

CITY OF EDEN, N. C.

The regular meeting of the City Council, City of Eden, was held on Tuesday, December 17, 2013 at 7:30 p.m. in the Council Chambers, 308 E. Stadium Drive. Those present for the meeting were as follows:

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

MEETING CONVENED:

Mayor Elect Tuggle 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:

Lemuel Hardison, Pastor of North Spray Christian Church, gave the invocation followed by the Pledge of Allegiance led by Deputy Fire Chief Todd Harden.

RECOGNITION:

Mayor Elect Tuggle recognized Rockingham County Commissioners Mark Richardson and Keith Duncan.

a. Mr. Ed Holbrook, Morehead Hospital Foundation.

Mayor Elect Tuggle recognized Mr. Ed Holbrook and asked him to come forward.

Mr. Holbrook explained that the City Manager, Brad Corcoran, had served as a member of the foundation's board and traditionally the board recognizes departing members. He explained that on behalf of Brenda Atkins who was their chairman, and the members of the foundation board, they wanted to thank him for his seven years of active service. He then presented him with a collage of Morehead Hospital and some of the other buildings that represent healthcare here in Eden.

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b. Mr. Malcom Allen, President, NAACP.

Mayor Elect Tuggle recognized Mr. Malcolm Allen and asked him to come forward.

Mr. Allen thanked the city for this opportunity to show their appreciation and support of someone so deserving. He then asked Ms. Angela Hampton to come forward and presented her with a plaque recognizing her years of service to their organization and also to recognize her for this latest accomplishment.

RESIGNATION & DECLARATION OF VACANCY OF WARD 6 CITY COUNCIL SEAT:

a. Resignation of Mayor Pro Tem Wayne Tuggle & Declaration that Ward 6 City Council seat is vacant.

Mayor Elect Tuggle submitted his resignation by letter to the City Attorney and declared Ward 6 vacant.

INTRODUCTION OF THE HONORABLE EDWIN G. WILSON, JR.:

Mayor Elect Tuggle introduced the Honorable Edwin G. Wilson, Jr., Superior Court Judge, who was present to administer the oath of office to the newly elected Mayor and City Council Members.

a. Swearing in of newly elected Mayor – Wayne Tuggle

Mayor Elect Tuggle was sworn in by Honorable Judge Edwin G. Wilson, Jr.

b. Swearing in of newly elected Council Member Jerry Epps – Ward 4

Mayor Tuggle asked Council Member-Elect Jerry Epps (representing Ward 4) to come forward to be sworn in by Judge Wilson.

c. Swearing in of newly elected Council Member Darryl Carter – Ward 5

Mayor Tuggle asked Council Member-Elect Darryl Carter (representing Ward 5) to come forward to be sworn in by Judge Wilson.

d. Swearing in of newly elected Council Member Angela Hampton – Ward 3

Mayor Tuggle asked Council Member-Elect Angela Hampton (representing Ward 3) to come forward to be sworn in by Judge Wilson.

APPOINTMENT TO WARD 6 CITY COUNCIL SEAT AND OATH:

a. Appointment to fill the Unexpired Term as Council Member Representing Ward 6

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Mayor Tuggle nominated Mr. Neville Hall to fill the unexpired term as Ward 6 Council Member.

A motion was made by Council Member Ellis seconded by Council Member Burnette to appoint Mr. Neville Hall to represent Ward 6. All Council Members voted in favor of this motion.

b. Swearing in of newly appointed Council Member Representing Ward 6

Mr. Neville Hall was sworn in by Judge Wilson as Council Member representing Ward 6.

SELECTION OF MAYOR PRO TEM:

Council Member Ellis nominated Council Member Jim Burnette as Mayor Pro Tem.

A motion was made by Council Member Ellis seconded by Council Member Turner to appoint Council Member Burnette as Mayor Pro Tem. All Council Members voted in favor of this motion.

MAYORAL APPOINTMENTS:

ABC Board and Chairman:

Mr. Tommy Flynt was appointed to serve as chairman on the ABC Board and Mr. Tom Barbour was appointed to serve on the ABC Board.

