$ 40,000
Duke Energy Reimbursement	<u>\$ 70,156</u>	<u>\$ 138,924</u>
Total	\$ 997,413	\$1,833,913

In the middle page 104 there is a line item entitled, other post-employment benefits. They would note that it realized an increase of \$42,195 or approximately 151.74% from \$27,807 to \$70,002. As each of them may remember, they were a Phase II government and FY 2008-09 was the first year they had to include the post-employment benefits. Near the bottom of the page it indicates that the non-operating deductions: interest expense increased from \$379,946 to \$380,003 due to a slight increase in the interest expense. Obviously, as they move forward with paying off debt, the corresponding interest expense will decrease.

Near the bottom of page 104 it indicates that the Water & Sewer Fund realized a net income loss of (\$730,539) compared to a net income loss of (\$340,504) in the prior year. It is important to point out that this reduction in net income reflects the reduced usage on the part of their customers.



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The bottom of page 113 indicates that total capital outlay expenses decreased by \$1,265,785 or approximately 32.75% from \$3,864,910 during FY 2012-13 to \$2,599,125 during FY 2013-14 due to less grants being received to help fund our ongoing efforts in reference to a number of much needed capital infrastructure improvement projects.

The top of page 114 indicates that total debt service expenses increased by \$115,349 or approximately 8.60% from, \$1,340,703 during FY 2012-13 to \$1,456,052 during FY 2013-14. It is anticipated that this number will continue to grow as they initiate their remediation plan in compliance with the EPA Administrative Order on Sanitary Sewer Overflows and other capital infrastructure improvement needs.

#### Self-Insurance Fund – Internal Service Fund

On July 1, 1995, the City began its self-insured insurance coverage program. The City carries a reinsurance policy for payment on all specific claims in excess of \$50,000 once the one-time aggregating specific corridor of \$100,000 has been met unless the reinsurance carrier has assigned a pre-determined laser on a specific employee due to an existing condition. The lifetime maximum per covered individual is currently unlimited and the maximum reimbursement for the aggregate coverage is \$1,000,000 annually.

The comparative balance sheet of the Self-Insurance Fund is shown on page 116. This year the retained earnings showed a decrease of \$204,132 or approximately 71.08% from the previous year. They would note that they ended FY 2013-14 with a surplus of \$83,065 compared with a surplus of \$287,197 in FY 2012-13, \$137,142 in FY 2011-12, \$220,399 in FY 2010-11, \$286,236 in FY 2009-10, \$177,230 in FY 2008-09 and \$63,032 in FY 2007-08.

The income statement can be found on page 117. The operating revenues increased this year slightly from \$2,139,385 for the year ending June 30, 2013 to \$2,144,528 for the year ending June 30, 2014. This translates into an increase of \$5,143 or approximately 0.24%.

On page 117 (near the middle of the page) it indicates the operating expenses increased from \$2,339,560 for the year ending June 30, 2013 to \$2,548,845 for the year ending June 30, 2014. This translates into an increase of \$209,285 or approximately 8.95%. On this same page they would note that Insurance claims went up from \$1,900,416 in FY 2012-13 to \$2,073,271 in FY 2013-14 for an increase of \$172,855 or approximately 9.09% while the total fixed costs increased by \$36,430 or approximately 8.30% from \$439,144 in FY 2012-13 to \$475,574 in FY 2013-14.

Over the course of the past thirteen (14) years it is clear that remaining self-insured has proven to be the best financial decision for the City when compared to the bids that have been previously received in terms of switching to a non-self-insured plan and the actual costs being encountered.

#### Fiduciary Funds

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Fiduciary Funds account for assets held by the City in a trustee capacity or as an agent for individuals, private organizations, other governmental units, and/or other funds. The City maintains two fiduciary funds: The Pension Trust Fund and the Agency Fund - Runabout Travel Club Fund.

The Pension Trust Fund accounts for the Law Enforcement Officers Special Separation Allowance. This is a public employee retiree system pension plan that provides retirement benefits to the City's qualified sworn law enforcement officers. The separation allowance is equal to .85 percent of the annual equivalent of the base rate of compensation most recently applicable to the officer for each year of creditable service.

