

**REGULAR MEETING
ASHEBORO CITY COUNCIL
THURSDAY, APRIL 6, 2006
7:00 P.M.**

This being the time and place for a regular meeting of the Mayor and the City Council, a meeting was held with the following officials and members present:

David H. Jarrell) – Mayor Presiding

Talmadge Baker)
Linda Carter)
Keith Crisco)
Nancy Hunter) – Council Members Present
Walker Moffitt)
Archie Priest)
David Smith)

John N. Ogburn, III, City Manager
Dumont Bunker, P.E., City Engineer
R. Wendell Holland, Jr., Zoning Administrator
T. Myers Johnson, Acting Clerk by Designation of the City Manager
Robert H. Kivett, Operations Director Public Works
Deborah P. Juberg, Finance Director
Gary L. Mason, Chief of Police
R. Reynolds Neely, Jr., Planning Director
Trevor L. Nuttall, Planner
O. Lynn Priest, Jr., Community Development Director
Jeffrey C. Sugg, City Attorney
Rusty A. Turner, Safety Coordinator
Sanford A. Vuncannon, Jr., Police Captain

A quorum thus being present, Mayor Jarrell called the meeting to order for the transaction of business, and business was transacted as follows:

1. Pledge of Allegiance and Invocation.

Mayor Jarrell asked everyone to stand and repeat the Pledge of Allegiance. Reverend Mark Hall, Associate Minister of First Baptist Church, gave the invocation.

2. Appearance and recognition of guests and citizens.

Mayor Jarrell welcomed everyone in attendance.

3. Consent Agenda.

Upon motion by Mr. Smith and seconded by Mr. Priest, Council voted unanimously to approve the following consent agenda items:

- Minutes of the special joint meeting of the City Council and Planning Board held on February 23, 2006.
- Minutes of the regular meeting of the City Council held on March 9, 2006.
- Minutes of the special meeting of the City Council held on March 23, 2006.
- Ordinance prohibiting the riding of skateboards, roller skates, or any other toy vehicle on the premises of Venosan North America, 300 Industrial Park Avenue.

11 ORD 4-06

AN ORDINANCE PROHIBITING ANY PERSON FROM RIDING ON A SKATEBOARD, ROLLER SKATES, OR ANY OTHER TYPE OF TOY VEHICLE ON POSTED PRIVATE PROPERTY

WHEREAS, Section 160A-174(a) of the North Carolina General Statutes provides that a city may define, prohibit, regulate, or abate by ordinance acts, omissions, or conditions that are detrimental to the health, safety, or welfare of the city's citizens and the peace and dignity of the city; and

WHEREAS, Section 70.53 of the Code of Asheboro restricts the use of play vehicles in the following manner:

§ 70.53 USE OF PLAY VEHICLES RESTRICTED.

(A) It shall be unlawful for any person riding on a skateboard, roller skates, coaster, toy vehicle or similar device to ride any of such devices on the premises of the municipal buildings, on any municipal parking facility, or to ride any such devices on any sidewalk or street located in the central business district of the city, as designated on the City Zoning Map as a B-3 District.

(B) It shall be unlawful for any person riding on a skateboard, roller skate or any other toy vehicle to ride on a roadway except while crossing a street at a crosswalk or intersection; provided, that this section shall not apply upon streets set aside as play streets.

(C) It shall be unlawful for any person to ride on a skateboard, roller skates, or any other toy vehicle on private property when signs are placed, erected, or installed giving notice that skateboarding, roller skating or riding any other toy vehicle is regulated, prohibited, or prohibited during certain hours, in that space or area; and

WHEREAS, an authorized representative of Venosan North America, which has general charge and control of the real property located at 300 Industrial Park Avenue, has properly petitioned the City Council of the City of Asheboro to have the real property located at 300 Industrial Park Avenue posted in order to prohibit, in accordance with Section 70.53(C) of the Code of Asheboro, the riding by any person of a skateboard, roller skates, or any other toy vehicle in the parking lot and on the loading dock of Venosan North America.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Asheboro as follows:

Section 1. Pursuant to and in accordance with Section 70.53(C) of the Code of Asheboro, it is hereby declared to be unlawful for any person to ride on a skateboard, roller skates, or any other toy vehicle in the parking lot or on the loading dock of Venosan North America, 300 Industrial Park Avenue, Asheboro, North Carolina.

Section 2. The number and type of signs necessary to lawfully implement the provisions of Section 1 of this ordinance shall be erected or installed as determined by the chief of police or his designee, and the entirety of the cost of erecting or installing the necessary signs shall be paid by Venosan North America as the entity with general charge and control of the premises and which has requested, by and through Robert C. Spalding, the adoption of this ordinance.

Section 3. The city clerk shall enter a description in Schedule 20 of Chapter 72 of the Code of Asheboro of the type of prohibition imposed by this ordinance and a description of the private property subject to said prohibition.

Section 4. This ordinance shall become effective upon adoption.