Rockingham County Solid Waste Committee:

Mayor Tuggle appointed Council Member Angela Hampton to the Rockingham County Solid Waste Committee.

Piedmont Triad Council of Governments:

Mayor Tuggle re-appointed Council Member Darryl Carter to the Piedmont Triad Council of Governments.

Rockingham County Economic Development Partnership:

Mayor Tuggle appointed Mr. Seth Woodall to serve on the Rockingham County Economic Development Partnership.

A motion was made by Council Member Burnette seconded by Council Member Turner to approve the Mayoral appointments. All Council Members voted in favor of this motion.

SET MEETING AGENDA:

A motion was made by Council Member Turner seconded by Council Member Burnette add items 18f (Request for Consideration of Approving a Capital Project Ordinance for the Kuder Street Sewer Rehabilitation Project) and 18g (Lease Agreement: Harold R. Gearhart) to the Consent Agenda and to set the agenda. All Council Members voted in favor of this motion.

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PUBLIC HEARINGS:

- a. Consideration of a zoning text amendment request and adoption of an ordinance to amend Section 11.24(k)(5) to allow antique shops, consignment shops, used merchandise sales, bakeries and contractor offices as permitted uses in the Business Shopping Center District. Request submitted by Jonathan Wise and the Planning Board. The request was amended by the Planning Board. ZONING CASE Z-13-03.

At the November 19, 2013, meeting, a text amendment was discussed. The Planning Board has asked Council to consider the request without the flea market portions. The Planning Board will begin consideration of a Special Use Permit process for flea markets at their January 2014 meeting.

The Planning Board and Staff recommend that Section 11.24(k)(5) of the Zoning Ordinance be amended to allow antique shops, consignment shops, used merchandise sales, bakeries and contractor offices as permitted uses.

Mayor Tuggle called for a Public Hearing asked Ms. Stultz to come forward.

Ms. Stultz explained that the Business Shopping Center district (BSC) is established as a district in which the principal use of the land is to provide for the retailing of goods and services in designated shopping areas, where the nature of the development occurring is limited by standards designed to protect the abutting residential areas. (This district is required for shopping center developments over four acres; shopping centers under four acres shall be classified as neighborhood districts.)

Over the past few years, the economic downturn has caused some of the Business Shopping Center districts to see a decline in business and occupancy. The Eden Mall has been especially hard hit, as many businesses closed or relocated to other shopping areas. Staff is of the opinion that some changes in the allowable uses could help to increase viability of these shopping areas. However, such changes must be compatible with the existing permitted uses. In addition, any new allowed uses must be appropriate for the intent of the district as a district for the retailing of goods and services in order to protect the districts and the existing businesses, to attract customers and to encourage new businesses.

Staff was of the opinion that antique shops, consignment shops and used merchandise sales would be appropriate uses in the BSC districts, as they are similar in nature to other retail establishments in these districts. Bakeries are similar to other retail uses but are not specifically listed in the BSC district and staff is of the opinion that they should be allowed.

Contractor offices and storage yards are currently permitted only in the Business General (BG) districts and in the Industrial districts. Staff was of the opinion that the office function of a contractor business would not have a negative impact on the BSC district but the storage yards would. Therefore, staff recommended allowing the office but not the outside storage of building materials or equipment.

Based upon the foregoing information, staff also recommended that antique shops, bakeries, consignment shops, contractor's offices and used merchandise sales be allowed as permitted uses in the BSC district.

Mayor Tuggle asked Ms. Stultz to provide an overview of the Special Use Permit.

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Ms. Stultz explained that a special use permit is special permission to do something that the ordinance would not ordinarily allow you to do. To date our City Council has made the decision that all special use permits with the exception of a PUD request go to the Board of Adjustment. What happens there is that the staff will check with other jurisdictions to see what sorts of provisions they specifically require for all flea markets. Language will be inserted as it is in all the other places that you can apply for a special use permit that conditions can be added based upon the opinion of the Zoning Administrator and the Board of Adjustment at the time of the hearing. Recently the North Carolina General Assembly decided that special use permits no longer required a simple majority for your Zoning Officer to be overturned. At this point it is a simple majority which would mean 6 of the 10 would have to disagree with your administrator in order for it to be approved.

