

**NORTH CAROLINA  
GRANVILLE COUNTY  
CITY OF OXFORD**

**OXFORD CITY HALL, BOARD MEETING ROOM  
TUESDAY, NOVEMBER 18, 2008 AT 7:00 P.M.**

The Board of Commissioners of the City of Oxford met in Regular Session at City Hall, 300 Williamsboro Street at the above-mentioned time and place.

Present: Mayor Alvin Woodlief, Jr.  
Mayor Pro Tem Howard G. Herring, Sr.  
Commissioner Robert Shope  
Commissioner Stephen C. Powell  
Commissioner Paul F. Kiesow  
Commissioner A. Chance Wilkinson  
Commissioner Robert B. Williford, Sr.  
Commissioner Walter Cantley

Present also were City Attorney J. Thomas Burnette, City Manager Mark Donham and City Clerk Tanya S. Weary.

All members of the board and local news media were notified of the time, place and purpose of the meeting.

Mayor Al Woodlief, Jr. called the meeting to order.

Reverend Phillip Betts gave the prayer.

The Pledge of Allegiance followed the prayer.

**PUBLIC COMMENT**

No one wished to speak during public comment.

**MAYOR'S YARD OF THE MONTH AWARD –  
KEATON & BARBARA RANKIN**

Mayor Woodlief recognized November's Mayor's Yard of the Month winners, Keaton and Barbara Rankin. Mayor Woodlief read the certificate, which recognizes them

for the outstanding job of landscaping maintenance and overall attractiveness of 204 Delacroix Street. He added a sign would be placed in the yard recognizing them as the winners for Mayor's Yard of the Month and that a picture would be taken for the *Oxford Public Ledger*. The Rankins were unable to attend.

### **ZONING PUBLIC HEARING – SCHOOL-DAY TREATMENT FACILITIES**

Mayor Woodlief declared the public hearing open. The purpose of the public hearing was to allow for public comment as it pertains to amending the Zoning Ordinance to include definition and development standards for School-Day Treatment Facilities.

There were no comments. The Mayor closed the public hearing.

### **ZONING ORDINANCE AMENDED – SCHOOL-DAY TREATMENT FACILITIES**

Commissioner Kiesow motioned to amend the Zoning Ordinance to include definition and development standards for School-Day Treatment Facilities. Commissioner Cantley seconded the motion. The motion carried unanimously.

#### ***Definition***

School-Day Treatment Facility .Day program for minors or adults with behavioral problems or learning disabilities enrolling no more than 12 students at a time, and not including overnight facilities.

Table of Permitted Uses as a Special Use in the B-2, B-3 & O-I zoning districts.

#### ***Specific Requirements***

- Each such facility must be licensed by the state and must demonstrate compliance with license issuance and renewal criteria on an annual basis.
- No such facility shall be located within one-half mile of an existing facility.
- The facility shall have a full time supervisor on the premises at all times who shall keep a current list of the individuals enrolled in the facility and restrictions, if any, applicable to that individual's plan of treatment.
- Hours of operation shall be approved by the Zoning Board of Adjustment appropriate to each facility's license and the district in which the permit is sought.

**ANNEXATION PUBLIC HEARING - 3 PARCELS OF LAND SITUATED  
ALONG INDUSTRY DRIVE BETWEEN RALEIGH STREET AND  
HENDERSON STREET OWNED BY THE CENTRAL CHILDREN'S HOME**

Mayor Woodlief declared the public hearing open. The purpose of the public hearing was to allow for any comments pertaining to the annexation of three parcels of land situated along Industry Drive between Raleigh Street and Henderson Street owned by the Central Children's Home.

There were not any questions. Mayor Woodlief closed the public hearing.

**ANNEXATION ORDINANCE ADOPTED - 3 PARCELS OF LAND SITUATED  
ALONG INDUSTRY DRIVE BETWEEN RALEIGH STREET AND  
HENDERSON STREET OWNED BY THE CENTRAL CHILDREN'S HOME**

Mayor Pro Tem Herring motioned to adopt the annexation ordinance for three contiguous parcels of land situated along Industry Drive between Raleigh Street and Henderson Street owned by the Central Children's Home. Commissioner Shope seconded the motion. The motion passed unanimously.

**ORDINANCE NO: 08-11-01**  
**ADOPTED: 11-18-08**  
**EFFECTIVE: 12-01-08**

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS  
OF THE CITY OF OXFORD, NORTH CAROLINA  
3 PARCELS OF LAND SITUATED ALONG INDUSTRY DRIVE BETWEEN  
RALEIGH STREET AND HENDERSON STREET OWNED BY THE CENTRAL  
CHILDREN'S HOME**

WHEREAS, the City of Oxford Board of Commissioners has been petitioned under G.S. 160A-31 to annex the area described below; and

WHEREAS, the City of Oxford Board of Commissioners has by resolution directed the City Clerk to investigate the sufficiency of the petition; and

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held in conjunction with the November Regular Session at Oxford City Hall Board Meeting Room, 3<sup>rd</sup> Floor, 300 Williamsboro Street, at 7:00 PM on Tuesday, November 18, 2008, after due notice by publication in the Oxford Public Ledger on October 30, 2008 & November 6, 2008; and

WHEREAS, the Oxford Board of Commissioners finds that the petition meets the requirements of G.S. 160A-31;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the City of Oxford, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Oxford as of December 1, 2008:

**METES AND BOUNDS  
SEE ATTACHED MAP RECORDED AT THE GRANVILLE COUNTY  
REGISTER OF DEEDS IN PLAT BOOK 32, PAGE 132**

Section 2. Upon and after December 1, 2008, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Oxford and shall be entitled to the same privileges and benefits as other parts of the City of Oxford. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Oxford shall cause to be recorded in the office of the Register of Deeds of Granville County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall be delivered to the Granville County Board of Elections, as required by G.S. 163-288.1.