Adopted in regular session by the Asheboro City Council on the 6th day of April, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

The following consent agenda items were withdrawn at the request of the City Attorney:

- Findings of Fact, Conclusions of Law, and Order in the Matter of CUP-06-01.
- Findings of Fact, Conclusions of Law, and Order in the matter of CUP-06-04.
- Findings of Fact, Conclusions of Law, and Order in the matter of SUP-06-05.
- Findings of Fact, Conclusions of Law, and Order in the matter of SUP-06-06.

OLD BUSINESS

4. **Request by Doug Kemp of 613 South Park Street for an ordinance establishing a no-truck zone on South Park Street (SR 1451) between Sunset Avenue (SR 1442) and Albemarle Road (SR 1713), subject to concurrence by the NC Department of Transportation.**

Mr. Bunker presented the above-referenced ordinance and recommended adoption, by reference, of the aforementioned ordinance.

Upon motion by Mr. Moffitt and seconded by Mr. Crisco, Council voted unanimously to adopt the following ordinance by reference.

12 ORD 4-06

AN ORDINANCE RESTRICTING THE USE BY TRACTOR-TRAILER TRUCKS OF SOUTH PARK STREET AS A THROUGH STREET

WHEREAS, Section 160A-296 of the North Carolina General Statutes provides that a city shall have general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits; and

WHEREAS, Section 160A-174 of the North Carolina General Statutes provides that a city may prohibit or regulate conditions that are detrimental to the health, safety, or welfare of its citizens; and

WHEREAS, based upon citizen generated safety and welfare concerns arising out of the heavy use by tractor-trailer trucks of a residential portion of South Park Street located between Sunset Avenue and Albemarle Road, the city council has concluded that tractor-trailer trucks should be prohibited from using the said portion of South Park Street as a through street.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Asheboro as follows:

Section 1. Tractor-trailer trucks are hereby prohibited from utilizing as a through street South Park Street (North Carolina Secondary Road 1451) between Sunset Avenue (North Carolina Secondary Road 1442) and Albemarle Road (North Carolina Secondary Road 1713).

Section 2. This ordinance shall become effective upon adoption of a concurring ordinance by the North Carolina Department of Transportation and the erection of signs giving notice of the prohibition of the use by tractor-trailer trucks of the above-listed portion of South Park Street.

Section 3. All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Adopted by the Asheboro City Council in regular session on the 6th day of April, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

5. **Request by the NC Department of Transportation for an ordinance declaring a 25 MPH speed limit on West Presnell Street (SR 1462) from a point 0.13 mile east of Piedmont Street (SR 1481) eastward to a point 0.14 mile west of White Oak Street (SR 3262), in effect 30 minutes before to 30 minutes after Charles W. McCrary School begins and ends on school days only.**

Mr. Bunker presented the above-referenced ordinance and recommended adoption, by reference, of the aforementioned ordinance.

Upon motion by Mr. Priest and seconded by Ms. Carter, Council voted unanimously to adopt the following ordinance by reference.

13 ORD 4-06

ORDINANCE ESTABLISHING A SCHOOL SPEED ZONE ON WEST PRESNELL STREET FOR CHARLES W. McCRARY ELEMENTARY SCHOOL

WHEREAS, Section 160A-296 of the North Carolina General Statutes provides that a city shall have general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits; and

WHEREAS, Section 20-141 (b) of the North Carolina General Statutes provides as follows:

Except as otherwise provided in this Chapter, it shall be unlawful to operate a vehicle in excess of the following speeds:

- (1) Thirty-five miles per hour inside municipal corporate limits for all vehicles.
- (2) Fifty-five miles per hour outside municipal corporate limits for all vehicles except school buses and school activity buses; and

WHEREAS, Section 20-141(f) of the North Carolina General Statutes provides as follows:

Whenever local authorities within their respective jurisdictions determine upon the basis of an engineering and traffic investigation that a higher maximum speed than those set forth in subsection (b) is reasonable and safe, or that any speed hereinbefore set forth is greater than is reasonable and safe, under the conditions found to exist upon any part of a street within the corporate limits of a municipality and which street is a part of the State highway system (except those highways designated as part of the interstate highway system or other controlled-access highway), said local authorities shall determine and declare a safe and reasonable speed limit. A speed limit set pursuant to this subsection may not exceed 55 miles per hour. Limits set pursuant to this subsection shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit; and

WHEREAS, speed restrictions established by the city council by means of the adoption of an appropriate ordinance are to be recorded in Schedule 16 of Chapter 72 of the Code of Asheboro; and

WHEREAS, upon the basis of engineering and traffic investigations conducted in conjunction with the North Carolina Department of Transportation, the Asheboro City Council has determined that a municipal school speed zone ordinance should be adopted in order to reduce the speed limit on West Presnell Street (North Carolina Secondary Road 1462) from thirty-five (35) miles per hour to twenty-five (25) miles per hour for Charles W. McCrary Elementary School.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Asheboro as follows:

Section 1. Subject to the day and time limitations specified in Section 2 of this ordinance, the speed limit shall be twenty-five miles per hour on West Presnell Street (North Carolina Secondary Road 1462) from a point located 0.13 of a mile east of Piedmont Street (North Carolina Secondary Road 1481) eastward to a point located 0.14 of a mile west of White Oak Street (North Carolina Secondary Road 3262).

