

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, ASHEBORO CITY HALL
THURSDAY, NOVEMBER 5, 2020
7:00 PM**

This being the time and place for a regular meeting of the Asheboro City Council, a meeting was held with the following elected officials and city management team members present:

David H. Smith) – Mayor Presiding

Clark R. Bell)
Edward J. Burks)
Walker B. Moffitt) – Council Members Physically Present in the Council Chamber
Jane H. Redding)
Charles A. Swiers)

Linda H. Carter) – Council Member Present by Telephone Conference Call

Katie L. Snuggs) – Council Member Absent

John N. Ogburn, III, City Manager
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
John L. Evans, Assistant Community Development Director
Jason A. Hanson, Police Captain
Deborah P. Reaves, Finance Director
Jeffrey C. Sugg, City Attorney

1. Call to order.

A quorum thus being present, Mayor Smith called the meeting to order for the transaction of business, and business was transacted as follows. The number of elected officials, city employees, and private citizens physically present in the council chamber at any point in time was limited in order to comply with the applicable executive orders, specifically including physical distancing guidance, during the current public health emergency.

During each voted, specific inquiries were made to ensure that Council Member Carter, who was participating by conference call, was on the line and able to cast her vote.

2. Moment of silent prayer and pledge of allegiance.

After a moment of silence was observed in order to allow for private prayer and meditation, Mayor Smith asked everyone to stand and recite the pledge of allegiance.

3. Presentation of a proposed ordinance to address the regulation by the Code of Asheboro of alcoholic beverages on public streets and parking lots that are temporarily closed for special events.

City Attorney Jeff Sugg presented and recommended adoption, by reference, of an ordinance providing an exception from Section 130.03 of the Code of Asheboro for certain special events held in connection with temporary closures of public streets, alleys, or parking lots to regular traffic.

After some discussion, Council Member Bell moved, and Council Member Redding seconded the motion, to adopt the following ordinance by reference. Council Members Bell, Burks, Moffitt, Redding, and Swiers voted in favor of the motion. Council Member Carter voted no.

ORDINANCE NUMBER 29 ORD 11-20

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

AN ORDINANCE PROVIDING AN EXEMPTION FROM SECTION 130.03 OF THE CODE OF ASHEBORO FOR CERTAIN SPECIAL EVENTS HELD IN CONNECTION WITH TEMPORARY CLOSURES OF PUBLIC STREETS, ALLEYS, OR PARKING LOTS TO REGULAR TRAFFIC

WHEREAS, Section 130.03 of the Code of Asheboro regulates the consumption and possession of alcoholic beverages in certain locations, including public streets, alleys, and parking lots temporarily closed to regular traffic for special events; and

WHEREAS, the public health crisis created by the novel coronavirus and the emergency response to the crisis, including gubernatorial executive orders and emergency orders from state agencies such as the North Carolina Department of Health and Human Services, have led to challenges that threaten the viability of business such as the restaurants located in downtown Asheboro; and

WHEREAS, in support of the downtown businesses, Downtown Asheboro, Inc. has asked the Asheboro City Council to take legislative action in support of special events that include outdoor dining options designed to increase the ability to serve customers in a safe and responsible manner that utilizes public streets in the city's downtown area and its immediate environs that are temporarily closed to vehicular traffic; and

WHEREAS, the request to allow outdoor dining options in the downtown area includes a request to allow the businesses offering dining options to also offer in the outdoor areas, in compliance with the proper permit(s) from the North Carolina Alcoholic Beverage Control Commission, the service of alcoholic beverages as part of the outdoor dining options; and

WHEREAS, in response to the request from Downtown Asheboro, Inc., the Asheboro City Council has decided to amend Section 130.03 of the Code of Asheboro to support outdoor dining options in the city's downtown area.