As of December 31, 2013, the most recent actuarial valuation date, the plan was 6.32% funded. The actuarial accrued liability for benefits was \$1,140,018, and the actuarial value of assets was \$72,098, resulting in an unfunded actuarial accrued liability (UAAL) of \$1,067,920 (page 49 and 72). This represents a decrease of \$16,499 or approximately 1.43% when compared to the previous year total of \$1,156,517. The unfunded actuarial accrued liability (UUAL) equaled \$1,403,677 on December 31, 2009.

It is very important to note that most municipalities fund their separation allowance on a pay as you go basis which is what we have been doing. The fund balance on June 30, 2014 equaled \$8,709 (page 120) which is an increase of \$1,846 or 26.90% from the amount on hand as of June 30, 2013 which was equal to \$6,863. As each of them were aware, the City Council previously authorized the use of existing fund balance to offset actual expenses thereby bringing down the available fund balance since the City is committed to funding this ongoing obligation on an annual pay as you go basis.

Ms. Rouse continued to the other information related to the Pension Trust Fund that can be found on pages 119 – 121 and in the notes to the financial statements on pages 47 - 49 and pages 72 – 73.

The Agency Fund – Run-About Travel Club Fund was custodial in nature and does not involve the measurement of operating results. The Run-About Travel Club Fund accounts for money deposited with the City of Eden Parks and Recreation Department for those individuals participating in the programs of its department sponsored club. Page 122 shows the statement of changes in assets and liabilities for this fund. The fund balance on June 30, 2014 equaled \$16,948 which is an increase of \$900 or approximately 5.61% from the amount on hand as of June 30, 2013 which was \$16,048. Again, this is merely a fund for its members, contributing monies for scheduled activities and trips.

#### Capital/Fixed Assets

The Governmental Capital/Fixed Assets can be found on page 42. At the bottom of the page they would note that on June 30, 2014 the fixed assets totaled \$19,437,927 net of depreciation. On June 30, 2013 they totaled \$19,600,289 for a neagitive difference of \$162,362 or approximately 0.83%. The Business-like Capital/Fixed Assets can be found

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on page 43. A review of pages 42 and 43 indicates the City of Eden's investment in capital assets for its governmental and business-type activities as of June 30, 2014 totals \$69,636,511 which is a decrease of \$358,660 or approximately 0.51% compared to the June 30, 2013 combined figure of \$69,995,171. These assets include buildings, roads, and bridges, land, machinery and equipment, park facilities, and vehicles.

The infrastructure assets have now become a required part of the fixed asset records due to GASB 34. Retroactive reporting of all major general infrastructure assets for the City of Eden was initiated as a component of the audit beginning in FY 2006-07 as required by GASB 34.

### Long-Term Debt

Ms. Rouse moved to the details of long term debt found on pages 56 - 69. Page 68 gives a detailed schedule which summarizes the City's annual requirements to amortize all long-term debts outstanding. On page 68 it shows that the total outstanding principal debt for the City at June 30, 2014, was \$12,866,111 compared to \$13,010,410 on June 30, 2013. This is made up from two numbers, the Governmental Activities debt which is \$1,864,798 and the Water & Sewer debt which is \$11,001,313.

The information concerning the specific installment purchases and capital lease purchases (pages 56 – 67) indicates that three of the twenty-two obligations will be paid off prior to June 30, 2015, three additional obligations will be paid off prior to June 30, 2016, three additional obligations will be paid off prior to June 30, 2017 and seven additional obligations will be paid off prior to June 30, 2018.

The bottom of page 67 indicates that the legal debt margin for the City as of June 30, 2014 equaled \$69,552,831 down from \$72,216,161 on June 30, 2013. The N. C. General Statutes limits the amount of general obligation debt that a unit of government can issue to eight (8) percent of the total assessed value of taxable property located within the government's boundaries.

### Analysis of Current Tax Levy

Page 124 is an analysis of the current tax levy for the year ending June 30, 2014. Near the bottom of the page you will note that the total property tax valuation is \$869,410,383. This is lower than the total property tax valuation as of June 30, 2013 which was \$902,702,018.

The current year tax collection rate was 98.03% up slightly from last year's rate which was 97.12%. The property excluding registered motor vehicles collection rate equaled 98.17% which is down slightly from last year's rate which was 98.36%. The registered motor vehicles collection rate equaled 96.89% which is up significantly from last year's rate which was 85.23%.