Section 2. The speed restriction imposed by Section 1 of this ordinance shall be in effect only on school days and for durations of thirty (30) minutes before and after the school day begins and thirty (30) minutes before and after the school day ends at Charles W. McCrary Elementary School.

Section 3. The speed restriction imposed by this ordinance shall become effective upon adoption of a concurring ordinance by the North Carolina Department of Transportation and the erection of signs giving notice of the authorized speed limit.

Section 4. The city clerk shall amend Schedule 16 of Chapter 72 of the Code of Asheboro to reflect the imposition of the above-stated speed restriction.

Section 5. All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Adopted by the Asheboro City Council in regular session on the 6th day of April, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

6. SUB-04-04: Robins Nest Phase 2 Map 1. Final Plat Approval.

Mr. Neely presented the staff's analysis of the request by Vision Properties of Randolph County, LLC for final plat approval for Robins Nest Phase 2, Map 1. This subdivision is located on East

Allred Street at the proposed Robins Nest Drive. The request equates to approval for Lot 62 in Phase 2, Map 1. This lot consists of 14,005 square feet of land.

All departments have reviewed the plat. Both Planning Department Staff and the Planning Board recommended approval of the final plat for Robins Nest Phase 2, Map 1.

Upon motion by Mr. Baker and seconded by Mr. Smith, Council accepted the recommendation of the Planning Board and granted final approval for Robins Nest Phase 2, Map 1.

(The aforementioned final plat is on file in the City Clerk's Office.)

NEW BUSINESS

7. Land Use Issues:

Mayor Jarrell opened the public hearing on the following request:

- (a) SUP-06-07: Special Use Permit Modification / 801 Hub Morris Road. The property of North Meadows Manufactured Home Park is located at 801 Hub Morris Road and consists of approximately 83.92 acres of land. Randolph County Parcel Identification Number 77763458540 more specifically describes the property.

Mr. Neely was sworn in and presented the staff's analysis of the Applicant's request and proposed site plan. Representatives of North Meadows Manufactured Home Park (the "Applicant") requested that the council amend the existing special use permit that authorized the park in 1998. This original permit was issued under file number SUP-98-10. The representatives who were placed under oath in order to provide testimony on behalf of the Applicant during this hearing were Alan Pugh, Esq. and Katherine Chunky.

The basic request is to amend the existing permit by addressing three (3) permit conditions which currently impact the Applicant as follows: (a) the Applicant is precluded from buying manufactured homes that have gone through foreclosure; (b) the placement within the park of homes that are more than three (3) years old at the time of placement is prohibited; and (c) the Applicant is prevented from offering homes within the park for sale.

Ms. Martha Jane Bonkemeyer offered sworn testimony in opposition to the Applicant's request. Ms. Bonkemeyer is satisfied with the manufactured home park as it is currently operated, but she is concerned about the potential impact of the proposed amendments of the existing special use permit.

An audiotape of the testimony presented during this hearing is on file in the City Clerk's office.

After Mayor Jarrell closed the public hearing and upon considering the evidence presented, Council unanimously adopted a motion made by Mr. Smith and seconded by Ms. Carter to issue a special use permit for the existing manufactured home park with modifications to the existing conditions as indicated below. This action was based on the Council's determination that the requested modifications to the permit conditions did not impair the evidence or the site plan previously used to satisfy the four (4) standard tests.

In terms of the modified conditions, the zoning ordinance currently allows homes to be offered for sale within manufactured home parks so long as the number of homes for sale at any given time does not exceed ten percent (10%) of the total approved spaces in the park. Therefore, the Applicant's modified permit does allow the Applicant to take advantage of the current ordinance provisions pertaining to this issue.

In terms of the age of the homes at the time of placement and the requirement that homes be owner-occupied, the current ordinance prescribes the same regulations as imposed under the original permit. However, the Council modified these conditions of the permit to provide that if the zoning ordinance is amended in the future to allow older homes to be placed in the park, or the ordinance is amended to remove the requirement that homes be owner occupied, the Applicant will be allowed to utilize the standards most recently prescribed by the zoning ordinance as the governing standard for the Applicant's special use permit.

The Council will enter formal Findings of Fact, Conclusions of Law, and an Order for this special use permit in regular session on May 4, 2006.

Mayor Jarrell opened the public hearing on the following request:

- (b) RZ-06-09: Rezone from I1 to B2 / Sky Drive and W. Beasley Street.

Upon motion by Mr. Crisco and seconded by Ms. Carter, Council granted the Applicant's written request and deferred the above-referenced agenda item to the next regular council meeting.

8. Resolution supporting local franchising authority for cable television.

Mr. Ogburn presented and recommended adoption, by reference, of a resolution supporting the local franchising authority for cable television.

Upon motion by Mr. Smith and seconded by Mr. Crisco, Council voted unanimously to approve the following resolution by reference.