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

Section 1. Section 130.03 (Consumption and Possession of Alcoholic Beverages in Certain Locations) of the Code of Asheboro is hereby rewritten to provide as follows:

- (A) *Consumption of malt beverages and unfortified wine.* It shall be unlawful for any person who is not an occupant of a motor vehicle to consume a malt beverage or unfortified wine on any public street, sidewalk, or alley in the city; or on any other property owned, occupied, or controlled by the city.
- (B) *Possession of open containers of malt beverages and unfortified wine.* It shall be unlawful for any person who is not an occupant of a motor vehicle to possess open container(s) of malt beverages and unfortified wines on any public street, sidewalk, or alley in the city; or on any other property owned, occupied, or controlled by the city. For the purposes of this section, an **OPEN CONTAINER** means a container whose seal has been broken or a container other than the manufacturer's unopened original container.
- (C) *Possession of malt beverages and unfortified wines on public streets, alleys, or parking lots which are temporarily closed to regular traffic for special events.* It shall be unlawful for any person to possess any malt beverage or unfortified wine on any public street, alley, or parking lot which has been temporarily closed to regular traffic for a special event.
- (D) *Possession and consumption of fortified wine, spirituous liquor, and*

mixed beverages. The possession or consumption of fortified wine, spirituous liquor, or mixed beverages is hereby prohibited on property owned or leased by the city.

- (E) *Exceptions.* Notwithstanding the prohibitions prescribed by the above-listed divisions of this section, the following acts shall not be deemed to be unlawful.
- (1) The possession or consumption of alcoholic beverages by either a sworn law enforcement officer acting in the performance of his or her official duties or a person acting under the immediate and direct supervision of a sworn law enforcement officer discharging his or her official duties.
 - (2) The possession or consumption of malt beverages at McCrary Park as part of collegiate or professional baseball events hosted by legal entities with whom the City of Asheboro has entered into a lease agreement for the use of McCrary Park; provided, however, any such malt beverages found within McCrary Park must have been obtained in accordance with a sale/distribution plan developed and implemented by the hosting legal entity in compliance with all applicable laws and administrative regulations.
 - (3) The possession or consumption of unfortified wine and malt beverages on the premises of the Sunset Theatre and Bicentennial Park facilities, including without limitation the Rotary Pavilion. The possession or consumption of unfortified wine and malt beverages on these premises will be lawful only if such possession or consumption is conducted in strict compliance with all applicable laws, ordinances, and regulations, specifically including without limitation the regulations adopted by the city for these facilities that are part of the municipal cultural and recreation services system, inclusive of any and all sale/distribution plans specified by the City of Asheboro Cultural and Recreation Services Policy Manual.
 - (4) The possession of unfortified wine on the premises of the Downtown Farmers' Market facility. The possession of unfortified wine on these premises will be lawful only if such possession occurs as part of the retail sale by an approved Downtown Farmers' Market vendor of unfortified wine for off-premise consumption. The retail sale of unfortified wine shall be conducted in strict compliance with all applicable laws, ordinances, and regulations, specifically including without limitation the regulations prescribed for the Downtown Farmers' Market in the City of Asheboro Cultural and Recreation Services Policy Manual.
 - (5) The possession or consumption of unfortified wine and malt beverages on the premises leased to the nonprofit North Carolina Aviation Museum and Hall of Fame, Incorporated (these premises are shown as Hangar G and Hangar L on Schedule C of the Asheboro Regional Airport) during events conducted by the nonprofit corporation. The sale or service of wine and malt beverages must be conducted in strict compliance with all applicable laws, ordinances, and regulations, specifically including without limitation any laws and regulations pertaining to either alcoholic beverage control or the operation of the airport by the Asheboro Airport Authority.
 - (6) The possession and consumption of alcoholic beverages within a designated outdoor dining location on a public street, sidewalk, alley, or parking lot temporarily closed to regular traffic for a

special event within the city zoning ordinance's Central Business Planning Area (Tier 1). This exception for outdoor dining within the Central Business Planning Area is applicable so long as, and only so long as, the following conditions are satisfied:

(i) Alcoholic beverage service must occur within, and not beyond, the readily observable boundaries of a designated outdoor dining area located within the public street, sidewalk, alley, and parking lot closure zone approved by the city council in response to a request from the non-profit corporation organizing the special event to be held in the Central Business Planning Area (Tier 1);