### Interest Income

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The \$60,785 in interest income earned on investments during FY 2013-14 (loose handout included with audit document) has decreased from last year's total of \$71,879 by \$11,094 or approximately 15.43%. Unfortunately, the total amount of interest income earned continues to be significantly less than it was several years ago due to the weakened economy. Just seven years ago interest income earned during FY 2007-08 equaled \$744,987. Information for the past five years reveals the following:

<u>Fund</u>	<u>Year Ended 06-30-2014</u>	<u>Year Ended 06-30-2013</u>	<u>Year Ended 06-30-2012</u>	<u>Year Ended 06-30-2011</u>	<u>Year Ended 06-30-2010</u>
General	\$ 29,026	\$ 34,261	\$ 48,657	\$ 47,135	\$ 90,351
Special Revenue	\$ 53	\$ 93	\$ 149	\$ 308	\$ 143
Water & Sewer	\$ 31,368	\$ 37,260	\$ 53,760	\$ 42,866	\$ 88,979
Self Insurance	\$ 240	\$ 230	\$ 219	\$ 788	\$ 403
Police Pension	\$ 98	\$ 35	\$ 8	\$ 231	\$ 74
Total	\$ 60,785	\$ 71,879	\$102,793	\$ 91,328	\$ 179,950

Mayor Pro Tem Burnette stated that she had mentioned in the write up and was that something they should have a policy, he knew they did not have it now but how would they coordinate it.

Ms. Rouse replied that probably the Local Government encourages that but they have not written that as a recommendation. She thought that was because they were trying to use this money and have it available particularly in water and sewer for these improvements that needed to be done to which Mr. Rex Rouse added, he thought that the State Statutes control so much of what kind of investments they could invest in that you almost have one by State Statute whether the town formally adopts one or not.

Mr. Corcoran added that they have always opted to be as conservative as possible in keeping with just doing basically certificates of deposit, shop around here locally, they try to do it for different terms to make sure for cash flow but if they would remember, some of the other states, there were more aggressive got in trouble. He also added that rates were so low right now there was not a whole lot you can do.

Ms. Rouse noted that they have a pooled bank account here and years ago the pooled bank account, where you combine as many as funds as possible and invest it that way, she could remember a time when the city made over \$600,000 in interest income and that was a real purpose in doing that method. They have a couple of accounts that are specified money that are not in the pooled account and it is capitalized by funds but it is used to invest.

Mr. Rouse added that he had looked at the State of North Carolina Bonds and they were an eligible investment and also (bonds) in other towns or counties in North Carolina but he did not see where you could improve the rates on those right now and also U.S. Treasury Bonds were a legal investment, but he could not find anything for municipalities that would do much better.

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### Management Letter

In the management letter the auditor's state, *"The City's staff continues its trend of having few adjusting entries necessary to bring the City's financial statements in conformity with generally accepted auditing standards and Government Auditing Standards. We continue to stress the importance of the accounting personnel attending Local Government Commission and Institute of Government classes to keep abreast of new accounting and auditing issues related to the City's business"*.

The second area discusses actuarial studies:

Section 2. A. discusses the actuarial study of the Police Separation Allowance. The audit management letter states, *"We commend the city administration for monitoring the funding progress of the police separation allowance and should continue to do so"*. We intend to keep monitoring the Police Pension Trust Fund and will continue to have actuarial studies done each year.

Section 2. B. deals with the city continuing to monitor the cost of a study made of other Post Employment Benefits to comply with GASB Statement 43, Financial Reporting for Postemployment Benefits Other than Pension Plans and GASB Statement 45, Accounting and Financial Reporting by Employers for Postemployment Benefits Other than Pensions. The potential liability for other post employment benefits was initially implemented into the FY 2008-09 audit report and the audit management letter states that *"the long range cost to the City is being analyzed for consideration in the budgeting process for the City of Eden in the future"*. We will continue to analyze and monitor this potential liability and will continue to examine the feasibility of factoring the long range cost into the annual budgeting process.

The third and final area addressed in the management letter deals with the water and sewer rates for contract customers.

### Concluding Remarks

Ms. Rouse stated that they were very pleased with the Finance Department and commended Ms. Amy Winn especially. She also encouraged them to continue their continuing education.