12 RES 4-06

RESOLUTION SUPPORTING LOCAL FRANCHISING AUTHORITY FOR CABLE TV

WHEREAS, the City of Asheboro recognizes that there have been three bills recently introduced that would significantly alter or completely eviscerate the ability of local governments to enter into and enforce local cable franchise agreements and to manage and collect fees for use of local rights of way, the most far reaching of which is S. 1504 introduced July 27, 2005 by Senator John Ensign (R-NV); and

WHEREAS, the two earlier bills HR3146 and S.1349, sponsored by Representatives Blackburn (R-TN) and Wynn(D-MD), and by Senators Smith (R-Ore.) and Rockefeller (D-WV), respectively attempt to give municipalities the authority to collect franchise fees, but by eliminating local franchise agreements, eliminate the mechanisms used to collect those fees; and,

WHEREAS, the City of Asheboro strongly opposes the Ensign bill or any other federal legislation that would eliminate local government authority to manage their local rights of way and ensure that the public is compensated for the use of those rights of way; and

WHEREAS, the City of Asheboro strongly endorses promoting competition for all consumers, but these bills would mean that fewer citizens will receive the benefit of video competition, leaving video providers free to chose the most lucrative communities' and,

WHEREAS, the City of Asheboro's franchise is basically a lease and land management agreement, allowing private use of public land in exchange for compensation and services for the public, and these bills would leave cities with no authority to manage the use of their rights of way; and

WHEREAS, the bills would significantly limit the amount of fees the City of Asheboro could collect, as well as limit the authority for the City of Asheboro to enforce collection of a significant source of revenue to the General Fund in the amount of \$128,777 annually; i.e., a revenue source that has increased by 5.6311 over the last five fiscal years; and,

WHEREAS, the City of Asheboro would lose its authority to ensure that public safety is maintained by eliminating institutional networks that serve our police and firefighters, as well as losing its authority over video services' ability to create potholes in public road and potentially damage water and sewer lines, without any municipal oversight.

NOW, THEREFORE, BE IT RESOLVED, that as an elected leader, I stand ready and willing to welcome and promote video competition in the City of Asheboro without abrogating local government authority to ensure for all citizens and to receive compensation for private use of public land.

Adopted this the sixth day of April, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman
Deputy City Clerk

9. Public Comment Period.

Mayor Jarrell opened the public comment period.

Mr. Neely expressed his appreciation to the Parks and Recreation Department employees and to the Council for supporting the Boy Scout Show held on the weekend of April 1, 2006.

There being no further comments from the public, Mayor Jarrell closed the public comment period.

10. Petition received from Jeffrey Schwarz requesting contiguous annexation of 0.715 acre at 251 Lakecrest Road.

Mayor Jarrell opened the public hearing on the contiguous annexation of 0.715 of an acre of land located at 251 Lakecrest Road.

There being no comments nor opposition from the public, Mayor Jarrell closed the public hearing.

Mr. Bunker presented and recommended adoption, by reference, of an ordinance to extend the corporate limits of the City of Asheboro, North Carolina.

Upon motion by Mr. Smith and seconded by Ms. Carter, Council voted unanimously to adopt the following ordinance by reference.

Ordinance Number 14 ORD 4-06
ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEBORO, NORTH CAROLINA
(0.715 of an Acre of Land Located At 251 Lakecrest Road)

WHEREAS, pursuant to Section 160A-31 of the North Carolina General Statutes, a petition signed by the owners of all of the real property located within the area hereinafter described was heretofore presented to the City Council, by which petition a request was made that said area be annexed to the City of Asheboro; and

WHEREAS, the City Council has by resolution directed the City Clerk of the City of Asheboro to investigate the sufficiency of the petition, and the City Clerk has certified the sufficiency of said petition; and

WHEREAS, the City Council did publish notice to the public on the 23rd day of March, 2006 in *The Courier Tribune*, a newspaper having general circulation in the City of Asheboro, setting forth that a public hearing would be held at 7:00 o'clock p.m. on the 6th day of April, 2006 at the City of Asheboro Municipal Building to consider the adoption of an ordinance annexing said area to the City of Asheboro; and

WHEREAS, the said public hearing was in fact held on the 6th day of April, 2006; and

WHEREAS, the City Council has determined that the petition meets the requirements of Section 160A-31 of the North Carolina General Statutes.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Asheboro, North Carolina as follows:

Section 1. By virtue of the authority granted in the North Carolina General Statutes, Chapter 160A, Article 4A, Part 1, the following described area is hereby annexed and made part of the City of Asheboro, North Carolina:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a concrete monument that is located by means of the North Carolina Coordinate System at the coordinates of North 710,907.99 feet and East 1,765,472.26 feet (NAD 27) and is set in the existing corporate limits line for the City of Asheboro; thence from said Beginning point along the existing corporate limits of the City of Asheboro South 82 degrees 49 minutes 23 seconds East 227.74 feet to an existing iron pipe; thence continuing along the existing corporate limits line the following courses and distances: South 39 degrees 50 minutes 18 seconds West 50.31 feet to a computed point; thence South 52 degrees 06 minutes 28 seconds West 147.24 feet to a computed point; thence South 51 degrees 12 minutes 44 seconds West 143.67 feet to a computed point; thence North 01 degree 26 minutes 00 seconds East 95.53 feet along the Randolph Electric Membership property described in Deed Book 400, Page 571, Randolph County Registry to an existing iron pipe; thence North 11 degrees 54 minutes 49 seconds East 155.36 feet along the Randolph Electric Membership property described in Deed Book 906, Page 132, Randolph County Registry to the point and place of the BEGINNING, and containing 0.715 of an acre of land, more or less, to be annexed.