Mayor Tuggle asked that actually this vote tonight is just a zoning text change and nothing to do with the mall area.

Ms. Stultz replied that it would have to do with the mall and any other of shopping center.

Mayor Tuggle asked that for the most part this was only just a zoning text change to which Ms. Stultz replied that it was absolutely a zoning text amendment.

Council Member Burnette stated that in there it says that contractor equipment was not allowed and he asked if that would include motorized construction vehicles to which she replied that it did.

Mayor Tuggle asked if anyone would like to speak in favor or in opposition of this request. As no one came forward to speak Mayor Tuggle then declared the Public Hearing closed.

A motion was made by Council Member Burnette seconded by Council Member Hampton to approve this request and adopt an ordinance to amend Section 11.24(k)(5) to allow antique shops, consignment shops, used merchandise sales, bakeries and contractor offices as permitted uses in the Business Shopping Center District as amended by the Planning Board. All Council Members voted in favor of this motion.

- b. Consideration of a zoning text amendment request and adoption of ordinance to amend Section 11.24(m)(1) of the Zoning Ordinance to allow mining and quarrying and asphalt paving production and sales as permitted uses in the Industrial-2 Zoning District. Request submitted by James Crossingham. ZONING CASE Z-13-05.

The City has received a zoning text amendment request from James Crossingham to amend Section 11.24(m)(1) to allow mining and quarrying and asphalt paving production and sales in the Industrial-2 zoning district. Staff recommended that the text amendment be approved as amended.

The Planning Board considered this request at a special meeting on December 3, 2013 and recommended that the amendment be approved as amended.

Mayor Tuggle called for a public hearing and asked Ms. Stultz to come forward.

Ms. Stultz explained that the request was to amend the Zoning Ordinance to allow the above referenced uses as permitted uses in the Industrial-2 (I-2) zoning districts. The I-2 Industrial District was established as a district in which the principal use of land is for industries that by their nature may

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create some nuisance and which are not properly associated with nor compatible with uses in other zoning districts.

The I-2 district was designed for heavy industrial uses. These districts are generally located away from any residential or commercial uses. There are already some uses in these districts which would fall into the category of mining and quarrying or asphalt production, but which are not specifically listed as permitted uses in the I-2 district. Staff was of the opinion that these are appropriate uses for the I-2 districts, since they are similar in nature to other uses currently permitted in these districts. However, staff believes it would be appropriate to include some additional provisions for these uses to protect streams and non-industrial areas. Therefore, staff recommended that these uses be allowed only on parcels containing 75 or more acres and that additional buffers be required along streams and waterways and along any property lines which adjoin residential or non-industrial property. Staff recommended a 50 foot forested buffer be required along any streams or waterways on properties with the subject uses, and that a 50 foot forested buffer be required where the subject property adjoins another property with a residential or non-industrial use.

Council Member Burnette stated that he certainly agreed with the restrictions containing 75 or more acres but she put in there the 50' forested buffer which he thought was good. He asked if that was for an abutment to rivers and streams.

Ms. Stultz added it was for residential property.

Council Member Burnette asked if that was a standard.

Ms. Stultz replied that was much more restrictive than what their current buffering definition requires. She explained that it was a standard for a stream buffer but for a land use type buffers it was larger than what they normally require.

Council Member Burnette stated that was what he thought and they need to make sure every effort was being made to keep that out of the streams. He stated that she had mentioned there were already some uses in these districts in the category and he assumed from what he saw those were gasoline, fuel oil, and bulk terminals that she was referring to there to which Ms. Stultz replied that it was.

Mayor Tuggle asked if anyone was in favor or in opposition of this request as no one came forward to speak, Mayor Tuggle called for the Public Hearing to be closed.

A motion was made by Council Member Burnette seconded by Council Member Carter to adopt the zoning text amendment and adopt an ordinance to amend Section 11.24(m)(1) of the Zoning Ordinance to allow mining and quarrying and asphalt paving production and sales as permitted uses in the Industrial-2 Zoning District (excluding fracking). All Council Members voted in favor of this motion.

