

The Washington City Council met in a regular session on Monday, January 12, 2009 at 4:30 p.m. in the Council Chambers at the Municipal Building. Present were: Judy Jennette, Mayor; Doug Mercer, Mayor Pro tem; Darwin Woolard, Councilman; Richard Brooks, Councilman; Gil Davis, Councilman; Archie Jennings, Councilman; Jim Smith, City Manager; Cynthia S. Bennett, City Clerk; and Franz Holscher, City Attorney.

Also present were: Anita Radcliffe, Acting Finance Director; Jimmy Davis, Fire Chief; Allen Lewis, Public Works Director; Bobby Roberson, Planning and Community Development Director; Philip Mobley, Parks & Recreation Director; Gloria Moore, Library Director; Sandy Blizzard, Police Department; Susan Hodges, Human Resources Director; Ray Midgett, IT Director; Ted Strong, Washington Daily News; and Jay Niver, Beaufort Observer.

Mayor Jennette called the meeting to order and Councilman Woolard delivered the invocation.

### **APPROVAL/AMENDMENTS TO AGENDA**

Mayor Jennette added Item 12 under VI.A. Old Business: Discussion of Chocowinity Sewer Request. Councilman Jennings requested Items 9 & 11 under VI.A. Old Business be removed from the agenda, with Item 9 being moved to the January Committee of the Whole and Item 11 being moved to the February Committee of the Whole.

On motion of Councilman Jennings, seconded by Councilman Woolard, Council unanimously approved the agenda, as amended.

### **APPROVAL OF MINUTES**

Mayor Pro tem Mercer noted a correction on page 4 regarding the sentence; "Mr. Smith noted that in November 2008 the City Council authorized an agreement with Embarq to upgrade Washington's equipment for wireless compliance." This statement is incorrect and should be removed from the minutes. Mayor Jennette changed the term "road" to the "Church parking lot" on page 6. On page 7, amended the sentence to read, "because it is essentially being used like a public street." On page 9, amended the sentence to read, "but informed Mr. Furlough that while Council would be very considerate of what that group has to say, Council is not bound by that group's requests or decisions." Franz Holscher noted on page 13, Ordinance Levying Tax – Heavy Equipment Rental "Council unanimously agreed to continue this item until January (not February).

On motion of Councilman Jennings, seconded by Councilman Woolard, Council unanimously approved the minutes of December 8, 2008, as amended.

### **PRESENTATIONS OF RETIREMENT AND MEMORIAL RESOLUTIONS**

Mayor Jennette presented Retirement Resolutions to: William "Bill" Hayes, Carol M. Williams, Samuel "Carroll" Whitehurst and Rita A. Thompson. Mayor Jennette presented Memorial Resolutions to the families of: James Blackledge, Millard Allen Jefferson and Ray Oliver Walker.

### **APPROVAL OF CONSENT AGENDA**

Council unanimously approved the Consent Agenda as presented.

- A. Approval – Fire Department Departmental Roster for 2009

**(copy attached – Roster in file)**

- B. Adopt – Adopt Budget Ordinance Amendment for Veterans Park (\$1,468)

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE  
OF THE CITY OF WASHINGTON, N.C.  
FOR THE FISCAL YEAR 2008-2009**

**BE IT ORDAINED** by the City Council of the City of Washington, North Carolina:

Section 1. That the Estimated Revenues in the General Fund be increased in the amount of \$1,468 in the account Contributions - Veteran's Park, account number 10-00-3360-8405.

Section 2. That account number 10-00-4400-5701, Miscellaneous Expense, Miscellaneous Non-Departmental portion of the General Fund appropriations budget be increased in the amount of \$1,468 to provide funds for a bench and masonry work at the Veteran's Park.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 12<sup>th</sup> day of January, 2009.

s/Judy M. Jennette  
**JUDY M. JENNETTE**  
**MAYOR**

s/Cynthia S. Bennett  
**CYNTHIA S. BENNETT**  
**CITY CLERK**

- C. Accept – Grant Funds from the US Department of Justice (\$6,822.50)  
Bulletproof Vest Partnership Grant Act

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE  
OF THE CITY OF WASHINGTON, N.C.  
FOR THE FISCAL YEAR 2008-2009**

**BE IT ORDAINED** by the City Council of the City of Washington, North Carolina:

Section 1. That the Estimated Revenues in the General Fund be increased in the amount of \$6,823 in the account Federal Grant - Vests, account number 10-10-3431-2302.