This description is in accordance with a plat of survey entitled "ANNEXATION PLAT PREPARED FOR CITY OF ASHEBORO LAKECREST RD. AREA" that was drawn under the supervision of Glenn Lee Brown, Professional Land Surveyor with Registration No. L-3663. Said plat of survey was dated February 21, 2006 and was identified as Job No. G06018AX.

Section 2. Upon and after April 6, 2006, 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 Asheboro and shall be entitled to the same privileges and benefits as other parts of the City of Asheboro. Said territory shall be subject to municipal taxes according to section 160A-58.10 of the North Carolina General Statutes.

Section 3. The Mayor of the City of Asheboro shall cause to be recorded in the Office of the Register of Deeds of Randolph 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 also be delivered to the Randolph County Board of Elections, as required by Section 163-288.1 of the North Carolina General Statutes.

Section 4. All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 5. This ordinance shall be in full force and effect from the 6th day of April, 2006. Adopted by the Asheboro City Council in regular session on the 6th day of April, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

Approved as to form:

s/ Jeffrey C. Sugg
Jeffrey C. Sugg, City Attorney

11. Petition received from Clarence E. and Louise Goodman requesting contiguous annexation of 0.96 acre at 1320 Martin Luther King Jr. Drive.

Mr. Bunker presented and recommended adoption, by reference, of a resolution directing the City Clerk to investigate a petition requesting contiguous annexation of 0.96 acre at 1320 Martin Luther King Jr. Drive.

Upon motion by Mr. Baker and seconded by Ms. Carter, Council voted unanimously to adopt the following resolution by reference.

13 RES 4-06

RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE AN ANNEXATION PETITION RECEIVED PURSUANT TO SECTION 160A-31 OF THE NORTH CAROLINA GENERAL STATUTES (0.96 of an Acre of Land Located at 1320 Martin Luther King, Jr. Drive)

WHEREAS, a petition requesting the annexation of a lot located at 1320 Martin Luther King, Jr. Drive has been received by the City Council of the City of Asheboro, North Carolina; and

WHEREAS, Section 160A-31 of the North Carolina General Statutes provides that the sufficiency of the petition shall be investigated by the city clerk before further annexation proceedings may take place; and

WHEREAS, the City Council of the City of Asheboro deems it advisable to proceed in response to this request for annexation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the city clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify as soon as possible to the city council the results of her investigation.

Adopted by the Asheboro City Council in regular session on the 6th day of April, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

As a consequence of the receipt of written certification from the Deputy City Clerk as to the sufficiency of said annexation petition, Mr. Bunker presented and recommended adoption, by reference, of a resolution fixing the date for a public hearing on the question of annexation.

Upon motion by Mr. Crisco and seconded by Ms. Hunter, Council voted unanimously to adopt the following resolution by reference.

14 RES 4-06

**RESOLUTION FIXING THE DATE OF A PUBLIC HEARING ON THE QUESTION OF ANNEXATION
PURSUANT TO SECTION 160A-31 OF THE NORTH CAROLINA GENERAL STATUTES
(0.96 of an Acre of Land Located at 1320 Martin Luther King, Jr. Drive)**

WHEREAS, a petition requesting annexation of the area described herein has been received;
and

WHEREAS, the City Council of the City of Asheboro, North Carolina has by resolution directed the city clerk to investigate the sufficiency thereof; and

WHEREAS, certification by the city clerk as to the sufficiency of the petition has been made.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina as follows:

Section 1. A public hearing on the question of annexation of the area described herein will be held in the Council Chamber of the City of Asheboro Municipal Building, which is located at 146 North Church Street in the City of Asheboro, North Carolina, at 7:00 o'clock p.m. on the 4th day of May, 2006.

Section 2. The area proposed for annexation is described on the attached sheet that is identified as Exhibit 1 and is hereby incorporated into this resolution by reference as if copied fully herein.

Section 3. Notice of this public hearing shall be published in *The Courier Tribune*, a newspaper having general circulation in the City of Asheboro, at least ten (10) days prior to the date of the public hearing.

Adopted by the Asheboro City Council in regular session on the 6th day of April, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

(Exhibit 1 that is referred to in this resolution is attached to the original resolution on file in the City Clerk's Office.)

12. Petition received from Woodle, Inc. requesting contiguous annexation of 0.07 acre along the west side of Glovinia Street.

