

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, DECEMBER 5, 2019
7:00 p.m.**

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)
Linda H. Carter)
Walker B. Moffitt) – Council Members Present
Jane H. Redding)
Katie L. Snuggs)
Charles A. Swiers)

John N. Ogburn, III, City Manager
Timothy E. Cockman, Deputy Fire Chief
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
Jason A. Hanson, Police Captain
Michael L. Leonard, PE, City Engineer
Trevor L. Nuttall, Community Development Director
Deborah P. Reaves, Finance Director
Michael D. Rhoney, PE, Water Resources Director
Jeffrey C. Sugg, City Attorney
Willie Summers, Fire Chief

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.

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. Public comment period.

Mayor Smith opened the floor for public comments.

Randolph County Manager Hal Johnson congratulated City Manager John Ogburn for his recognition by the International City/County Management Association for 30 years of service to local government.

Mr. Barry Stutts presented traffic safety concerns within the Dixie Land Acres neighborhood/subdivision.

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

4. International City/County Management Association Honor Extended to City Manager John N. Ogburn, III for 30 Years of Service to Local Government.

Mayor Smith led the City Council's recognition of City Manager John Ogburn for his contributions to the City of Asheboro and his profession. The city manager's significant contributions and achievements in local government administration over

the course of 30 years of service were recently recognized by his peers with a formal honor that was presented by the International City/County Management Association. Mayor Smith and the individual Council Members congratulated the city manager and expressed their consensus opinion that he unquestionably earned this honor.

5. 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, Snuggs, 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 November 7, 2019.

The approved meeting 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 acknowledgement of the receipt from the Asheboro ABC Board of its meeting minutes for October 7, 2019, including the FY 2018-2019 Annual Audit.

The minutes of the meeting held by the Asheboro ABC Board on October 7, 2019, including a copy of the FY 2018-2019 annual audit, 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.

(c) An ordinance to amend the General Fund FY 2019-2020.

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ORDINANCE TO AMEND THE GENERAL FUND FY 2019-2020

WHEREAS, the City Council approved a budget ordinance in November setting aside US Treasury and US DEA funds to purchase equipment and vehicles, and;

WHEREAS, an incorrect amount of funding for this purpose had already been set aside by a prior action and thus needs to be reversed, and;

WHEREAS, the City of Asheboro Fire Department was awarded a \$5000 grant from Georgia Pacific to purchase rugged portable radio microphones for firefighting conditions, and;

WHEREAS, the City of Asheboro needs 1) to purchase a Kuboto mower for specific use at the Asheboro Regional Airport at an estimated cost of \$27,500 and 2) to contract drainage mitigation work at the Asheboro Regional Airport at an estimated cost of \$6,200, and;

WHEREAS, the City of Asheboro desires amend the 2019-2020 budget to incorporate these changes 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>Change</u>
10-350-0100	US Treasury Funds	(53,000)
10-350-0200	US Justice Funds	(222,000)
10-349-0300	Local Grants	5,000
10-399-0000	Fund Balance Allocation	33,700
		<hr/>
		(236,300)

That the following Expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Change</u>
10-510-7400	Capital Outlay	(275,000)
10-530-3400	Other Supplies and Materials	5,000
10-650-4500	Contracted Services	6,200
10-650-7400	Capital Outlay	27,500
		<hr/> (\$236,300)

Adopted this the 5th day of December 2019.

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

ATTEST:

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

- (d) **A contract amendment to extend the due date for the 2019 audit to December 31, 2019.**

A copy of the approved amendment to the audit contract is on file in the city clerk's office. This amendment modified the audit report due date to reflect a due date of December 31, 2019, rather than the original due date of October 31, 2019.

- (e) **Reappointment, effective January 1, 2020, of Mr. Ritchie Buffkin to a 5-year term of office on the Asheboro Planning Board.**

The City Council reappointed Mr. Ritchie Buffkin to the Asheboro Planning Board for a new 5-year term of office. This reappointment has an effective date of January 1, 2020.