(ii) The business providing service within the designated outdoor dining area must provide service in strict compliance with the applicable alcoholic beverage control laws, specifically including without limitation the applicable North Carolina Alcoholic Beverage Control Commission regulations;

(iii) The business providing service within the designated outdoor dining area must remain in strict compliance with all applicable health and safety laws and regulations, specifically including without limitation gubernatorial executive orders, orders issued by the North Carolina Department of Health and Human Services, and regulations enforced by the Randolph County Public Health Department; and

(iv) Any and all outdoor dining areas seeking the benefit of this exception must be identified on a map included as part of a special downtown outdoor dining event application packet submitted to the city manager for advance approval. The non-profit corporation organizing the proposed special downtown outdoor dining event is responsible for submitting this application in a timely manner. This special downtown outdoor dining event application packet is in addition to, and not in lieu of, any other required approvals such as approval to use Bicentennial Park facilities that are subject to the City of Asheboro Cultural and Recreation Services Policy Manual as well as the public street, sidewalk, alley, and parking lot closure request that must be submitted to the city council in a timely manner. In order for the city manager to approve the special downtown outdoor dining event application packet, the packet must contain documentation demonstrating that adequate safety and risk management planning measures have been taken for the proposed event, specifically including evidence on the above-referenced map of compliance with the accessibility requirements in the Americans with Disabilities Act and the provision of adequate travel lanes for the use of emergency responders within the event area.

(F) Penalties. Any person who commits an act prohibited or made unlawful by this Section violates the prohibitions prescribed by divisions (A), (B), and (C) above shall be guilty of a misdemeanor in accordance with G.S. § 14-4.

Section 2. All ordinances and clauses of ordinances in conflict with this Ordinance are hereby repealed.

Section 3. This Ordinance shall be in full force and effect on and after November 6, 2020.

This Ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 5th day of November, 2020.

/s/David H. Smith
David H. Smith, Mayor

ATTEST:

/s/Holly H. Doerr
Holly H. Doerr, CMC, NCCMC, City Clerk

4. Update on the status of the Hangar N lease agreement at the Asheboro Regional Airport.

Mr. Sugg reported that the parties to the contemplated leasing transaction involving Hangar N are unable to move forward with a final agreement at this time. Consequently, no action will be asked of the city council until the private parties are in a position to move forward. Mr. Sugg will update the council when actionable information is received by city staff.

No formal action was taken by the council during this portion of the meeting.

5. Discussion of plans for the 2020 Christmas Parade and Christmas on Sunset events.

Asheboro Randolph Chamber of Commerce President Linda Brown reported that due to the current pandemic, the Asheboro Christmas Parade will be different. A reverse parade, where the floats would be stationary, is scheduled for December 4, 2020 at 7:00 p.m. (In case of inclement weather, the reverse parade will be held on December 11, 2020).

The route for the “drive-thru style” parade will start at Academy and Church Street and travel north to Sunset Avenue. The route will then travel East on Sunset Avenue to Bicentennial Park, through the park and back to Academy Street. Vehicles must keep moving throughout the route, and multiple trips through will be allowed as time and traffic permits.

Upon motion by Council Member Burks and seconded by Council Member Swiers, the council voted to close the above-described sections of the public streets for the parade during the listed dates and times. Council Members Bell, Burks, Carter, Moffitt, Redding, and Swiers voted in favor of the motion, and there were no dissenting votes.

Additionally, Ms. Brown highlighted the “Light up Asheboro” event. She encouraged business and homeowners throughout Asheboro to light up their windows and buildings during the month of December. Participants may enter to win prizes.

The council members were supportive of these events, but no formal action was taken with regard to the “Light up Asheboro.”

6. Recognition of city departments that received safety awards from the North Carolina Department of Labor.

Human Resources Director Doug Kemp recognized the city departments that received North Carolina Department of Labor safety awards. The departments that received Silver Awards are Street Maintenance, Environmental Services, and Fleet Maintenance.