Mr. Bunker presented and recommended adoption, by reference, of a resolution directing the City Clerk to investigate a petition requesting contiguous annexation of 0.07 of an acre of land along the west side of Glovinia Street.

Upon motion by Mr. Smith and seconded by Mr. Priest, Council voted unanimously to adopt the following resolution by reference.

15 RES 4-06

**RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE AN ANNEXATION PETITION
RECEIVED PURSUANT TO SECTION 160A-31 OF THE NORTH CAROLINA GENERAL STATUTES
(0.07 of an Acre of Land Located along the West Side of Glovinia Street)**

WHEREAS, a petition requesting the annexation of a portion of two (2) lots located along the west side of Glovinia Street has been received by the City Council of the City of Asheboro, North Carolina; and

WHEREAS, Section 160A-31 of the North Carolina General Statutes provides that the sufficiency of the petition shall be investigated by the city clerk before further annexation proceedings may take place; and

WHEREAS, the City Council of the City of Asheboro deems it advisable to proceed in response to this request for annexation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the city clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify as soon as possible to the city council the results of her investigation.

Adopted by the Asheboro City Council in regular session on the 6th day of April, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

As a consequence of the receipt of written certification from the Deputy City Clerk as to the sufficiency of said annexation petition, Mr. Bunker presented and recommended adoption, by reference, of a resolution fixing the date for a public hearing on the question of annexation.

Upon motion by Mr. Priest and seconded by Ms. Hunter, Council voted unanimously to adopt the following resolution by reference.

16 RES 4-06

**RESOLUTION FIXING THE DATE OF A PUBLIC HEARING ON THE QUESTION OF ANNEXATION
PURSUANT TO SECTION 160A-31 OF THE NORTH CAROLINA GENERAL STATUTES
(0.07 of an Acre of Land Located along the West Side of Glovinia Street)**

WHEREAS, a petition requesting annexation of the area described herein has been received;
and

WHEREAS, the City Council of the City of Asheboro, North Carolina has by resolution directed the city clerk to investigate the sufficiency thereof; and

WHEREAS, certification by the city clerk as to the sufficiency of the petition has been made.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina as follows:

Section 1. A public hearing on the question of annexation of the area described herein will be held in the Council Chamber of the City of Asheboro Municipal Building, which is located at 146 North Church Street in the City of Asheboro, North Carolina, at 7:00 o'clock p.m. on the 4th day of May, 2006.

Section 2. The area proposed for annexation is described on the attached sheet that is identified as Exhibit 1 and is hereby incorporated into this resolution by reference as if copied fully herein.

Section 3. Notice of this public hearing shall be published in *The Courier Tribune*, a newspaper having general circulation in the City of Asheboro, at least ten (10) days prior to the date of the public hearing.

Adopted by the Asheboro City Council in regular session on the 6th day of April, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

(Exhibit 1 that is referred to in this resolution is attached to the original resolution on file in the City Clerk's Office.)

13. Resolution of intent to close Cedar Drive (Connecting to Skycrest Country Road – SR # 1203), as requested by Annette Crofts of 622 Skycrest Country Road.

Upon motion by Mr. Smith and seconded by Mr. Baker, Council approved the city staff's request and deferred the above-referenced item until the next regular council meeting.

14. Ordinance amending the Fiscal Year 2005-2006 Budget Ordinance.

Ms. Juberg presented and recommended adoption, by reference, of the aforementioned ordinance.

Upon motion by Mr. Crisco and seconded by Mr. Baker, Council voted unanimously to adopt the following ordinance by reference.

15 ORD 4-06

**ORDINANCE TO AMEND THE
GENERAL FUND BUDGET
FY 2005-2006**

WHEREAS, the City Council of the City of Asheboro adopted its FY 05-06 operating budget on June 6, 2005; and

WHEREAS, this budget referenced the anticipated financing needs in the amount of \$483,000, and;

WHEREAS, the budget as adopted requires amendment to reflect adjustments in revenues and expenditures, and:

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA:

Section 1: That the following Revenue line items be increased:

				<u>Current Budget:</u>	<u>Increase / decrease</u>	<u>Ending Budget</u>
10-385-0100	Proceeds from Lease Purchase			483,000	199,180	682,180
	Total Increase:				199,180	

Section 2: That the following Expenditure line items be increased/ decreased:

				<u>Current Budget:</u>	<u>Increase / decrease</u>	<u>Ending Budget</u>
10-565-7400	Capital Outlay (Street Dept.)			55,000	146,228	201,228
10-580-7400	Capital Outlay (Sanitation Dept.)			165,000	52,952	217,952
	Total Increase:				199,180	

Adopted this the 6th day of April 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

15. Resolution authorizing installment purchase of capital equipment.

Ms. Juberg presented and recommended adoption, by reference, of the aforementioned resolution.

Upon motion by Mr. Crisco and seconded by Mr. Priest, Council voted unanimously to adopt the following resolution by reference.