Section 4. Notice of adoption of this ordinance shall be published once, following the effective date of annexation, in a newspaper having general circulation in the City of Oxford.

Adopted this 18<sup>th</sup> day of November, 2008.

**BUSINESS PRIVILEGE LICENSE PRESENTATION**

Finance Director Steve McNally and Phyllis Blackwell were present.

Robin Lewis of Robin Lewis Consulting, Inc. noted G.S. 160A-211 allows cities to have the power to levy a privilege license tax on all trades, businesses, profession carried on within the city. The statute limits a few types of business from either exempting them on a local level or having a fixed rate for their license. Oxford currently has their privilege license schedule on flat rates. Ms. Lewis recommended having only one city controlled license on a gross sales/receipts tax. This would mean, in most cases, each business would have this one city classification and they would report their sales/receipts and be taxed accordingly. She explained there are circumstances where businesses would be taxed for other activities that are limited by the state, however, those receipts would be deducted from their total receipts. She added going to gross receipts would make it more equitable by charging the people who are using police and fire protection more, such as a Walmart.

Ms. Lewis recommended that the tax schedule be based on the following information: a \$50.00 minimum for gross receipts up to \$125,000; then \$0.40 per \$1,000 thereafter. This would simplify the administering of the privilege license tax and make it easier for the taxpayer in keeping records and in determining how much to pay. She suggested adding a "Miscellaneous" classification based on the number of employees for any business who may claim no gross receipts, such as an administrative office. This process should be reviewed every two to three years to determine any changes, such as increasing the minimum tax or the cents per \$1,000, as well as a cap. She gave examples of different businesses on how the gross receipts would work.

Ms. Lewis noted some cities do their privilege license for daycares based on the number of children. Commissioner Wilkinson asked how this is done legally to which

Ms. Lewis noted the statute does not say anything on how a city licenses a daycare. She noted prior to 1997 cities were limited to charging based on the number of children. Commissioner Wilkinson questioned a privilege license for manufacturing to which Ms. Lewis explained that it is not limited by the State as an exemption. She stressed that there is a lot of gray in privilege licensing, for example a pharmacist is not listed under professionals.

It was stated that this would not affect the smaller businesses. Ms. Lewis noted eight cities went to gross receipts this year that were smaller cities, such as Pembroke, Wendell, and Whiteville.

Commissioner Cantley asked how much would the City benefit from gross receipts to which Ms. Lewis replied the revenue could at least triple more than the previous year.

A consensus was taken and it was unanimous to send this to the Finance Committee to study.

### **ADDITIONAL ITEM**

#### **DRUG & ALCOHOL TESTING POLICY AMENDED**

Commissioner Shope, Personnel Committee Chairman noted the policy had been amended with a few minor changes and a check off list of reasonable suspicions was added.

Commissioner Shope motioned to adopt the amended Drug & Alcohol Testing Policy. Commissioner Cantley seconded the motion and carried unanimously.

#### **Drug and Alcohol Testing Policy**

#### **City of Oxford, North Carolina**

## **Section 1. Purpose and Scope of Policy**

A. The purpose of this Policy is for the City of Oxford, North Carolina (the “City” hereinafter) to maintain a drug-free and alcohol-free workplace and to provide procedures for conducting screenings of job applicants and employees for the use of illegal drugs and the improper use of prescription drugs.

B. Employees with substance-abuse problems are encouraged to voluntarily seek help from the employee assistance program. However, employees who fail drug or alcohol tests will be terminated, if the City Manager and Director of Human Resources determine the tests to be valid.

C. All testing will be conducted in a manner that will protect the rights of employees and applicants subject to testing. Therefore, the City will take all necessary steps to safeguard the dignity and self-esteem of those being tested, and will ensure adherence to all procedures pertaining to the implementation of this Policy. The City will adhere strictly to all standards of confidentiality and assure all employees that testing records and results will be released only to those authorized to receive such information.

D. Participation in a counseling, treatment, or rehabilitation program for drug and/or alcohol use or abuse will not be grounds for discharge provided the employee voluntarily enters such program prior to being identified as a drug user/abuser or alcohol abuser by means such as tests, and before the employee becomes suspected under circumstances satisfactory to the City of being a drug user/abuser or alcohol abuser.

## **Section 2. Drug and Alcohol Tests Required by the United States Department of Transportation (DOT)**

This section covers all employees who must hold a commercial driver’s license as a job requirement.

A. ***Pre-placement.*** Before a covered employee initially performs safety-sensitive functions for the City, he or she must undergo testing for drugs. Covered applicants for employment or current covered employees transferring into a position that requires testing must pass a pre-placement drug test.

B. ***Post Accident.*** Post accident testing must be conducted on any driver or any other safety-sensitive employee *not* in the vehicle (e.g., maintenance personnel) whose performance could have contributed to the accident. A determination whether to test covered employees who were not in the vehicle but who may have contributed to the accident will be made based on the best information available at the time of the decision. The Federal Highway Administration mandates that tests must be conducted in the event of a fatality or if the driver receives a citation under state or local law for a moving traffic violation arising from the accident. Federal Transit Administration mandates testing in

the event of a fatality or in the event that a driver receives a citation and an individual suffers a bodily injury and immediately receives medical treatment away from the accident scene or if one of the vehicles in the accident is disabled to the extent that it must be towed.

**C. *Reasonable Suspicion.*** A test will be conducted when there is reason to believe that the employee has used a prohibited drug, misused prescribed medication or has misused alcohol as defined in this Policy. Reasonable suspicion testing is authorized only if the required observations are made by a supervisor or official of the locality where the covered employee is on duty.

**D. *Random Testing.*** Employees designated as safety-sensitive, as defined by the DOT guidelines will be tested on an unannounced basis throughout the year. Computer-based, random numbers generated and matched with the employee's identification number will determine who is tested.

**E. *Positive Drug or Alcohol Test.*** An employee who has a positive breath alcohol or drug test, shall be terminated after the City Manager and Human Resources director have determined that the test was valid.