Section 2. That account number 10-10-4310-3600, Uniforms, Police Department portion of the General Fund appropriations budget be increased in the amount of \$6,823 to provide funds for purchase of bulletproof vests.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 12<sup>th</sup> day of January, 2009.

s/Judy M. Jennette  
**JUDY M. JENNETTE**  
**MAYOR**

s/Cynthia S. Bennett

**CYNTHIA S. BENNETT**  
**CITY CLERK**

- D. Adopt – Grant Project Ordinance for the CDBG Capacity Grant #08-C-1812 (\$75,000)

**A GRANT PROJECT ORDINANCE FOR CDBG COMMUNITY DEVELOPMENT  
BLOCK GRANT  
CITY OF WASHINGTON, N.C.  
FOR THE FISCAL YEAR 2008-2009**

**BE IT ORDAINED** by the City Council of the City of Washington, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

Section 1. The project authorized is to provide additional staffing for Washington Housing Inc., a non-profit organization that assists low to moderate income persons with housing needs.

Section 2. The officers of this unit are hereby directed to proceed with the project within the terms of the grant documents.

Section 3. The following amounts are appropriated for the project:

57-60-4930-0405	Planning	\$75,000
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Section 4. The following revenue is anticipated to be available to complete this project:

57-3470-0000	CDBG Grant Funds	\$75,000
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Section 5. The Finance Officer is hereby directed to maintain within the Grant Project Fund sufficient detailed accounting records to satisfy the requirements of the grantor agency and grant agreement.

Section 6. Funds may be advanced from the General Fund for the purpose of making payments that are due. Reimbursement requests should be made to the grantor agency in an orderly and timely manner.

Section 7. The Finance Director is directed to report, on a monthly basis, the financial status of each project element in Section 3 and on the total grant revenues received or claimed.

Section 8. The Budget Officer is directed to include a detail analysis of past and future costs and revenues on this grant project in every budget submission made to the City Council.

Section 9. Copies of this grant project ordinance shall be furnished to the City Clerk, Budget Officer, and Finance Director for direction in carrying out this project.

Section 10. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 11. This ordinance shall become effective upon its adoption.

Adopted this the 12th day of January, 2009.

s/Judy M. Jennette  
**JUDY M. JENNETTE**  
**MAYOR**

s/Cynthia S. Bennett  
**CYNTHIA S. BENNETT**  
**CITY CLERK**

- E. Adopt – Budget Ordinance Amendment to appropriate funds for NC Rural Center Grant match for a sewer system evaluation (\$10,000)

**AN ORDINANCE TO AMEND THE BUDGET ORDINANCE  
OF THE CITY OF WASHINGTON, N.C.  
FOR THE FISCAL YEAR 2008-2009**

**BE IT ORDAINED by the City Council of the City of Washington, North Carolina:**

Section 1. That the Estimated Revenues in the Sewer Fund be increased in the amount of \$10,000 in the account Fund Balance Appropriated, account number 32-90-3991-9910.

Section 2. That account number 32-90-8220-0400, Professional Services portion of the Sewer Fund appropriations budget be increased in the amount of \$10,000 to provide funds for a wastewater rate study.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 12<sup>th</sup> day of January, 2009.

s/Judy M. Jennette  
**JUDY M. JENNETTE**  
**MAYOR**

s/Cynthia S. Bennett  
**CYNTHIA S. BENNETT**  
**CITY CLERK**

**MR. DOUG SOLOMON & BOBBY ROBERSON –  
TRAPEZE SCHOOL, B1H CENTRAL BUSINESS HISTORIC DISTRICT**

Bobby Roberson, Director of Planning and Development reviewed a map of the waterfront area with Council. Mr. Roberson suggested that the school be relocated to the former Evans Seafood property instead of behind the Maola Building, due to difficulty getting approval from the Clean Water Management Trust Fund.

Doug Soloman requested that Council grant approval to locate temporarily at the Evans Seafood property. Mr. Soloman noted that they would hope to resolve any issues with the first location and possibly move back to the first requested location behind the Maola Building. Mayor Jennette explained she spoke with Alma Friedman today and a renter had been found for the McQuay building and feels this school would have a negative effect on downtown.