The departments that received Gold Awards are Public Works, Waste Water Treatment, Water Treatment Plant, and Administrative.

No formal action was taken by the council during this portion of the meeting.

7. Recognition of Finance Director for her vital role in the city's receipt from the Government Finance Officers Association of a Certificate of Achievement for Excellence in Financial Reporting.

City Manager John Ogburn recognized Finance Director Deborah Reaves for her vital role in the city's receipt over the course of several years of a Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association.

8. Public comment period.

Mayor Smith opened the floor for public comments, and none were offered. Mayor Smith closed the public comment period.

9. Consent agenda.

Upon motion by Council Member Burks and seconded by Council Member Bell, the Council voted unanimously to approve/adopt the following consent agenda items. Council Members Bell, Burks, Carter, Moffitt, Redding, and Swiers voted in favor of the motion. There were no dissenting votes.

(a) The meeting minutes for the city council's regular meeting held on October 8, 2020.

The approved minutes are on file in the city clerk's office, and an electronic copy of the approved minutes is posted on the city's website.

(b) The meeting minutes for the city council's special meeting held on October 20, 2020.

The approved minutes are on file in the city clerk's office, and an electronic copy of the approved minutes is posted on the city's website.

(c) The meeting minutes for the city council's special meeting held on October 21, 2020.

The approved minutes are on file in the city clerk's office, and an electronic copy of the approved minutes is posted on the city's website.

(d) The minutes and general account of the closed session held during the city council's special meeting on October 21, 2020.

The approved minutes and general account of the closed session are on file in the city clerk's office.

(e) The receipt from the Asheboro ABC Board of its meeting minutes for September 8, 2020.

The minutes of the meeting held by the Asheboro ABC Board on September 8, 2020, have been received by the city clerk, distributed to Mayor Smith and the Council Members for review, and have been filed in the city clerk's office.

- (f) **An ordinance to amend the Economic and Tourism Development Fund.**

30 ORD 11-20

**ORDINANCE TO AMEND THE ECONOMIC & TOURISM DEVELOPMENT FUND
FY 2020-2021**

WHEREAS, the City of Asheboro continues to look for ways to support the downtown businesses; and;

WHEREAS, the need to fiber / broadband internet has been deemed as essential to support the redevelopment of the downtown area, and;

WHEREAS, the City of Asheboro has received a proposal to extend internet in the area between Sunset Ave, S. Church St., Lanier Ave and South Fayetteville St. for an estimated amount of \$86,000, and;

WHEREAS, the City desires to allocate funding and appropriate for the expense in the Economic and Tourism Development fund, and;

WHEREAS, the City of Asheboro desires to be in compliance with all generally accepted accounting principles, and;

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

That the following Revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
72-384-0000	Downtown Redevelopment	\$86,000

That the following expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
72-800-0003	Downtown Redevelopment	86,000

Adopted this the 5th day of November 2020.

/s/David H. Smith
David H. Smith, Mayor

ATTEST:

/s/Holly H. Doerr
Holly H Doerr, CMC, NCCMC, City Clerk

- (g) **The scheduling and advertisement of a quasi-judicial hearing to be conducted on December 10, 2020, concerning an application to rezone property (Randolph County Parcel Identification Number 7750202309) at 881 Curry Drive from CU-B2 to CU-I1 zoning and to obtain a conditional use permit authorizing a motor vehicle repair-major land use.**

The hearing concerning the application for the above-described rezoning of a parcel of land and the accompanying request for a conditional use permit will be scheduled and advertised in accordance with the applicable statutes/ordinances and then heard by the Asheboro City Council during its regular meeting on December 10, 2020.

10. Consideration of a petition received from Omar Zamudio requesting the contiguous annexation of a parcel of land (Randolph County Parcel Identification Number 7750149570) located at 930 Sherwood Avenue.

(a) Resolution directing the city clerk to investigate the annexation petition.