### **Section 3. Drug and Alcohol Abuse and Testing Policy for all Employees**

A. The unlawful manufacture, distribution, dispensation, possession, purchase or use of drugs by employees is prohibited and constitutes grounds for immediate termination.

B. The manufacture, distribution, dispensation, possession, storage, purchase, or use of alcohol by employees while at the workplace is prohibited and constitutes grounds for immediate termination.

C. Employees who are terminated as a result of this policy and who elect to pay for COBRA health benefits, may choose to use any unused benefits regarding Employee Assistance Program for further evaluation, counseling and/or treatment.

D. No safety-sensitive employee shall use alcohol within four hours before going on duty or operating, or having physical control of, a commercial motor vehicle or transit service vehicle.

E. When there is reasonable suspicion (see Section 8, Definitions) that an employee on duty has alcohol or drugs in his or her system, the employee will be tested. If the employee tests positive and the City Manager (or his designee), after consulting with the Human Resources Director concludes that the alcohol or drug test was valid, the employee will be terminated.

F. A reasonable-suspicion or post-accident alcohol test shall be administered no later than two hours following the determination of reasonable suspicion or following the accident.

If the alcohol test is not administered within two hours following the determination of reasonable suspicion or following the accident, a written report must be submitted to the City Manager. The City Manager will determine if reasonable cause exists for not having the test taken in a timely manner. The supervisor must have the test taken as soon as possible after reasonable suspicion or following an accident. If it is determined that an effort was made to avoid a test, disciplinary may be taken that may include termination of the employee and/or the supervisor.

If confronted by a supervisor for reasonable suspicion or following an accident the employee must immediately submit to an appropriate test. If the employee refuses they will be terminated immediately.

If in an accident, in a City vehicle during working hours including lunch and breaks, an employee must report the accident immediately to their supervisor, their supervisor's supervisor, the Human Resources Director, or the City Manager in this order. If not reported immediately the employee may be subject to termination. The City Manager will evaluate if a reasonable cause exists for not reporting the accident in a timely manner.

G. A written record shall be made of the observations leading to a reasonable-suspicion drug or alcohol test and signed by the supervisor or departmental designee who made the observations, within twenty-four hours of the observed behavior or before the results of the controlled-substance tests are released, whichever is earlier.

H. No safety-sensitive employee involved in an accident that requires an alcohol test shall consume any alcohol for eight hours following the accident or until a post-accident alcohol test is performed, whichever comes first.

I. An employee who is tested (exclusive of the return-to-duty test) and found to have a positive alcohol or drug test, will be terminated after a review by the City Manager who will consult with the Human Resources Director.

J. Employees assigned to positions that are determined to be safety sensitive will be randomly tested for alcohol and drugs. Selected employees will be transported to the designated testing location. Random testing for drugs and alcohol shall be conducted at the rate mandated by DOT or city policy.

K. An employee who refuses to submit to, or fails to follow through with, a drug or alcohol test when testing as required by this Policy will be terminated. However, before proceeding with disciplinary action, the employee's department director must assure that the facts of the case are reviewed by the human resources department and City Manager.

L. If an employee alleges that, because of medical reasons, he or she is unable to provide a sufficient amount of breath to permit a valid breath test, the breath alcohol technician shall instruct the employee a second time to attempt to provide an adequate amount of breath. If the employee continues to allege an inability to provide a sufficient amount of breath for the test, the department shall be notified that the employee has refused to be tested, and will be offered a blood draw. The employee will be directed to obtain, as soon as practicable after the attempted provision of breath, an evaluation from a licensed physician acceptable to the City addressing the employee's medical ability to provide the adequate amount of breath. If there is not a medical reason acceptable to management for the employee's inability to provide the breath, or refuses to submit to a blood draw, the employee will be considered to have refused to submit to the alcohol test and will be disciplined according to the guidelines established by this Policy.

M. An employee who does not pass the drug or alcohol test and is terminated will not be considered for re-employment,

N. An employee shall inform his or her supervisor if, prior to beginning work or while he or she is on duty, that he or she has used or intends to use prescription drugs, over-the-counter drugs, or other substance that might impair his or her ability to satisfactorily perform duties. Employees are responsible for a thorough understanding of the effects and potential side effects of medications or other chemical substances taken. Failure to notify the supervisor under these circumstances may result in disciplinary action up to and including termination depending on the severity of the resulting incident. The human resources department will be consulted prior to such discipline being imposed.

O. The City Manager and Human Resources Director will review the findings of a drug test with the employee before a final determination is made that the employee did not pass the drug test. The purpose of this review is to ensure that the findings of a positive test are not based on factors other than the use of the drug for which the positive result is found.

P. Employees returning to the workforce following completion of a drug and/or alcohol rehabilitation program will be tested on an unannounced and periodic basis for drugs and/or alcohol during the sixty months following their return to work. Those employees covered by DOT guidelines must submit to a minimum of six follow-up tests within the first twelve months following rehabilitation. An employee having a follow-up breath alcohol test resulting in a positive test will be terminated after review by the City Manager and the Human Resources Director.

Q. If an employee is convicted of a violation of a criminal drug statute and such violation occurred while the employee was on duty, the employee must notify his or her department director of the conviction within five days after such conviction. (NOTE: This is a requirement of the Drug-Free Workplace Act). Failure to comply with this requirement will result in termination.

#### **Section 4. Applicant Testing – Post Offer**

A. Applicants determined to be final candidates for any full time position to include commercial driver's license positions will be required to submit to a drug screening. The drug screen shall be performed within forty-eight hours from the time the conditional job offer is made.

B. Applicants determined to be final candidates for positions requiring a commercial driver's license or positions designated as safety sensitive by DOT guidelines will also be required to submit to an alcohol screening. The applicant must have a negative breath alcohol test to be considered for employment.