REQUESTS AND PETITIONS OF CITIZENS:

No one came forward to speak at this time.

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UNFINISHED BUSINESS:

No unfinished business was scheduled.

NEW BUSINESS:

- a. Board and Commission Appointments.

Ward 1

Historic Preservation Commission: re-appoint Phyllis Stickels

Ward 2

Board of Adjustment: re-appoint Franklin Galloway

Historic Preservation Commission: re-appoint Jean Harrington

Planning Board: re-appoint Giles Hunnings

Ward 3

Planning Board: Appoint Tamyra Caple

Ward 4

Board of Adjustment: re-appoint Frances Craddock

Community Appearance Commission: re-appoint Faye Shelton

Ward 5

Community Appearance Commission: re-appoint Cathy Carter

Tree Board: re-appoint Max Kirks

A motion was made by Council Member Turner seconded by Council Member Carter to accept these appointments. All Council Members voted in favor of this motion.

REPORTS FROM STAFF:

No reports were scheduled.

CONSENT AGENDA:

- a. Approval and adoption of minutes: November 19, 2013.
- b. Consideration and Approval of John Deere Backhoe – Financing for 5 years.

In the 2013-2014 Budget, City Council approved to purchase a new backhoe for the Collections & Distributions department and it has been set up in the budget to be financed. On November 27, 2013, bids were requested from our local banks for the financing and received the following quotes:

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BB&T	1.74%
NewBridge Bank	2.68%

The lowest quote was from BB&T at 1.74%. The annual payments will be approximately \$21,339.28 which is within the budgeted amount. Staff respectfully asks that Council approve BB&T as the successful bid and adopt the Resolution Approving Financing Terms.

Resolution Approving Financing Terms

WHEREAS: The City of Eden, North Carolina (the "City") has previously determined to undertake a project for the financing of a 410K John Deere Backhoe, (the "Project"), and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The City hereby determines to finance the Project through Branch Banking and Trust Company ("BB&T"), in accordance with the proposal dated December 5, 2013. The amount financed shall not exceed \$102,524.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 1.74%, and the financing term shall not exceed five (5) years from closing.

2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the City are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and a Project Fund Agreement as BB&T may request.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by City officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The City shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The City hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. The City intends that the adoption of this resolution will be a declaration of the City's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the BB&T financing described above. The City intends that funds that have been advanced, or that may be advanced, from the City's general fund, or any other City fund related to the project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of City officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this 17th day of December, 2013

By Wayne R. Tuggle, Sr., Mayor

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- c. Consideration of Preliminary Engineering Report by Dewberry for the Eden Water System Model Calibration Project N.C. Economic Development Center, Inc. Contract #2013-034-40101-102.

Attached is a portion of the abbreviated preliminary engineering report prepared by Dewberry as required by the grant agreement with the N.C. Economic Development Center, Inc. (The Rural Center) as part of the Eden Water System Model Calibration Project. Items mentioned as attachments or included in the Appendix can be viewed in the Engineering Department, or provided if desired.

A resolution has been prepared and attached in order to meet the requirements of the grant prior to submitting our final reimbursement request. The findings and conclusions mentioned in the Dewberry report were expected and consistent with our long range capital improvement plans for the water distribution system.

I request that you approve the resolution indicating general agreement with the findings of the preliminary engineering report prepared by Dewberry, entitled “Hydrant Flow Testing and Water Model Calibration”. If you have any questions, please do not hesitate to contact me prior to the December City Council meeting.

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AUTHORIZING RESOLUTION BY GOVERNING BODY OF THE APPLICANT

Planning Grants Program

WHEREAS, the North Carolina Rural Economic Development Center, Inc. (Rural Center) has authorized the awarding of grants from appropriated funds to aid eligible units of government in financing the cost of planning activities needed to address current critical public health and environmental concerns related to water and wastewater infrastructure; and

WHEREAS, the City of Eden was awarded a grant from the Rural Center in the amount of \$40,000 for the Eden Water System – Model Calibration project; and

WHEREAS, the City of Eden has spent \$80,000 for Dewberry to assist the City of Eden with the completion of the Eden Water System – Model Calibration project; and

WHEREAS, the City of Eden has received and reviewed the Preliminary Engineering Report prepared by Dewberry for the Eden Water System – Model Calibration project; and

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

That the City of Eden does approve of the findings and recommendations included in the Preliminary Engineering Report prepared by Dewberry, entitled "Hydrant Flow Testing and Water Model Calibration" for the City of Eden, North Carolina.