Dot Moate voiced concern over the approval of the 8' chain link in the historic district. Mayor Jennette explained that the Historic Preservation Commission approved the fence as a temporary use.

On motion of Councilman Woolard, seconded by Councilman Jennings, Council approved as a "temporary use" the Inner Banks Trapeze School to operate from mid-March to mid-November, 2009 at the former Evans Seafood property.

AYES:  
Councilman Jennings  
Councilman Woolard  
Councilman Davis

NAYES:  
Mayor Pro tem Mercer  
Councilman Brooks

### **ECONOMIC DEVELOPMENT COMMISSION**

Councilman Jennings noted there was nothing to report at this time.

### **TOURISM DEVELOPMENT AUTHORITY**

Mayor Jennette stated the Randall report has been received and the TDA will have a workshop later this month. The audit will be presented at Tuesday's TDA meeting. The Cycle-NC event will be April 16<sup>th</sup>-19<sup>th</sup>.

### **HUMAN RELATIONS COUNCIL**

Mayor Jennette stated the Human Relations Council will meet on Tuesday.

### **DOWNTOWN WASHINGTON ON THE WATERFRONT**

Tom Miller thanked Council for approving the Trapeze School. Mr. Miller also thanked the Council and City staff for their assistance with the Spirit of Washington, which has changed its name to the Belle of Washington.

Mr. Miller explained there was money set aside to design and develop the alley like the one by the Turnage. He stated DWOW will be utilizing the NC Dept. of Commerce and the Main Street program as well as ECU for designing this alley. Mr. Miller stated DWOW is not ready to ask Council for money for designing the alley and feels this money could be put towards another project, such as the façade program.

Dot Moate stated DWOW has decided to start a sailing school and has purchased six dinghies. The group would like to install a platform in front of the Estuarium and is asking Council to give them permission to file a CAMA permit. The platform has been donated by Sound Marine in Wilmington.

Mayor Pro tem Mercer made a motion to make this item an action item for February's agenda. Council stated they need a letter from Partnership for the Sounds stating their feelings on this proposal as well as who will run the program and insurance information. Councilman Jennings seconded the motion. All voted in favor and the motion carried.

### **CITIZENS FOR REVITALIZATION**

Councilman Jennings stated the group is ready to make a report to Council, hopefully in February.

### **WARREN FIELD AIRPORT**

City Manager, Jim Smith stated we have received plans for the fueling system upgrade and are looking forward to putting that out for bids.

### **ANNEXATION REPORT**

Bobby Roberson, Director of Planning and Development explained the areas considered to be annexed. Mr. Roberson explained that Council will have to adopt a Resolution of Intent to Annex. Councilman Jennings stated the Annexation Committee is seeking the "ok" from Council for staff to proceed with the Resolution of Intent to Annex. Council agreed for staff to proceed with the Resolution of Intent.

### **HAVEN'S GARDEN REPORT**

Phil Mobley, Director of Parks and Recreation stated he is still waiting on the DOT appraiser for the value of the land and the value of the live oak tree. He also spoke with Bill Forman regarding specifics needed from his firm. With specifics in place, he has the amount down to \$22,000. Mr. Mobley is still working on the CAMA permit for the T-Docks; they can't apply for the permit until July 2009 when the Environmental Assessment is complete.

Councilman Jennings inquired on the status of the plan for Haven's Gardens. He further asked Mr. Mobley to focus on the concerns over children on both sides of the parking lot. Mayor Jennette asked Mr. Mobley to bring updated drawings of the plans for Haven's Gardens.

### **HARBOR MANAGEMENT REPORT**

Bill Sykes stated the water quality will be studied to determine a baseline to monitor any progress made toward improvements. PTRF is applying for grants to fund the study and will be forwarding information to the City Manager.

Mr. Sykes noted they are trying to understand how to effectively manage the harbor as it grows. One way would be to define, through ordinance what the harbor is and then possibly treating the harbor as a park with rules and regulations.

Mr. Sykes stated he and David Norwood met with DENR regarding the pre-application of the Major CAMA permit for the mooring fields. They will need a letter from the City stating the mooring field concept is in compliance to the CAMA plan.