C. Applicants for temporary positions requiring a commercial driver's license, or positions designated as safety sensitive by DOT guidelines, will be required to submit to a drug and alcohol screening.

D. Applicants for temporary positions designated as safety sensitive shall be required to submit to a drug screen.

E. Candidates for other temporary positions should be required to submit to a drug screen if the department director or City Manager determines that the nature of the job and the length of the assignment justify a test.

F. An applicant will have four hours to provide an acceptable urine specimen. An applicant who refuses to submit to, or fails to follow through with, the drug test as required, will not be considered for employment.

G. An applicant who does not pass the drug test as required will not be considered for employment.

H. Any applicant covered by the provision of the DOT alcohol-and-drug-testing guidelines who has a positive breath alcohol test will not be considered for employment.

I. Any applicant having completed a drug or alcohol rehabilitation program within two years prior to their employment with the City of Oxford will be required to certify that they have successfully completed the program before they can be hired. If hired, these employees will be tested on an unannounced and periodic basis for drugs and/or alcohol during the sixty months following their hire.

#### **Section 5. Post Accident Testing**

Any employee on the job accident necessitating a visit to a physician will require a drug screen. Moreover, the employee causing the accident may also be screened for drugs.

## **Section 6. Compliance with Law**

A. Information regarding the testing and referral of employees and applicants under this Policy will be treated as confidential in accordance with the requirements of North Carolina law governing the privacy of employee personnel records.

B. Searches and seizures are to be conducted in a legal manner. The City of Oxford reserves the right to conduct searches or inspections of property assigned to an employee whenever a department director or his or her designee determines that the search is reasonable under all the circumstances.

## **Section 7. Supervisory Responsibilities**

Every supervisor shall:

A. Consistently apply this Policy to all employees under his or her supervision. A supervisor who fails to apply this Policy when he or she believes, or reasonably should believe, that an employee under his or her supervision has committed a violation will be disciplined. Discipline may include termination if it is determined this misapplication of the policy was to conceal the use of drugs or alcohol by an employee.

B. Initiate the process for having an employee drug or alcohol tested if there is reasonable suspicion that an employee under his or her supervision, when such employee is on duty, has an illegal drug or alcohol in his or her system or is using any legal drug in a manner other than it was intended.

C. Ensure that employees he or she supervises are aware of the requirements and consequences of this Policy.

D. Follow the procedure established by the department director for assuring that an employee who is to be tested for alcohol or other drugs is transported to the designated test site, and that those employees for whom there is reasonable suspicion of substance abuse or who have had a positive breath alcohol result, are transported home, either by personal family/friends or by arranged transportation.

## **Section 8. Employee responsibilities**

Every employee shall:

A. Abide by this policy as a condition of employment.

B. Comply with all applicable laws regulating the manufacture, distribution, dispensation, use or possession of illegal drugs, alcohol, or prescription drugs.

C. Assure that his or her ability to perform his or her job duties is not negatively affected due to the uses of a drug or alcohol when scheduled to report to work or when on “on call” status. Should any employee be requested to report to work for a safety-sensitive job earlier than his or her normal or previously assigned time, it is the employee’s responsibility to advise his or her supervisor of an inability to perform his or her job duties or that he or she has consumed alcohol within he last four hours prior to reporting for duty. If the employee had received prior notice that he or she might be called back into work, the employee shall be considered AWOL if he or she is unable to report to duty. An employee may be subject to other disciplinary action due to inability to report for duty.

D. Submit immediately to a drug or alcohol test when requested by his or her supervisor.

E. Notify his or her department director, if convicted of a violation of a criminal drug statute and such violation occurred while the employee was on duty, within five days after such conviction, as required by the Drug-Free Workplace Act.

## **Section 9. Definitions**

***Accident*** means an occurrence involving a commercial motor vehicle operation on a public road that results in a fatality; bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or one or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle(s) to be transported away from the scene by a tow truck or other vehicle. The term “accident” further refers to any employee having any work related accident necessitating a doctor’s visit.

***Alcohol Test*** means a test for the presence of alcohol in the body as determined through the use of a breath alcohol test, evidential breathalyzer test, or blood screening.

***Conviction*** means the finding of guilt (including a plea of no contest or pursuant to State v. Alford or any similarly designated plea) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violation of federal or state criminal drug statutes.

***Criminal drug statute*** means a criminal statute relating to the manufacture, distribution, dispensation, use or possession of any drug.

***Drug*** means a controlled substance as listed in Schedules I through V of Section 202 of the Controlled Substances ct (21 USC 812) or Chapter 90, Section 87(5) of the North Carolina General Statutes or metabolite thereof.

***Drug test*** and ***drug screening*** mean a test, including providing the necessary sample of body fluid by the employee to be tested, for the presence of any of the following drug or drug metabolites in the urine or blood of an employee:

- a. amphetamines
- b. barbiturates
- c. benzodiazepines
- d. cannabinoids
- e. cocaine
- f. methaqualone
- g. opiates
- h. phencyclidine
- i. Propoxyphene
- j. Other drugs that may be determined to reduce work efficiency.

**Medical review officer** is a North Carolina-licensed physician with specific training in the area of substance abuse. The medical review officer not only has knowledge of substance-abuse disorders, but also has been trained to interpret and evaluate laboratory test results in conjunction with an employee's medical history to determine whether the result was caused by the use of prohibited drugs or by an employee's medical condition.

**On call** means being subject to being called to report immediately to work for the City of Oxford.

**On duty** means when an employee is at the workplace, performing job duties, on call, or during any other period of time for which he or she is entitled to receive pay from the City of Oxford.

**Other substance** means any substance that has the potential to impair appreciably the mental or physical function of a person who does not have any unusual or extraordinary reaction to such substance.

**Positive**, with respect to the results of a drug test, means having detectable traces of illegal or miss-used prescription in the blood or urine.

**Positive**, with respect to the results of an alcohol test, means the presence of alcohol in an employee's system at the 0.02 level or greater.