After receiving City Engineer Michael Leonard's overview of the annexation petition submitted by Omar Zamudio, Council Member Burks moved to adopt the following resolution by reference, and Council Member Swiers seconded the motion. Council Members Bell, Burks, Carter, Moffitt, Redding, and Swiers voted in favor of the motion and thereby approved the following resolution. There were no dissenting votes.

RESOLUTION NUMBER 28 RES 11-20

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE THE
SUFFICIENCY OF THE ANNEXATION PETITION
SUBMITTED BY OMAR JOACHIN ZAMUDIO**

WHEREAS, Omar Joachin Zamudio (the "Petitioner") has submitted a petition requesting the annexation into Asheboro of a parcel of land he owns at 930 Sherwood Avenue; and

WHEREAS, the land for which annexation has been requested (the "Annexation Parcel") is more specifically identified by Randolph County Parcel Identification Number 7750149570; and

WHEREAS, the Annexation Parcel is contiguous to Asheboro's primary city limits; 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 Asheboro City Council has decided to proceed with the statutorily prescribed voluntary annexation process.

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

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on November 5, 2020.

/s/David H. Smith
David H. Smith, Mayor

ATTEST:

/s/Holly H. Doerr
Holly H. Doerr, CMC, NCCMC, City Clerk

In anticipation of the council's above-stated action, the city clerk prepared the following certification in advance of the council meeting and submitted this certificate for the council's review.

CERTIFICATE OF SUFFICIENCY
(Annexation Petition Received from Omar Joachin Zamudio)

TO: The City Council of the City of Asheboro, North Carolina

I, Holly H. Doerr, am the City Clerk for the City of Asheboro. I hereby certify that, with the assistance of staff members in various city departments, I have investigated the annexation petition submitted by Omar Joachin Zamudio (the "Petitioner"). I further certify that the following paragraphs accurately state the information obtained during the course of my investigation of the annexation petition.

The Petitioner requested the annexation into Asheboro of a parcel of land he owns at 930 Sherwood Avenue. The land for which the Petitioner has requested annexation (the "Annexation Parcel") is more specifically identified by Randolph County Parcel Identification Number 7750149570.

On the basis of my investigation, I have concluded that all of the owners of the real property lying within the Annexation Parcel have signed the prescribed petition. The petition appears to be sufficient to satisfy the provisions of Section 160A-31 of the North Carolina General Statutes.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Asheboro in order to make this certification effective as of November 5, 2020.

/s/Holly H. Doerr
Holly H. Doerr, CMC, NCCMC, City Clerk

(b) Resolution setting the date for a public hearing on the question of annexation.

In light of the preceding council action and the submittal of the city clerk's certification document, Mr. Leonard then presented, for the council's consideration, a resolution setting the date for a public hearing on the question of the requested annexation. Council Member Bell moved to adopt the following resolution by reference, and Council Member Swiers seconded the motion. Council Members Bell, Burks, Carter, Moffitt, Redding, and Swiers voted in favor of the motion and thereby approved the resolution. There were no dissenting votes.

RESOLUTION NUMBER 29 RES 11-20

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

RESOLUTION SETTING THE DATE FOR A PUBLIC HEARING ON THE
QUESTION OF THE REQUESTED ANNEXATION OF
LAND OWNED BY OMAR JOACHIN ZAMUDIO

WHEREAS, Omar Joachin Zamudio (the "Petitioner") properly submitted a petition requesting the annexation into Asheboro of a parcel of land he owns at 930 Sherwood Avenue; and

WHEREAS, the land for which annexation has been requested is more specifically identified by Randolph County Parcel Identification Number 7750149570; and

WHEREAS, pursuant to a previously adopted resolution, the city clerk investigated the sufficiency of the annexation petition; and

WHEREAS, the city clerk certified the sufficiency of the petition for proceeding with setting the date for a public hearing on the question of the requested annexation pursuant to Section 160A-31 of the North Carolina General Statutes.