That Wayne Tuggle, Sr. - Mayor, and successors so titled, is hereby authorized to execute and file this resolution on behalf of the City of Eden with the Rural Center as part of the requirements in the grant for the above-named planning project.

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 the grants pertaining thereto.

Adopted this date December 17, 2013 at Eden, North Carolina.

By: Wayne R. Tuggle, Sr., Mayor

d. Consideration and Approval to Apply for PARTF Grant – 2014.

In fiscal year 2012 - 2013, grants were awarded to 47 local governments to construct and renovate outdoor recreation facilities in North Carolina. In 2001, the City of Eden applied and received a \$300,000 grant to build the 1st Phase of Freedom Park and in 2004 the City applied and received \$250,000 to help fund the development of Phase III at Freedom Park.

The Parks and Recreation Department would like to apply for another PARTF grant in 2014. The amount of the grant would be \$500,000.

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If the City is awarded the grant, it would be responsible for matching the \$500,000 dollar for dollar. The City would have 3 years to complete the grant project.

The purpose of this memo is to receive permission from the City Council to apply for a PARTF Grant for \$500,000. The facilities requested for the grant would be an Aquatic Complex at Freedom Park, which would include a 25 meter swimming pool, a splash pad area, small pavilion, showers, restrooms and concessions facilities. The estimated cost of this facility would be \$1,900,000. For this facility to be completed, the city would have to contribute \$1,400,000 to the project, and if awarded, the PARTF Grant for \$500,000 would fund the remaining portion of the cost.

e. Consideration of DRBA Municipality Membership.

The Dan River Basin Association (DRBA) has initiated a membership system for interested municipalities. Attached for your review and consideration is a handout from DRBA which provides additional information concerning the benefits of a DRBA municipality membership. Mayor-Elect Tuggle, Councilman Burnette and I met recently with Ms. Tiffany Hayworth, Executive Director for DRBA to discuss this matter.

As an added incentive, the Reidsville Area Foundation (RAF) has offered to provide some additional funding for DRBA if each municipality in Rockingham County agrees to join. Each of the other municipalities here in Rockingham County have agreed to join DRBA.

The membership fee is based on a cost of \$0.17 per person in each municipality. With a 2012 population estimate of 15,341 Eden's annual cost would be \$2,607.97. It is my recommendation that the City Council vote in support of this membership. Please feel free to let me know if you have any questions concerning this matter.

f. Request for Consideration of Approving a Capital Project Ordinance for the Kuder Street Sewer Rehabilitation Project.

The staff requests that the City consider and approve this Capital Project Ordinance. The City Council is required to approve of a Capital Project Ordinance for the Kuder Street Sewer Rehabilitation Project that we have just recently started. This is a requirement that the Clean Water State Revolving Fund imposes on recipients of the loans and loans with principle forgiveness.

g. Consideration of Lease Agreement – Harold R. Gearhart.

The lease is between the City of Eden and Harold R. Gearhart for a parking lot adjacent to the Boone Rd. Community Building. The City initiated this lease in December, 1996 to provide parking for the users of the Boone Rd. Community Building. The last lease has been for five years with a payment of \$750.00 per year to maintain the agreement.

Staff has spoken with Mr. Gearhart and he has agreed to another 5 year lease at \$750.00 per year. Staff recommended the City of Eden extend this agreement beginning January 1, 2014 through January 1, 2019 for \$750.00 per year. All "Special Conditions" have been met and maintained by the City of Eden to keep the lease valid.

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

ADJOURNMENT:

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

Respectfully submitted

Sheralene S. Thompson, CMC
City Clerk

ATTEST:

Wayne R. Tuggle, Sr., Mayor