**Negative**, with respect to the results of a drug test, means a test result that does not show presence of drugs at a level specified to be a positive test.

**Negative**, with respect to an alcohol test, means a test that indicates a breath alcohol concentration of less than 0.02.

**Qualified negative**, with respect to the results of a drug test, means a test in which the lab result is consistent with legal drug use.

**Canceled**, with respect to the results of a drug test, means a test result in which the medical review officer finds insufficient information or inconsistent procedures with which to make a determination.

**Random testing** is testing conducted on an employee assigned to a safety-sensitive position and is chosen by a method that provides an equal probability that any employee from a group of employees will be selected.

**Reasonable suspicion** exists when a supervisor, who has received the required training in detecting the signs and symptoms of probable drug and/or alcohol use, can substantiate specific contemporaneous, articulable observations concerning appearance, behavior, speech, or body odor or other physical indicators of probable drug or alcohol use. By way of example and not limitation, any one or a combination of the following may constitute reasonable suspicion:

- a. Slurred speech;
- b. The odor of marijuana or alcohol about the person;
- c. Inability to walk a straight line;
- d. An accident resulting in damage to property or personal injury;
- e. Physical altercation;
- f. Verbal altercation;
- g. Behavior that is so unusual that it warrants summoning a supervisor or anyone else in authority (i.e. confusion, disorientation, lack of coordination, marked personality changes, irrational behavior);
- h. Possession of drugs;
- i. Verifiable information obtained from other employees based on their observations;
- j. Arrests, citations, and deferred prosecutions associated with drugs or alcohol;
- k. Examples of Reasonable Suspicion:

Supervisor's Evaluation: (Check (x) and circle all appropriate symptoms)

**WORK PERFORMANCE**

- \_\_\_\_\_ uncharacteristic resentment/avoidance/confrontation of co-workers/supervisors patterns of tardiness/absences (after paydays, time off, etc)
- \_\_\_\_\_ more frequent accidents on job
- \_\_\_\_\_ decreased work efficiency, disorganized, forgetful
- \_\_\_\_\_ patterns of tardiness/absences (after paydays, time off, etc.)
- \_\_\_\_\_ extended break or lunch times
- \_\_\_\_\_ longer periods of unaccounted for time or restroom breaks
- \_\_\_\_\_ unexplainable decrease in quality and productivity

**PHYSICAL/BEHAVIORAL WORK PERFORMANCE**

- \_\_\_\_\_ imbalance while walking/standing, staggering, stumbling
- \_\_\_\_\_ eyes – bloodshot, watery, dilated, glassy, trance-like stare
- \_\_\_\_\_ face – pale, flushed, sweaty
- \_\_\_\_\_ uncharacteristic speech-overly loud/soft, rambling, slurred, thick
- \_\_\_\_\_ bad body / breath odor
- \_\_\_\_\_ body or breath odor is “alcohol-like” or “sickly sweet”
- \_\_\_\_\_ uncharacteristic appearance of clothing is messy, dirty, unruly
- \_\_\_\_\_ dizziness, heart palpitations, inability to catch breath
- \_\_\_\_\_ physical shakiness, hand tremors, extreme fidgeting
- \_\_\_\_\_ argumentative
- \_\_\_\_\_ chronic fatigue or short bursts of high energy
- \_\_\_\_\_ constant runny nose, sniffing, sores around nostrils

**EMOTIONAL/MENTAL WORK PERFORMANCE**

- \_\_\_\_\_ increased irritability, defensiveness, suspiciousness, nervous
- \_\_\_\_\_ mood swings from highs to lows
- \_\_\_\_\_ loss of interest in former goals, “don't care anymore” attitude
- \_\_\_\_\_ easily confused, hard time staying focused on issue or conversation, can't remember specifics.
- \_\_\_\_\_ over-reaction to real or imagined criticisms
- \_\_\_\_\_ abrupt increased alertness, excitation, euphoria
- \_\_\_\_\_ more relaxed inhibitions – increased profanity, disrespectful of authority, suggestiveness
- \_\_\_\_\_ sudden change in personality – stays to self a lot
- \_\_\_\_\_ agitation, impatience, intolerance
- \_\_\_\_\_ inappropriate laughing or crying

**ATTENDANCE** (Complete all questions.)

1. Attendance is a work performance problem. \_\_\_\_\_ Yes \_\_\_\_\_ No
2. Number of Mondays or Fridays missed in the last two months\_\_\_\_\_.
3. Total absences in last two months\_\_\_\_\_.
4. Times tardy in last two months\_\_\_\_\_.
5. Times employee left early in last two months\_\_\_\_\_.

**PERFORMANCE LEVEL**

1. Has there been a recent change in the associate's level of performance?  
Yes \_\_\_\_\_ No \_\_\_\_\_
2. If yes, describe. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**MEDICAL STATUS** (*Question Associate and note his/her response.*)

1. Are you feeling ill? \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_ No Response If Yes, what are your symptoms?
2. Have you taken either "over the counter" or prescription medications within the last 24 hours? (*Medicines must be in original containers.*)  
Prescribed by \_\_\_\_\_ For \_\_\_\_\_
3. Have you consumed any alcohol products within the last 24 hours (include cough meds, etc.)? \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_ No Response If Yes, what type? \_\_\_\_\_ How much? \_\_\_\_\_
4. Have you taken or consumed any other types of substances within the last 24 hours which may have resulted in your symptoms? \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_ No Response If Yes, what? \_\_\_\_\_ How much? \_\_\_\_\_ When? \_\_\_\_\_

**COMMENTS**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ACTION**

- \_\_\_\_\_ Complete an immediate "For Cause" drug screen  
\_\_\_\_\_ Referred to Human Resources/Medical Evaluation.

**Unannounced follow-up testing** is testing conducted on an employee on a periodic, unannounced basis, following his or her return to work from an approved drug or alcohol rehabilitation program.