### **FINANCIAL REPORTS**

Anita Radcliffe, Interim Finance Director stated the reports were not ready in time to meet the agenda deadline; therefore the financial reports were distributed to Council tonight. She was awaiting the latest projections from Booth and Associates and received them through November 2008 and presented that to Council tonight. Ms. Radcliffe stated the rates and projections will be discussed in more detail at the Committee of the Whole. She will request for December projections from Booth and Associates.

### **AWARD – CONTRACT FOR ROOF REPLACEMENT FOR THE BROWN LIBRARY**

Allen Lewis, Director of Public Works explained that staff has solicited bids from contractors who specialize in flat roof systems and recommends that a contract be awarded to Commercial Solutions, Inc. (CSI). The CSI representatives were very thorough in their review of the existing conditions and offer the best warranty of any of the proposals received. The proposal calls for a 15 – 20 year water proof roof with their warranty.

On motion of Mayor Pro tem Mercer, seconded by Councilman Jennings, Council unanimously awarded a contract for a new roof for the Brown Library to Commercial Solutions, Inc. in the amount of \$44,600 and authorized the Manager to approve increases for optional items in an amount not to exceed \$7,250.

**(copy attached – contract in file)**

**APPROVE AND AUTHORIZE – DIRECTOR OF PARKS AND RECREATION TO EXECUTE WATERFRONT DOCKING AGREEMENT AND APPROVE RULES AND REGULATIONS FOR WASHINGTON WATERFRONT DOCKING**

Mayor Jennette suggested continuing this item until March to allow the City Attorney and Mayor Pro tem Mercer time to review items of concern. Mayor Jennette asked Teresa Hamilton to have the Recreation Advisory Board review this before the March meeting. By consensus this item was continued until March.

**UPDATE – QUARTERLY REPORT NORTHGATE**

Jason Briley updated Council on the progress at Northgate Subdivision. Mr. Briley explained he has seven houses complete, 6 with foundations ready and 3 more under contract. Franz Holscher, City Attorney noted he still needs 24 more lots sold to Low-to Moderate Income persons before the end of December 2009.

**UPDATE – PACIFIC SEACRAFT, THE RURAL CENTER GRANT**

Bobby Roberson, Director of Planning and Development updated the Council on the progress of Pacific Seacraft. Mr. Roberson stated Mr. Brodie has to have 25 permanent jobs created within 18 months. It is anticipated that the hiring of new positions will occur soon after the completion of the renovation of the facility. Mr. Roberson explained the total amount of the project was estimated at \$400,000 and the grant amount awarded was \$200,000. The grant dollar amounts spent thus far are as follows:

Roll up door	\$ 4,277.50
Sprinkler system	14,156.00
Ventilation system	85,994.16
Concrete pad	11,033.43
Fire wall	<u>3,632.50</u>
Total	\$119,093.59

**Council convened for a break and reconvened at 6:00pm**

**COMMENTS FROM THE PUBLIC**

Gary Tomasulo came forward and thanked DWOW for realizing the problem downtown and finding a way to do a study without costing any money. He urged Council to take the money allotted for DWOW's alley program and move it to the Planning Department to start the façade grant program again. Council agreed to place on the February agenda moving the money from the DWOW alley project to the façade grant program.

**UPDATE – BATHROOMS, STEWART PARKWAY**

Bobby Roberson, Director of Planning and Development reviewed comments from the public meetings he held regarding location of the bathroom facilities. Mr. Roberson noted the majority of the comments favored putting a new facility at the current location.

A motion was made by Councilman Davis, seconded by Councilman Woolard to leave the bathroom facilities at the present location and instruct staff to proceed to find funding through CAMA or other grants to construct the new facility. Motion failed – no vote was taken. Councilman Jennings stated this discussion is only to determine location, not funding of constructing the facility.

The motion was amended by Councilman Davis, seconded by Councilman Woolard; Council unanimously accepted the current location of the bathroom facilities as the location to construct new bathroom facilities.

Councilman Jennings explained he had drawings and documents regarding possible designs and will bring that to the February meeting.