- (f) **A resolution awarding to Police Master Lieutenant Ronald N. Horrell, Jr., upon his retirement, his service side arm.**

RESOLUTION NUMBER 49 RES 12-19

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

A RESOLUTION AWARDING TO RONALD N. HORRELL, JR. HIS SERVICE SIDE ARM UPON RETIREMENT FROM THE ASHEBORO POLICE DEPARTMENT

WHEREAS, after rendering honorable and valuable service to the City of Asheboro and its citizens throughout the course of his Asheboro Police Department career, Master Lieutenant Ronald N. Horrell, Jr. will begin his retirement from employment with the city effective January 1, 2020; and

WHEREAS, pursuant to and in accordance with Section 20-187.2 of the North Carolina General Statutes, the Asheboro City Council wishes to recognize and honor Ronald N. Horrell, Jr. for his dedicated service to the city by awarding to him, at a minimal monetary cost, the service side arm that he carried at the time of his retirement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that, effective January 1, 2020, in consideration of the combination of his dedicated service to the City of Asheboro and the payment to the city of one and no hundredths dollars (\$1.00), Ronald N. Horrell, Jr. is to be awarded ownership of his city-issued service side arm (a Glock 45, Generation 5 with serial no. BLKC030 and three magazines) upon a determination by the police department command staff that Mr. Horrell is eligible under the applicable federal and state laws to receive, own, or possess a firearm.

If you believe that you are being or have been subjected to such harassment, you must immediately report the perceived harassment according to the reporting procedure described below. All reports of perceived unlawful harassment will be investigated, and, if it is found to have occurred, appropriate disciplinary action up to and including termination of employment will be taken. Consideration will also be given to remedial action necessary to eliminate unlawful harassment and to remove any detriment suffered by the aggrieved employee as a result of unlawful harassment.

Retaliation against employees who report perceived unlawful harassment, or who participate in investigations as witnesses or in other capacities, also violates the law and city policy. Such retaliation is prohibited and will not be tolerated and must be reported immediately according to the reporting procedure below.

Workplace Harassment Defined

The purpose of this policy is not to regulate the personal morality of employees. It is to ensure that, in the workplace, employees are not subjected to harassment based on characteristics protected by law and to ensure that employees do not inadvertently engage in behaviors that may be perceived as such harassment.

Unlawful harassment may include:

- (1) Verbal, nonverbal, or physical conduct that shows aversion, denigration, or hostility because of race, color, religion, national origin, sex (including pregnancy, gender identity, transgender status, and sexual orientation), age, disability, veteran status, or other protected characteristic when it:
 - (A) Creates an intimidating, hostile, or offensive working environment;*
 - (B) Unreasonably interferes with an individual's work; or*
 - (C) Adversely affects an individual's employment opportunities.**
- (2) Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
 - (A) Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment;*
 - (B) Submission to or rejection of the conduct is used as the basis for employment decisions; or*
 - (C) The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.**

Examples of Types of Behavior That May Violate This Policy Include:

Verbal/Written Actions:

- *Offensive comments, including slurs or ridicule of another's culture, accent, or appearance;*
- *Humor, jokes, teasing, or asking unwelcome questions about protected class characteristics, including comments about the individual's body;*
- *Computer transmissions/email/social media or online postings/texts;*
- *Intentional or persistent failure to respect an individual's gender identity (e.g., intentionally referring to the individual by a name or pronoun that does not correspond to the individual's gender identity);*
- *Threatening, intimidating, or abusive words or acts;*
- *Rumors about other employees; or*
- *Whistling.*

Sexual Harassment Also Includes:

- *Offering or implying an employment-related reward such as a promotion or raise in exchange for sexual favors or submission to sexual conduct, or threatening or carrying out negative actions such as termination, demotion, or denial of a raise or leave due to the rejection of such advances;*
- *Comments about sexual activities, prowess, or deficiencies;*
- *Propositions, innuendo, flirtation, suggestive or sexist comments, or gifts; or*
- *Continued advances or other unwelcome conduct after the conclusion of a consensual relationship.*

Sexual Harassment Can Include: *Conduct between members of the same sex.*

Visual/Graphic/Non-Verbal: *Pictures, posters, signs, cartoons; display of objects or images; graffiti; vandalism; staring; or exclusion.*

Physical Actions: *Touching, pinching, patting, brushing against the body, hugging, assault, impeding access, or vandalism.*

Scope of the Policy

Conduct prohibited by this policy is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings, and business-related social events.