**Pre-placement testing** is testing conducted on a current city employee prior to his or her being promoted, transferred, or demoted into a safety-sensitive position.

**Safety-sensitive** position means:

A position will be designated safety sensitive only where the City of Oxford has a compelling need, on the basis of safety concerns, that ascertain on-the-job impairment on the part of employees who hold the position. Such a compelling need may arise where the duties of a position create, or are accompanied by, such a great risk of injury to other persons or to property of such magnitude that even a momentary lapse of attention, judgment, or dexterity could have disastrous consequences.

Examples of these positions include:

- a. Positions (full or part time) requiring the use of weapons (or potential use of weapons) or the operation of vehicles, machinery, or equipment as a primary task or where the employee has received training for its operation, or where the employee may use it several times during a year (does not include routine office equipment).
- b. Positions requiring the handling of hazardous materials, the mishandling of which may place the employee, fellow employees, or the general public at risk in the workplace.
- c. Other positions as determined on a case-by-case basis.

The following includes activities defined as safety sensitive by the Federal Highway Administration or Federal Transit Administration portions of the DOT guidelines:

- a. Operating a motor vehicle;
- b. Inspecting, servicing, or conditioning any commercial motor vehicle;
- c. Waiting to be dispatched at a carrier of shipping plant, terminal, facility, or other public property;
- d. Performing all other functions in or upon any commercial motor vehicle except resting in a sleeper berth;
- e. Loading or unloading a vehicle, supervising or assisting in the loading or unloading of a vehicle, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or giving or receiving receipts for shipments being loaded or unloaded.
- f. Performing driver requirements relating to accidents.
- g. Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
- h. Operating a revenue service vehicle, including when not in revenue service.

- i. Operating a nonrevenue service vehicle when required to be operated by a holder of a commercial driver's license.
- j. Controlling dispatch or movement of a revenue service vehicle.
- k. Maintaining a revenue service vehicle or equipment used in revenue service.
- l. Carrying a firearm for security reasons.

Determination as to which positions are safety sensitive will be based on DOT guidelines or the recommendation of the department director and approval by the Human Resources Department and City Manager.

**Supervisor**, in general, means any employee who has the authority to direct the job activities of one or more other employees. With respect to a particular employee, the term means such employee's immediate supervisor and all persons having indirect supervisory authority over such employee. For purposes of this section, the City Manager is included as the supervisor of all City employees.

**Pass a drug test** means that the result of a drug test is negative. The test either:

- a. Showed no evidence or insufficient evidence of a prohibited drug or drug metabolite, or
- b. Showed evidence of a prohibited drug or drug metabolite but there was a legitimate medical explanation for the result as determined by a Certified medical review officer.

**Pass an alcohol test** is a negative alcohol test. The test showed no evidence or insufficient evidence of a prohibited level of alcohol as defined in this Policy.

**Workplace** means the location or facility where an employee may be expected to perform any task related to the requirements of his or her job. This includes break rooms and restrooms, outdoor worksites, City or personal vehicles (while personal vehicle is being used for City business), computer work stations, conference rooms, hallways, private offices, open/portioned work areas, public contact/customer service/medical services areas, and parking lots. Any and all personal medical prescriptions must be in a bottle with the employee's name and drug name on the label.

**Substance abuse professional** means a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of both drug-and alcohol-related disorders.

**Commercial motor vehicle** means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- a. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- b. Has a gross vehicle weight rating of 26,001 or more pounds; or
- c. Is designed to transport 16 or more passengers, including the driver; or
- d. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and that requires the motor vehicle to be placarded under the Hazardous Materials Regulations.

**Confirmation test** for alcohol means a second test, following a screening test with a result of 0.02 or greater that provides quantitative data of alcohol concentration. Confirmation test for controlled substances means a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screen test and that used a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for the SAMHSA drugs.

**Refuse to submit** means that an employee 1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing, (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing, (3) refuses to sign the breath alcohol confirmation test certification, or (4) engages in conduct that clearly obstructs the testing process. An employee subject to the post-accident testing requirements of the DOT who unnecessarily leaves the scene of an accident before a required test is administered or fails to remain readily available for testing may be deemed to have refused to submit to testing.

*Effective Date: This policy shall become effective as of January 1, 2009.*

**HEALTH INSURANCE FOR ELECTED OFFICIALS RESCINDED**

Mayor Pro Tem Herring placed this item on the agenda.

Mayor Woodlief excused himself from this portion of the meeting due to conflict of interest. The Mayor turned the meeting over to Mayor Pro Tem Herring and recognized City Attorney Burnette.

City Attorney Burnette noted he had not finalized the information requested by Mayor Pro Tem Herring, but has a draft of an opinion letter written and is waiting on a couple of attachments. He will send this letter and the attachments to all the Board members within a few days.

Mayor Pro Tem Herring informed the Board had requested an opinion letter from the City Attorney in order to make an intelligent decision concerning the health insurance program for retired elected officials. He explained the City has one participant that is currently receiving the insurance benefits from the City and has been since 1997. He asked do we stop it or do we continue this and recognized if this is a legal question? The Mayor Pro Tem noted the City has another eligible participant to receive the benefits of the insurance program, but is not currently receiving the benefits because he has not left the Board of Commissioners. He added he pays his own insurance each month. He added the General Assembly will undertake this issue at the next session and he has emailed Representative Jim Crawford to verify this. He believes the Board should receive the City Attorney's opinion before a decision is made or wait until the General Assembly makes a decision. He noted it is inappropriate to make a decision tonight without the opinion of the City Attorney.

Mayor Pro Tem Herring motioned from this day forward separate and apart from the participant currently receiving insurance and the individual who is eligible, that the

City does not provide an insurance program for city elected officials once they leave the Board of Commissioners.

Commissioner Powell asked if this included elected officials who pay into the program. Mayor Pro Tem presented his seconded motion not provide insurance for anyone.