**AWARD – CONTRACT WORK FOR THE CONSTRUCTION OF THE UTILITIES AND STREET IMPROVEMENTS FOR 6<sup>TH</sup> AND 7<sup>TH</sup> STREETS AS PART OF THE CDBG PROGRAM ACTIVITIES**

Bobby Roberson, Director of Planning and Development explained the City of Washington has been awarded a CDBG grant from the Division of Community Assistance to improve housing and infrastructure improvements along a portion of 6<sup>th</sup> and 7<sup>th</sup> Streets. The project was advertised and thirteen bids were received.

On motion of Mayor Pro tem Mercer, seconded by Councilman Brooks, Council unanimously authorized the City Manager, Jim Smith, to sign the contract documents with James L. Cayton Utilities, Inc., New Bern, NC for the utilities and street improvements for the CDBG 6<sup>th</sup> and 7<sup>th</sup> Streets up grades, in an amount not to exceed \$243,409.50.

**(copy attached – contract in file)**

**ADOPT – RESOLUTION LEVYING A TAX ON GROSS RECEIPTS DERIVED FROM RETAIL SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT**

Franz Holscher, City Attorney stated this was on the December agenda and asked Council to continue until January to allow him to make typographical corrections as well as changing it from an Ordinance to a Resolution.

On motion of Councilman Woolard, seconded by Councilman Davis, Council unanimously adopted the Resolution Levying a Tax on Gross Receipts Derived From Retail Short-Term Lease or Rental of Heavy Equipment.

**A RESOLUTION  
LEVYING A TAX ON GROSS RECEIPTS DERIVED FROM  
RETAIL SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT**

WHEREAS, the North Carolina General Assembly has ratified Senate Bill 1852, which has been designated as Session Law 2008-144 [the “Act”]; and,

WHEREAS, the Act repealed the property tax on certain heavy equipment leased or rented under retail short-term leases or rentals and authorized municipalities to replace the lost tax revenue through enactment of a local tax on gross receipts derived from the retail short-term lease or rental of that heavy equipment.

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

**Section 1. Definitions.** In addition to the common meanings of words, the following definitions shall be applicable herein:

- (a) “Customer” shall mean any person that leases or rents heavy equipment on a short-term lease or rental basis.
- (b) “Finance Officer” shall refer to that individual appointed to serve as finance officer for the City and any other person authorized to carry out the duties and functions of such individual or, where the context and when the circumstances require, the person or entity who is performing the duties of tax collector for the City through contract.

(c) "General Statutes" shall refer to the North Carolina General Statutes and any reference to a particular section thereof shall include the same as may be from time to time amended, modified, supplemented, revised or superseded.

(d) "Gross receipts" shall mean the amount that is or would be reported as gross receipts on a business's state income tax return, or on the federal income tax return filed with the state income tax return if the state return does not separately state gross receipts for the most recently completed tax year. Taxes collected hereunder are not subject to the tax herein imposed and are not included in gross receipts.

(e) "Heavy equipment" shall mean earthmoving, construction, or industrial equipment that is mobile, weighs at least 1,500 pounds, and is either:

(i) A self-propelled vehicle that is not designed to be driven on a highway; or

(ii) Industrial lift equipment, industrial material handling equipment, industrial electrical generation equipment, or a similar piece of industrial equipment.

The term includes an attachment for heavy equipment, regardless of the weight of the attachment.

(f) "Lease or rental" shall mean a transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. The term does not include any of the following:

(i) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.

(ii) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars (\$100.00) or one percent (1%) of the total required payments.

(iii) The providing of tangible property along with an operator for a fixed or indeterminate period of time if the operator is necessary for the equipment to perform as designed. For the purpose of this subparagraph, an operator must do more than maintain, inspect, or set up the tangible personal property.

(g) "Long-term lease or rental" shall mean a lease or rental made under a written agreement to lease or rent property to the same person for a period of at least three hundred sixty-five (365) continuous days.

(h) "Person" shall mean any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.

(i) "Short-term lease or rental" shall mean any lease or rental that is not a long-term lease or rental.

(j) "Taxpayer" means any person liable for the taxes imposed by this Resolution.

**Section 2. Levy of Tax.** A tax is hereby imposed and levied in an amount equal to eight tenths percent (0.8%) of the gross receipts derived from the short-term lease or rental of heavy equipment at retail. This tax on gross receipts is in addition to the privilege taxes authorized by G.S. § 160A-211.