17 RES 4-06

**RESOLUTION AUTHORIZING INSTALLMENT PURCHASE OF CAPITAL EQUIPMENT
GENERAL FUND BUDGET
FY 2005-2006**

WHEREAS, the City of Asheboro desires to finance the purchase of vehicles and equipment, and;

WHEREAS, the City of Asheboro received competitive bids for financing, and:

WHEREAS, Wachovia Bank proposed the most desirable financing arrangement, and:

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA:

That the City of Asheboro enter into an installment purchase agreement with Wachovia Bank under the following terms:

Amount: \$682,180
Rate: 3.66%
Term: 59 months
Payment rate: Quarterly
Description of Vehicles and Equipment Financed:
Police Department:
2006 Crown Victoria Sedan's (Quantity of 6)
2006 Jeep Liberty
1999 Chevrolet Silverado
2001 Dodge Ram Van
Fire Department:
Caterpillar Generator
2006 Jeep Liberty
Sanitation Department:
Front Loader Garbage Truck
Knuckleboom and Dump Bed
Street Department:
2006 Nissan Titan XE Crew Cab
2006 Ford F-350 4x4 Supercab
John Deere Tractor 6215
John Deere Tractor 3520
2 Ton Peterbilt Dump Truck
Grounds and Building Maintenance Department:
2006 Chevrolet Colorado CS 15403 (Quantity 2)
2006 Chevrolet Silverado 2500HD 4x4 with Crew Cab

Adopted this the 6th day of April 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

16. Consideration of a resolution authorizing the city manager to dispose of certain city-owned personal property for use by Tabernacle VFD.

Mr. Turner presented and recommended adoption, by reference, of a resolution authorizing the city manager to dispose of certain MSA brand self-contained breathing apparatus that were once used by city employees of the Water Resources Division.

Upon motion by Mr. Smith and seconded by Mr. Priest, Council voted unanimously to adopt the following resolution by reference.

18 RES 4-06

RESOLUTION AUTHORIZING THE CITY MANAGER TO SELL TO TABERNACLE VOLUNTEER FIRE DEPARTMENT CERTAIN CITY-OWNED PERSONAL PROPERTY

WHEREAS, Section 160A-274 of the North Carolina General Statutes authorizes the city to sell to a volunteer fire department, with or without consideration, city-owned personal property upon such terms and conditions as the city deems wise; and

WHEREAS, due to the age of the equipment and operational changes at the City of Asheboro Wastewater Treatment Plant, the city's Safety Coordinator, in consultation with staff in the city's Division of Water Resources, has determined that the city should dispose of certain MSA brand self-contained breathing apparatus that was previously maintained at the wastewater treatment plant; and

WHEREAS, the Chief of the Tabernacle Volunteer Fire Department has notified the city's Safety Coordinator that the volunteer fire department would like to use the above-referenced self-contained breathing apparatus to assist in that department's efforts to conduct firefighting and rescue operations in the community of Tabernacle; and

WHEREAS, the self-contained breathing apparatus requested from the city is more particularly described as a quantity of four (4) MSA brand masks, pack frames, and bottles along with accessories and spare parts for this equipment; and

WHEREAS, in consultation with the Safety Coordinator, the City Manager has recommended to the City Council that the above-described personal property be declared surplus property and transferred to the Tabernacle Volunteer Fire Department in order to minimize the liability exposure of the City of Asheboro and to assist the Tabernacle Volunteer Fire Department with its efforts to provide firefighting and rescue operations to the community of Tabernacle.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro as follows:

Section 1. The above-described self-contained breathing apparatus is hereby declared to be surplus personal property.

Section 2. The City Manager is hereby authorized to transfer, by means of private sale, the city's ownership interest in the above-described personal property to the Tabernacle Volunteer Fire Department so long as the transaction is consummated by means of the City Manager accepting an offer to purchase that is submitted by the Tabernacle Volunteer Fire Department in a form substantially similar to the OFFER TO PURCHASE PERSONAL PROPERTY that is attached to this resolution as Exhibit 1 and hereby incorporated by reference into this resolution as if copied fully herein.

Adopted by the Asheboro City Council in regular session on the 6th day of April, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

(Exhibit 1 that is referred to in this resolution is attached to the original resolution on file in the City Clerk's Office.)

17. Program Review and Upcoming Events at Sunset Theater.

Mr. Hughes reported on the city's efforts in repairing the Sunset Theater. General repairs include, but are not limited to, repairing of the theater's seats, rebuilding the stage, and installing emergency lights.

In addition to the city's preliminary repairs of the building, a feasibility study will be conducted in an effort to address extensive renovations of the Sunset Theater. The study will address issues including seating, sound, lighting, restrooms, dressing rooms, a concession stand, façade, and a new marquee. An advisory committee will be formed to promote the theater's programs.

Along with the renovating of the theater, Mr. Crisco expressed the importance of noting the significance of the theater's balcony as it was once designated only for African-American moviegoers. This era in the city's history should be taken into consideration during the planning phases of the renovations of the theater.