Commissioner Wilkinson asked if the elected official buys into the program to which Mayor Pro Tem stated he did not know because he is wrestling with the meaning of retiring from the city board. He believes when a person leaves the board he/she should cut the ties with the city in terms of benefits.

Commissioner Cantley noted he had spoken with David Lawrence and he indicated the Attorney General would probably rule, it would be up to the City. He referred to Chapel Hill who voted to allow the elected officials to have the benefit, but rescinded in a month due to an uproar.

Commissioner Wilkinson seconded the motion.

Commissioner Cantley made a substitute motion to discuss what to do with the current person receiving health insurance benefits and the person eligible for the health insurance benefits and added the City can make a decision on this and not wait on the General Assembly. Commissioner Shope seconded this motion.

Commissioner Powell commented that he is not comfortable with voting on the issue before he has received the City Attorney's opinion and did not know if it is legal. He added he did not agree with elected officials getting a free ride.

Commissioner Williford asked if the program is killed tonight can a lawsuit be brought against the City to which it was stated it is a legal question.

Commissioner Kiesow commented he and his wife were receiving insurance for 13 years and they were cut off; he does not think this is right. He feels the two people involved should be included.

Commissioner Shope noted this was brought up three years ago and voted against it at that time. He noted he has researched this and added it is not fair for elected officials to receive health, vision, dental and pharmaceutical insurance with poor sections in Oxford that do not have insurance. He recognized 46 million people in the U.S. do not have health insurance with 1.5 million in North Carolina. He noted this had been changed four different times; therefore the board can giveth and the board can taketh. He recognized health insurance is an issue on the economy.

Mayor Pro Tem Herring noted he was uncomfortable without having a legal counsel. Commissioner Powell agreed with Commissioner Shope, but did not want to make a decision that isn't guided by a legal decision.

Commissioner Wilkinson noted the Commissioners are setting themselves up for the Mayor of Oxford to sue the City because his insurance benefits are taken away when he retires. He believes it can be cut off for the future, but does not feel the Commissioners can legally cut off health insurance for someone who is vested already. Commissioner Shope noted elected officials are different than an employee. Commissioner Cantley noted Samuel Spies, Journalist of the News & Observer commented the City may be breaking the law. City Attorney Burnette noted if the Commissioners wanted his opinion the Board would need to go into Closed Session.

Commissioner Wilkinson motioned to go into Closed Session. Commissioner Williford seconded the motion.

Mayor Pro Tem Herring alluded going into Executive Session is an indication the Board may have something to hide to which City Attorney Burnette explained the Board would only be consulting with their attorney just like any one in the room would not like to do it in a public forum. Frank Strickland commented that you are dealing with the taxpayers' money to which City Attorney Burnette noted he was not addressing Mr. Strickland. Mr. Strickland asked to speak.

Frank Strickland of 112 Planters Place recognized the citizens present are against this. He referred to a statement made by Mr. Herring, which was that this policy is a city policy and the Board is not under city policy. He added the City Attorney does not have an opinion and if he has one he is reluctant to address it. He stressed this is wrong. There are a lot of poor people in Oxford who do not have health insurance. He said he does not have the type of health insurance the city affords and gives away for free. He said so what if the City would have a lawsuit come about because the City does not have any problem defending against a lawsuit filed against a possible corruption by a city official. He added he doubts he will sue knowing that he initiated the policy and voted for it. He asked the Board to be good stewards of the tax dollars and stand up for the citizens of Oxford instead of playing tally rally with somebody on the board. He asked the board to do the right thing and appeal this policy now.

Gary Weaver of 221 Gilliam Street advised that the Board wait a month, get the opinion from the City Attorney and put the burden on Mr. Burnette and come back next month to make a decision. He noted he is not in favor of benefits for elected officials.

Carolyn Hardy of 157 Pine Cone Drive recognized this came up three years ago and there still isn't a ruling? Commissioner Wilkinson noted it was voted on at that time; the current question if it is legal or not just came up recently.

Mayor Pro Tem Herring called for a vote on the substitute motion. Commissioners Shope and Cantley voted in favor of the motion. Commissioners Powell, Kiesow, Herring, Wilkinson and Williford voted against the motion. The motion failed 5-2.

Mayor Pro Tem Herring called for a vote on the initial motion which was from this day forward separate and apart from the participant currently receiving insurance and the individual who is eligible, that the City does not provide an insurance program for city elected officials once they leave the Board of Commissioners. Commissioner Wilkinson seconded the motion. The motion passed unanimously.

Mayor Pro Tem Herring turned the meeting back over to Mayor Woodlief.

### **YOUTH ADVISORY COUNCIL**

Commissioner Powell asked not to discuss this item because it goes beyond the school system to get participants. He added he is still in conversation and asked to rediscuss this item at the December Regular Session.

### **UNIFORMS FOR PUBLIC WORKS EMPLOYEES**

Mayor Pro Tem Herring noted he would like to see Public Works employees wear uniforms and suggested budgeting for this for FY 2009-2010. City Manager Donham explained the uniforms would not be reflected, but the employee would be required to wear a reflective vest.

Commissioner Cantley asked what this would cost the City to which City Manager Donham replied \$15,100. Commissioner Cantley asked if they could just wear a vest instead of an entire uniform to which the City Manager added the purpose is to make employees easily identified and safety reasons. Commissioner Cantley stated an identification tag could do the same thing.

Mayor Pro Tem Herring motioned to include uniforms for Public Works employees in the FY 2009-2010 budget. Commissioner Powell seconded the motion. The motion carried unanimously.

#### **DEED FOR ROLLINGWOOD SUBDIVISION LIFT STATION ACCEPTED**

Mayor Pro Tem Herring motioned to accept deed of land the Rollingwood Subdivision lift station sits on. Commissioner Wilkinson seconded the motion. The motion passed unanimously.