**Section 3. Collection of the Tax.** Every person whose principal business is the short-term lease or rental of heavy equipment at retail shall collect at the time of the lease or rental, or at the time of the payment of the consideration therefor, the tax herein levied. A person is not considered to be in the short-term lease or rental business if the majority of the person's lease and rental gross receipts are derived from leases and rentals to a person who is a related person as defined under G.S. § 105-163.010. The tax so collected shall be placed in a segregated account, and thereafter remitted to the Finance Officer in accordance with the provisions of this Resolution. The taxpayer shall include a provision in each retail short-term lease or rental agreement, or other documentation evidencing the transaction, stating that the percentage amount enacted by this Resolution of the total lease or rental price, excluding sales tax, is being charged as a tax on gross receipts. The amount of the tax shall be stated separately from the lease or rental and shown separately on the taxpayer's records. The tax shall be paid by the customer to the taxpayer as trustee for and on account of the City. The taxpayer shall be liable for the collection thereof and for its payment to the Finance Officer and the taxpayer's failure to charge or to collect said tax from the customer shall not affect such liability.

**Section 4. Report and Payment of Tax.** Taxes levied under this Resolution are due and payable when a return is required to be filed. Every taxpayer shall, within the time specified, submit a return to the Finance Officer on the form prescribed by the Finance Officer. A return must be signed by the taxpayer or the taxpayer's agent. Returns of taxpayers are due to the Finance Officer for each calendar quarter on or before the last day of the month following the end of the quarter in which the tax accrues. A return shall not be considered a public record and information contained in a return may be disclosed only in accordance with statutory provisions.

**Section 5. Taxpayer to Keep Records.** The taxpayer shall keep and preserve suitable records of the gross receipts received by such taxpayer in the conduct of business and such other books or accounts as may be necessary to determine the amount of the tax for which such taxpayer is liable under the provisions of this Resolution. It shall be the duty of the taxpayer to keep and preserve for a period of three years all such records of gross receipts and other books and accounts described. All records, books and accounts herein described shall be open for examination at all reasonable hours during the day by the Finance Officer or the Finance Officer's duly authorized agent.

**Section 6. Tax Collector to Provide Forms.** The Finance Officer shall design, prepare, print and make available to all taxpayers operating within the municipal boundaries of the City forms and instructions for filing returns to insure a full collection of and an accounting for taxes due. The failure of any taxpayer to obtain or receive forms shall not relieve such taxpayer from the payment of the tax at the time and in the manner provided.

**Section 7. Situs.** Gross receipts from the short-term lease or rental of heavy equipment are subject to the tax imposed by this Resolution if the place of business from which the heavy equipment is delivered is located within the municipal boundaries of the City.

**Section 8. Penalties and Remedies.** The provisions with respect to penalties and collection remedies that apply to the payment of sales and use taxes under Article 5 of Chapter 105 of the General Statutes shall be applicable in like manner to the tax authorized to be levied and collected under this Resolution, to the extent that the same are not inconsistent with the provisions hereof. The Finance Officer may exercise any power the Secretary of Revenue may exercise in imposing these penalties and remedies.

**Section 9. Severability.** If any section, clause, or provision of this Resolution shall be found to be invalid, the validity of the remaining sections, clauses or provisions shall not be affected thereby.

**Section 10. Authority.** This Resolution is enacted pursuant to the provisions of G.S. § 160A-215.2.

**Section 11. Effective Date.** This Ordinance and the taxes thereby levied and imposed shall become effective April 1, 2009.

Adopted this the 12<sup>th</sup> day of January, 2009.

s/Judy M. Jennette  
**JUDY M. JENNETTE**  
**MAYOR**

s/Cynthia S. Bennett  
**CYNTHIA S. BENNETT**  
**CITY CLERK**

#### **DISCUSSION – HIGHWAY 264 SPEED LIMIT**

Jim Smith, City Manager stated that a group of business & property owners East and West of Brick Kiln Road contacted him and asked the City to write a letter requesting NCDOT to extend the 45mph zone to Smaw Road. Mr. Smith said the State has advised us the new stoplight has been designed for a 55mph speed limit. He asked Council if they wanted him to pursue further the possible reduction in speed or just wait and see how it works. Councilman Davis suggested we wait and see how the stoplight works. Mayor Pro tem Mercer said we have already sent a letter requesting the change and the DOT said no.