Mr. Rouse also commended Ms. Amy Winn for her work on the audit.

Mayor Pro Tem Burnette thanked Mr. and Mrs. Rouse and their staff for the audit report and also recognized the City Manager and the Finance Department.

### REQUESTS AND PETITIONS OF CITIZENS:

No one came forward to speak at this time.

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UNFINISHED BUSINESS:

There was no Unfinished Business scheduled at this time.

REPORTS FROM STAFF:

Mayor Pro Tem Burnette asked Chief of Police Reece Pyrtle to come forward to discuss Project Safe Rockingham County.

Chief Pyrtle explained that it is in its fourth year of operation as an anti-violence and anti-gang violence strategy. It is really a partnership between the community and law enforcement to include the District Attorney’s office, U.S. Attorney’s office and we also work closely with the Department of Correction Probation/Parole.

The strategy is really simple; we bring offenders in and drive them to a fork in the road if you will, and a focused deterrent strategy that brings law enforcement and community service providers and the moral voice together to challenge these offenders to make a change.

They have conducted 7 call-ins to date the last one was done this past Nov. 12, to date they have warned 265 offenders, approximately a little over 100 of those individuals were warned in person at a call in. The first one they called in violent gang offenders and they took their message out to the troops. They notified roughly 10 to 15 at each call in and to date they have only had 10 offenders that have committed any type of violent offense using their gun.

Several offenders have been aided in tuition and scholarships to RCC to get vocational training or GED’s. They have funneled more cases to the federal level to the prosecution and they have had one of their detectives put together a training aide that was shared throughout this region in the collection of evidence and how to secure firearms for prosecution.

CONSENT AGENDA:

- a. Approval and Adoption of Minutes: October 21, 2014.
- b. Consideration of Budget Amendment #2.

During the budget process, amounts were budgeted for a PSAP payment to Rockingham County for the new 911 consolidation and for a payment to the Rockingham County Partnership. However, after the budget was completed it was agreed that these payments would not be made; therefore, the attached budget amendment is to transfer these expenditures to the General Fund Contingency line item.

Subject: Budget Amendment # 2

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Account #	From	To	Amount
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**General Fund  
Expenditures**

Police PSAP Payment - Rock Co	10-4310-39402	\$ 38,000.00	\$ -	\$ (38,000.00)
Spec Approp/Rock Co Partnership	10-9920-73000	\$ 38,900.00	\$ -	\$ (38,900.00)
Contingency	10-9990-99100	\$ 500,000.00	\$ 576,900.00	<u>\$ 76,900.00</u>
				<u><u>\$ -</u></u>

Transfer unspent expenditures to contingency line item.

Adopted and effective this 18th day of November, 2014.

Attest:

Sheralene Thompson, City Clerk

James C. Burnette, Mayor Pro Tem

c. Approval Budget Amendment #3.

During the budget process, we only appropriated three months of revenues for the NC 911 PSAP. Since the 911 consolidation process has taken longer than expected, we will be receiving additional revenues over the amount appropriated. The attached budget amendment is to allocate a portion of the additional revenues to the Professional Services line item to cover additional hours worked by the IT department on the consolidation project and the remainder of the amount to the Emergency Communications Holding Account line item.

Subject: Budget Amendment # 3

	Account #	From	To	Amount
<b>Emergency Communications Revenues</b>				
NC 911 PSAP	24-3255-34000	\$ 45,300.00	\$ 60,400.00	<u>\$ 15,100.00</u>
<b>Emergency Communications Expenditures</b>				
Emerg Comm Professional Services	24-4330-19200	\$ 25,400.00	\$ 35,100.00	\$ 9,700.00
Emerg Comm Holding Account	24-4330-77000	\$ 9,200.00	\$ 14,600.00	<u>\$ 5,400.00</u>
				<u><u>\$ 15,100.00</u></u>

Appropriate additional revenues received from the NC 911 board.

Adopted and effective this 18th day of November, 2014.

Attest:

Minutes of the regular November 18, 2014 meeting of the City Council, City of Eden:

Sheralene Thompson, City Clerk

James C. Burnette, Mayor Pro Tem

- d. Consideration of confirming the amount of the indebtedness of demolition costs to be collected in the same manner as special assessments.