#### **ZONING PUBLIC HEARING SET – REZONE CORNER OF EASY STREET & LINDEN AVENUE**

Commissioner Shope motioned to call for a public hearing in conjunction with the December Regular Session scheduled for December 9, 2008 beginning at 7:00 PM in the 3<sup>rd</sup> Floor Board Room to consider rezoning the corner of Easy Street and Linden Avenue from O-I (Office-Institutional) to B-2 (Highway-Business). Commissioner Powell seconded the motion. The motion carried unanimously.

#### **NC SAFE ROUTES TO SCHOOL PROGRAM**

The North Carolina Department of Transportation is offering a reimbursement program to fund new sidewalks to provide for increased safety, convenience and accessibility for children to walk to school. Funding requests range up to \$300,000 per

project. No matching funds are required. Staff would like to submit two sidewalk applications for Webb and Mary Potter.

Commissioner Powell asked if the foot traffic was studied for these areas to which City Engineer Thomas noted the principals made these recommendations.

The Board of Commissioners will consider adopting a resolution of support at the December Regular Session.

### **BUDGET AMENDMENT APPROVED – AIRPORT AUTHORITY**

Commissioner Wilkinson, Finance Committee Chairman, noted the City made a five-year commitment with the airport for funding. City Manager Donham commented the City had been in a relationship with the airport since 1966 and it is a great asset and has great potential. He recognized other partners have paid their share. Mayor Woodlief noted the City currently does not have representation because they sent the check back because it was not for the full amount. Jim Brummitt was present as a member of the Board but is not currently a voting member. He added he believes the City Manager will be able to bring business to the airport. He suggested that Granville County share the taxes charged on the airplanes with all the members. He asked that Mr. Brummitt report the City's concern about the taxes. Mayor Woodlief asked the status of transportation for the federal prison to which Mr. Brummitt noted the airport needs 500 ft additional on the runway. He explained they have a \$400,000 federal grant and Representative Butterfield has put in another \$800,000 grant. This will be 10% matching funds. The airport is appraised at \$16 million; Oxford owns \$4 million. Forty-five permanent planes are housed there. Granville County provides all police and fire protection.

Commissioner Shope motioned to approve a budget amendment in the amount of \$14,022.00 made payable from the General Fund for funding for the Oxford Henderson Airport Authority. Commissioner Cantley seconded the motion. (The City already budgeted \$12,000 this current fiscal year, but needs to increase the appropriation to \$26,022.) The motion passed unanimously.

Commissioner Kiesow asked to talk about the Hub project and how this is handled.

**BUDGET AMENDMENT**

ACCOUNT NO.	DESCRIPTION	INCREASE	DECREASE
010410637	Contribution to Airport	\$14,022.00	
010399000	Approp. Fund Balance	\$14,022.00	

**APPOINTMENT – RECREATION ADVISORY COMMITTEE-  
PAUL WHITE**

Commissioner Herring motioned to reappoint Paul White to the Recreation Advisory Committee for a three-year term, expiring October 2011. Commissioner Kiesow seconded the motion. The motion passed unanimously.

**APPOINTMENT – RECREATION ADVISORY COMMITTEE-  
DR. MIKE FEDEWA**

Commissioner Kiesow motioned to reappoint Dr. Mike Fedewa to the Recreation Advisory Committee for a three-year term, expiring October 2011. Commissioner Powell seconded the motion. The motion passed unanimously.

**APPOINTMENT – RECREATION ADVISORY COMMITTEE-**  
**FRANKIE B. WILKINS**

Commissioner Shope motioned to reappoint Frankie B. Wilkins to the Recreation Advisory Committee for a three-year term, expiring October 2011. Commissioner Cantley seconded the motion. The motion passed unanimously.

**BUDGET AMENDMENT APPROVED – DINNAH HENDERSON**

Finance Director McNally explained this was from a CDBG project for renovations of the house at 310 McClanahan Street and the house burned. Insurance proceeds came from the fire. The deed was held by the City with uncertainty if the insurance proceeds belonged to the City. The court ruled that the City must pay and amend the budget to reflect the expenditure.

Commissioner Shope motioned to approve a budget amendment in the amount of \$10,410.00 made payable from the General Fund for disbursement of insurance proceeds to the estate of Dinnah Henderson. Commissioner Williford seconded the motion. The motion carried unanimously.

**BUDGET AMENDMENT**

<b>ACCOUNT NO.</b>	<b>DESCRIPTION</b>	<b>INCREASE</b>	<b>DECREASE</b>
010410659	Ins. Disburs. D. Henderson	\$10,410.00	
010399000	Approp. Fund Balance	\$10,410.00	

**CONSENT AGENDA APPROVED**

**A. MEETING MINUTES**

Commissioner Kiesow motioned to approve meeting minutes of October 6 & 15, 2008. Commissioner Cantley seconded the motion. The motion passed unanimously.

**B. FINANCIAL REPORT – OCTOBER 2008**

Finance Officer Stephen McNally supplied the Board with a copy of the October 2008 financial report that included General Fund actual revenues of \$776,589 actual expenses of \$737,374; Water Fund actual revenues of \$322,066, and actual expenses of \$337,053 and Other actual revenues of \$217,474 and actual expenses of \$269,338. The subtotals to date are General Fund actual revenues of \$3,106,717 and actual expenses of \$2,515,211; Water Fund actual revenues of \$1,427,094 and actual expenses of \$1,357,042; Other actual revenues of \$217,474 and actual expenses of \$269,338. Mayor Woodlief noted that if there were not any questions concerning the report, Finance Director McNally would be in his office tomorrow for any questions.

**CLOSED SESSION – CONTACT**

At 8:31 PM, on a motion by Commissioner Wilkinson, seconded by Commissioner Williford, the Board voted to go into Closed Session according to G.S. 143-318.11 to discuss a contract. The motion passed unanimously.

On a motion by Commissioner Cantley, seconded by Commissioner Shope, the Board voted unanimously to return open session (9:17 PM).

**ADJOURNMENT**

There being no further business, Mayor Woodlief adjourned the meeting.