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

Section 1. A public hearing on the question of annexing the territory described in Section 2 of this Resolution will be held in the council chamber on the second floor of Asheboro City Hall at 146 North Church Street, Asheboro, North Carolina 27203 during a regular meeting of the Asheboro City Council that will begin at 7:00 p.m. on December 10, 2020.

Section 2. The territory proposed for annexation is described by metes and bounds as follows:

Asheboro Township, Randolph County, North Carolina:

BEGINNING on the existing City of Asheboro primary city limits line at a 1-inch existing iron pipe that is up 10 inches in the northern margin of the 50-foot public right-of-way for Sherwood Avenue (North Carolina Secondary Road 1204) at the southeastern corner of the Omar Joachin Zamudio property described in a warranty deed recorded in the Office of the Register of Deeds for Randolph County, North Carolina (the "Randolph County Registry") in Deed Book 2673, Page 1101, Randolph County Registry (the real property described in Deed Book 2673, Page 1101, Randolph County Registry is the parcel of land for which Omar Joachin Zamudio has requested annexation into the City of Asheboro, and this parcel of land will be hereinafter referred to as the "Annexation Parcel"), this beginning point is at an Annexation Parcel corner shared with the Linda P. Hicks property described in Deed Book 1162, Page 993, Randolph County Registry and is located by means of the North Carolina Coordinate System at the coordinates of North 704,440.98 Ground US Survey Feet and East 1,752,110.61 Ground US Survey Feet (NAD 83 (2011)); thence proceeding from the beginning point by following both the existing City of Asheboro primary city limits line and the northern margin of the public right-of-way for Sherwood Avenue along the Annexation Parcel's southern boundary line North 81 degrees 04 minutes 55 seconds West 106.06 feet to a point not set/computed point at the southwest corner of the Annexation Parcel; thence departing from the northern margin of the public right-of-way for Sherwood Avenue, but continuing to follow the existing City of Asheboro primary city limits by proceeding along the western boundary line of the Annexation Parcel that is contiguous to the Community Apartments Corp. of Randolph Co. property described in Deed Book 1958, Page 137, Randolph County Registry the next two bearings and distances: North 02 degrees 52 minutes 41 seconds East 12.28 feet to a 1-inch existing iron rod that is flush with the ground; thence North 02 degrees 52 minutes 41 seconds East 187.68 feet to a 1-inch existing iron pipe that is up 2 inches at the northwest corner of the Annexation Parcel, which is located by means of the North Carolina Coordinate System at the coordinates of North 704,657.14 Ground US Survey Feet and East 1,752,015.87 Ground US Survey Feet (NAD 83 (2011)); thence departing from the western boundary line of the Annexation Parcel and continuing to follow the existing City of Asheboro primary city limits line by proceeding along the northern boundary line of the Annexation Parcel that is contiguous to the Lena M. McMasters, Trustee property described in Deed Book 2346, Page 686, Randolph County Registry the following bearing and distance: South 79 degrees 45 minutes 08 seconds East 88.41 feet to a 5/8-inch new iron rod that is up 4 inches at the northeast corner of the Annexation Parcel; thence departing from the northern boundary line for the Annexation Parcel and continuing to follow the existing City of Asheboro primary city limits line by proceeding along the eastern boundary line for the Annexation Parcel the next three bearings and distances: South 01 degree 25 minutes 47 seconds East 62.95 feet along the Santiago Chavez property described in Deed Book 2639, Page 1393, Randolph County Registry to a 1-inch existing iron pipe that is up 3 inches; thence South 01 degrees 57 minutes 57 seconds East 74.87 feet along the Santiago Chavez property described in Deed Book 2586, Page 1853, Randolph County Registry to a 1-inch existing iron pipe that is up 10 inches; thence South 03 degrees 17 minutes 01 second East 62.77 feet to the point and place of BEGINNING, and containing 0.438 of an acre (19,063 square feet), more or less, of land to be annexed.

The above-stated legal description is in accordance with a plat of survey drawn under the supervision of Dan W. Tanner, II, Professional Land Surveyor with License Number L-4787.