The following properties have been the subject of housing code actions and the structures situated on the property have been demolished pursuant to an Ordinance adopted by the Eden City Council. The cost of the demolition is noted as follows:

1210 Fieldcrest Road 3,750.00  
814 Oak Street 4,550.00

This particular lien is collected in the same manner as special assessments. The Council needed to formally establish this lien and then to authorize legal action. When appearing in court, Council's formal action will be proven through the minutes.

- e. Approval and adoption of an Order of Collection for nuisance abatement fees to be collected as delinquent property taxes.

The 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).

These particular liens are collected in the same manner as delinquent property taxes. The Council needed to formally establish these liens and then to authorize legal action. When appearing in court, the Council's formal action will be proven through the minutes and the execution of the attached Order of Collection.

- f. Consideration of Uncollectible Code Enforcement Fees.

After review of the following accounts, it is evident that these are legally uncollectible. Based upon this and upon recommendation of our accountant Judy Rouse, we request that the following amounts be written off so they will no longer show as delinquent accounts receivable. Continuing to include such amounts in the financial records of the City could result in a distorted age trial balance.

1. The statute of limitation on the collection of the following properties has expired:

Account Number	Name	Amount	Date Billed
20248	James Albert Jones	170.00	07/25/2003
20248	James Albert Jones	3,550.00	06/08/2004
20248	James Albert Jones	193.00	07/26/2004
20243	Rosabelle Wilkerson	105.00	09/04/2003
20243	Rosabelle Wilkerson	115.00	10/13/2004
20442	Josephine Mitchell Heirs	4,550.00	08/17/2014
20040	Harriet Golden Heirs	4,050.00	08/17/2004
20393	Robert R. Hairston Estate	150.00	05/31/2004
20393	Robert R. Hairston Estate	128.00	07/21/2004
20393	Robert R. Hairston Estate	226.00	07/21/2004
20441	Arnold Smith	4,850.00	08/17/2004
20469	Patrick Martin	130.00	10/01/2004
<b>TOTAL</b>		<b>18,217.00</b>	



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2. The properties at 1221 Second Street and 1233 E. Stadium Drive were the subject of foreclosure proceedings by the Rockingham County Tax Department. The proceeds were less than the taxes due therefore the City of Eden did not receive payment for the code enforcement fees due. Foreclosure is the sole remedy for debt owed and must be removed.

Account Number	Name	Amount	Date Billed
20842	Clark, J. B. Heirs	600.00	10/23/06
20842	Clark, J. B. Heirs	125.00	06/22/07
20842	Clark, J. B. Heirs	125.00	06/10/08
20842	Clark, J. B. Heirs	86.25	08/18/11
20842	Clark, J. B. Heirs	71.75	07/11/12
20842	Clark, J. B. Heirs	104.38	10/23/12
20842	Clark, J. B. Heirs	85.45	06/26/14
20764	London, Peggy	150.00	08/05/08
20764	London, Peggy	200.00	10/01/08
20764	London, Peggy	175.00	06/12/09
20764	London, Peggy	225.00	10/05/09
20764	London, Peggy	1,141.00	05/07/10
20764	London, Peggy	2,150.00	05/07/10
20764	London, Peggy	104.37	05/30/12
20764	London, Peggy	93.50	11/16/12
20764	London, Peggy	82.62	10/30/13
TOTAL		5,519.32	

The removal of these line items will more accurately reflect the amounts that are actually due and collectible by the City of Eden.

- g. Consideration of Chloramines Conversion Work Reimbursement Contract.

A motion was made by Council Member Hampton seconded by Council Member Turner to approve the Consent Agenda items a-g. All Council Members voted in favor of this motion.

ANNOUNCEMENTS:

Council Member Ellis took this time to congratulate the City Manager's daughter, Candice, for her athletic accomplishments.

ADJOURNMENT:

A motion was made by Council Member Hall seconded by Council Member Turner to adjourn. All Council Members voted in favor of this motion.

Respectfully submitted,

\_\_\_\_\_  
Sheralene S. Thompson,

November 18, 2014

City of Eden, N. C.

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CMC, MMC, NCCMC  
City Clerk

ATTEST:

\_\_\_\_\_  
James C. Burnette, Mayor Pro Tem