#### **DISCUSS – ELECTRICITIES FEBRUARY 2009 RATE INCREASE**

Mayor Jennette explained this item has been moved to the January Committee of the Whole and explained the meeting will need to be extended to allow time to review this issue. Mayor Pro tem Mercer asked Council if they would agree to support New Bern if they proceed with requesting the delay of the rate increase. Mayor Pro tem Mercer suggested asking the Manager to write a letter similar to New Bern's letter.

On motion of Mayor Pro tem Mercer, seconded by Councilman Davis, Council unanimously authorized the Manager to write a letter to ElectriCities requesting the continuation of the implementation of the rate increase until July 1<sup>st</sup> in support of the position established by New Bern and ask the City Manager to contact the New Bern City Manager Tuesday morning indicating the Council's acceptance of this action.

#### **DISCUSSION – INSPECTIONS DEPARTMENT**

Mayor Jennette stated this was a request from Mayor Pro tem Mercer and Councilman Davis. Mayor Jennette stated the memo in the agenda book was a summary of the Planning Dept., Fire Chief and City Manager regarding the placement of the Inspections Department. Mayor Pro tem Mercer asked if it was practical or impractical to move Inspections back to the Planning Department and it should have been done last February and it was not. Councilman Brooks stated the memo to Council states moving the Inspections Department back to the Planning Department is not practical at this time. Councilman Jennings stated that the Manager was to determine when it was practical to move the Inspections Department and feels Council has overstepped its bounds by interrupting the flow of direction. He feels at this time with the Planning Director retiring it is not practical to move it now nor was it before.

Mayor Pro tem Mercer said he asked for a report requesting if it was practical or impractical to move the Inspections Department and the memo states it is not practical to move it and he is fine with that.

**MEMO – COMP TIME VS. OVERTIME  
(FOR DISCUSSION AT THE JANUARY COMMITTEE OF THE WHOLE)**

Mayor Jennette said the January Committee of the Whole will be to discuss electric rates and requested this item be moved to the February Committee of the Whole. Council agreed to move this item to the February Committee of the Whole.

**CHOCOWINITY SEWER AGREEMENT**

Mayor Jennette stated this is for a 24 unit subdivision and they are requesting sewer capacity from the City of Washington. Councilman Jennings requested a written request. Allen Lewis, Public Works Director stated he has spoken with Chocowinity's Public Works Director today and it is a 25 lot subdivision. Mr. Lewis noted a conditional agreement could be arranged stating not to exceed 10,000 gallons per day.

On motion of Councilman Jennings, seconded by Mayor Pro tem Mercer, Council unanimously authorized the Manager to write a letter to Chocowinity stating the City will extend sewer capacity not to exceed 10,000 gallons per day.

**ADOPT – ADMINISTRATIVE GUIDELINES AND PROGRAM POLICIES FOR THE  
CITY OF WASHINGTON'S CAPACITY GRANT #08-C-1812**

Bobby Roberson, Director of Planning and Development stated these are basically boiler plate guidelines needed to implement the program activities for the Capacity Grant.

On motion of Mayor Pro tem Mercer, seconded by Councilman Jennings, Council unanimously adopted the administrative guidelines and program polices for the Capacity Grant, CDBG #08-C-1811 in order to implement the program activities recommend by the Division of Community Assistance.

**(copy attached – guidelines & policies in file)**

**AWARD – BID ON A 59 MONTH INSTALLMENT NOTE FOR THE GENERAL FUND,  
SEWER FUND, STORM WATER FUND, AND SOLID WASTE FUND AND ADOPT A  
RESOLUTION APPROVING THE FINANCING TERMS**

Jim Smith, City Manager stated this is the financing for vehicles and equipment that were authorized by Council in the 2008-2009 budget.

On motion of Mayor Pro tem Mercer, seconded by Councilman Jennings, Council unanimously awarded the \$743,900, fifty-nine month installment note bid to BB&T and adopted a resolution approving the financing terms of the loan.