Upcoming events that will be held at the theater include:

- April 9, 2006 – The Drifters
- April 13, 2006 – History Forum
- April 15, 2006 – Sunset Classic Film Series
- April 22, 2006 – Cross Cultural Fun Festival

18. Consideration of a resolution authorizing the city manager to execute a contract for the provision by RCS of Market Manager services at the Downtown Farmers' Market.

Mr. Hughes presented and recommended adoption, by reference, of a resolution authorizing the city manager to execute a contract for the provision by RCS of Market Manager services at the Downtown Farmers' Market.

Upon motion by Mr. Baker and seconded by Ms. Carter, Council voted unanimously to adopt the following resolution by reference.

**RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT FOR THE
PROVISION OF MARKET MANAGER SERVICES AT THE
DOWNTOWN FARMERS' MARKET**

WHEREAS, the Asheboro Parks and Recreation Department Policy Manual, which has been incorporated by reference into the Code of Asheboro, provides that if the Market Manager for the Downtown Farmers' Market is to be a designated not-for-profit agency, such an agency shall provide the desired services on the basis of a 12-month contract that must be approved by the Asheboro City Council; and

WHEREAS, the Director of the Asheboro Parks and Recreation Department has determined that the Downtown Farmers' Market can be operated in an optimal manner by utilizing Regional Consolidated Services, which does function as a not-for-profit agency, as the Market Manager during the operational hours of the Downtown Farmers' Market; and

WHEREAS, upon the recommendation of the Director of the Asheboro Parks and Recreation Department, the City Manager has submitted to the City Council for approval a proposed contract for the provision of Market Manager services at the Downtown Farmers' Market by Regional Consolidated Services for a term of one (1) year;

WHEREAS, the proposed contract has been attached to this resolution as Exhibit 1 and is hereby incorporated into this resolution by reference as if copied fully herein; and

WHEREAS, on the basis of its review of the contents of the proposed contract, the City Council has determined that the terms and conditions of the proposed contract are satisfactory.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro as follows:

Section 1. The proposed contract that is attached to this resolution as Exhibit 1 is hereby approved.

Section 2. The City Manager is hereby authorized and directed to execute on behalf of the City of Asheboro a contract with Regional Consolidated Service that strictly conforms with Exhibit 1.

Adopted by the Asheboro City Council in regular session on the 6th day of April, 2006.

ATTEST: s/ David H Jarrell
David H. Jarrell, Mayor

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

A copy of the proposed contract (Exhibit 1) is on file in the City Clerk's Office.

- 19.** The Council then consented to addressing an item not on the agenda that pertained to the city acquiring certain real property adjoining Sunset Theater.

Mr. Baker presented a recommendation from the Parks and Recreation Committee that the City purchase the property located next to the Sunset Theater. Mr. Charles Hancock, owner of the brick building located on the east side of the theater, has agreed to sale his property to the city for approximately \$150,000.00. Based on the Council's consensus, the City Attorney will draft a resolution authorizing the purchase that will be presented for the Council's consideration at the next regular meeting.

- 20. Update on the Downtown Farmers' Market construction and completion.**

Mr. Kivett reported that the construction of the Downtown Farmers' Market is complete other than some minor details. Finishing touches to be completed include, but are not limited to, certain landscaping and the installation of overhead fans. The Market is scheduled to open on May 2, 2006.

- 21. Update on crime reporting and statistics by Police Chief Mason.**

In response to an inquiry posed by Mr. Crisco, Chief Mason and Captain Vuncannon presented an overview of the process of collecting statistical data at the Asheboro Police Department. The department is currently researching certain technological advancements in effort to graduate from a manual data collection system to a technological data collection system. Such advancement will provide more accurate and reliable data.

- 22. Discussion of items not on the agenda.**

Mayor Jarrell congratulated Mr. Ogburn for receiving designation as a credentialed manager from the International City/County Management Association (ICMA).

23. Upcoming Events

- Monday, April 10, 2006, Skatepark information meeting will be held at 7:00 p.m. in the Sunset Theater.
- Tuesday, April 11, 2006, Strategic Planning Steering Committee, 7:00 p.m., Council Chambers.
- Thursday, April 13, 2006, the city will sponsor a tree-planting ceremony at Frazier Park, involving the students at Donna Lee Loflin Elementary School, beginning at 1:30 p.m.
- Monday, April 22, 2006, Citywide Litter Sweep Campaign.
- Thursday, April 27, 2006, Special Council Meeting – Public information meeting on the statutory annexation of territory in the Sherwood Avenue area, 7:00 p.m., Council Chambers.

24. Closed Session.

Mr. Moffitt recommended that the Council go into a closed session in order to consult with the City Attorney, concerning a legal matter that falls within the Attorney-Client privilege.

Upon motion by Mr. Priest and seconded by Mr. Crisco, Council voted to go into closed session.

25. Return to Open Session.

Mayor Jarrell called the open session of the Council meeting back to order. No action was taken by the Council in closed session, and a general account of the closed session has been prepared for separate approval by the Council.

There being no further business, the meeting was adjourned at 9:40 p.m.

Holly J. Hartman, Deputy City Clerk

David H. Jarrell, Mayor