**RESOLUTION APPROVING FINANCING TERMS**

**WHEREAS:** The City of Washington ("City") has previously determined to undertake a project for financing Vehicles and Other Equipment (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 29, 2008. The amount financed shall not exceed \$743,900.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 2.91%, and the financing term shall not exceed fifty-nine (59) months 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 Deed of Trust 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 12<sup>th</sup> day of January, 2009

s/Judy M. Jennette  
**JUDY M. JENNETTE**  
**MAYOR**

s/Cynthia S. Bennett  
**CYNTHIA S. BENNETT**  
**CITY CLERK**

**ADOPT – RESOLUTION TO LEASE PROPERTY ON AIRPORT ROAD TO  
BEAUFORT COUNTY COOPERATIVE EXTENSION**

On motion of Councilman Jennings, seconded by Councilman Woolard, Council unanimously adopted the Resolution to Lease Property on Airport Road to the Beaufort County Cooperative Extension.

**RESOLUTION TO LEASE PROPERTY  
ON AIRPORT ROAD  
TO THE BEAUFORT COUNTY COOPERATIVE EXTENSION**

**WHEREAS**, the City of Washington ("City") owns the Warren Field Airport, including that 1.31 acres located generally on the South side of Airport Road and as more specifically depicted on Exhibit A attached hereto and incorporated herein by reference (hereinafter referred to as "Premises"), which Premises the City finds it does not currently have a use for.

**WHEREAS**, the City Council therefore finds the Premises is currently surplus to the City's needs and will not be needed by the City for the term of the lease proposed hereby.

**WHEREAS**, the Beaufort County Cooperative Extension, through its Beaufort County Master Gardener Program, desires to lease said Premises in order to utilize the same for the purposes of said Program.

**WHEREAS**, the City Council supports said Program, finds that it will benefit the citizens of the City of Washington and the County of Beaufort, and finds the proposed use to be acceptable and will reduce the City's maintenance responsibilities.

**WHEREAS**, North Carolina General Statute §160A-272 authorizes the City to enter into leases of up to 10 years upon a resolution of the City Council adopted at a regular meeting after 10 days' public notice.

**WHEREAS**, the required notice has been published and the City Council is convened in a regular meeting.

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

The City Council hereby approves the proposed lease of said Premises owned by the City to the Beaufort County Cooperative Extension for five (5) years and authorizes the City Manager to further negotiate, if necessary, and execute said lease.

Adopted this 12<sup>th</sup> day of January, 2009.

s/Judy M. Jennette  
**JUDY M. JENNETTE**  
**MAYOR**

s/Cynthia S. Bennett  
**CYNTHIA S. BENNETT**  
**CITY CLERK**

**CLOSED SESSION – UNDER G.S. 143-318.11(A)(5) POTENTIAL ACQUISITION OF REAL PROPERTY: PROPERTY LOCATED ON SPRINGS ROAD & OWNED BY MS. ANNIE MAYO, LOTS OWNED BY FIRST PRESBYTERIAN CHURCH ON RESPESS STREET, AND PROPERTY LOCATED ON HARVEY STREET OWNED BY OMAR PARKER, PROPERTY LOCATED ON HARVEY STREET AND OWNED BY THE BEAUFORT COUNTY BOARD OF EDUCATION; UNDER G.S. 143-318.11(A)(3) ATTORNEY/CLIENT, AND UNDER G.S. 143-318.11(A)(6) PERSONNEL**

On motion of Councilman Woolard, seconded by Mayor Pro tem Mercer, Council unanimously agreed to go into closed session under G. S. 143-318.11(a)(5) Potential acquisition of real property: Property located on Springs Road & owned by Ms. Annie Mayo, Lots owned by First Presbyterian Church on Respepp Street, property located on Harvey Street owned by Omar Parker, property located on Harvey Street and owned by

the Beaufort County Board of Education; Under G.S. 143-318.11(a)(3) Attorney/Client (Coppage vs. City of Washington, et. al.), and under G.S. 143-318.11(a)(6) Personnel.

On motion of Councilman Brooks, seconded by Councilman Woolard, Council unanimously agreed to come out of closed session.

**ADJOURN**

On motion of Councilman Jennings, seconded by Councilman Woolard, Council unanimously adjourned the meeting at 8:20pm, until Monday, January 26, 2009 at 4:30 p.m. in the Council Chambers at the Municipal Building.

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**Cynthia S. Bennett  
City Clerk**