Rude, uncivil, disrespectful, or otherwise unacceptable conduct that is not based on legally protected characteristics is not covered by this policy. However, it is covered by other city policies.

Reporting Procedure

If you experience unwelcome conduct in violation of this policy, or believe that you are being unlawfully harassed or retaliated against, or you observe or otherwise become aware of such conduct in the workplace, you are encouraged (if you are comfortable doing so), but not required, to promptly tell the person that the conduct is unwelcome and ask them to stop the conduct. Anyone who receives such a request is expected to comply with the request and not retaliate against the person making the request.

If this action does not put a stop to the unwelcomed conduct or perceived harassment or retaliation, or if you do not want to confront the individual, then you must immediately report the conduct to one of the following individuals: (a) the city manager, (b) the human resources director, or (c) the human resources specialist manager, who, as of the date of the ~~adoption~~ most recent amendment of this policy, is Lesia H. Cox.

Regardless of which approach you take, the city encourages prompt reporting of unwelcome conduct before it becomes severe or pervasive. Early reporting and intervention have proven to be the most effective method of resolving actual or perceived harassment.

This procedure does not require reports to be made to your supervisor or to anyone who you believe is participating in the conduct. Instead, you may choose from the above-listed individuals the person with whom you would be most comfortable speaking.

Supervisors and managers who become aware of perceived harassment or retaliation must immediately report such matters to the following individuals: (a) the city manager, (b) the human resources director, or (c) the city attorney.

Disciplinary action, up to and including termination of employment, may result against supervisors and managers who fail to respond immediately and appropriately to the allegations.

All reports of alleged harassment or retaliation will be investigated. Under no condition will the investigation be conducted by or under the direction of the person reported to have engaged in the alleged harassment or retaliation. Confidentiality will be maintained to the extent consistent with adequate investigation and appropriate corrective action.

Section 2. Effective January 6, 2020, Section 8 in Article I of the Manual is rewritten to provide as stated in the following highlighted text:

ARTICLE I. UNIFIED HUMAN RESOURCES SYSTEM

Section 8. Substance Abuse Prevention Policy

8.01 *The following rules represent the City of Asheboro's policy concerning the prevention of substance abuse. These rules will be enforced uniformly for all employees. The purposes of the policy are as follows:*

- (A) *The establishment and maintenance of a safe and healthy working environment for all employees;*
- (B) *Compliance with United States and North Carolina Department of Transportation regulations pertaining to holders of a Commercial Driver's License ("CDL");*
- (C) *The establishment and maintenance of a drug-free workplace for the City of Asheboro;*
- (D) *The establishment and maintenance of a positive, good government reputation for the City of Asheboro and its employees within the community so as to foster confidence in the ability of the municipal corporation to safely and effectively deliver public services;*
- (E) *The reduction and prevention of accidental injuries, absenteeism, tardiness, and other work-related problems that negatively impact the city's employees and the public that it serves; and*
- (F) *The creation and facilitation of an opportunity for rehabilitative assistance to be made available for employees who seek such help.*

8.02 *Employees with substance abuse problems are encouraged to seek help from counselors and other medical professionals and, where appropriate, in treatment facilities. Participation in a treatment or rehabilitation program for substance abuse will not be grounds for dismissal provided the employee voluntarily enters such a program prior to identification as a substance abuser by means of the implementation of one of the regulations/testing procedures established by this policy.*

8.03 *For the purpose of interpreting and implementing the substance abuse prevention policy, the following bold and italicized words or terms shall be defined and implemented as specified in this subsection.*

- (A) *An **alcohol test** means a test for the presence of alcohol in the body. This presence must be determined by the use of a breath alcohol test or other device approved by the United States Department of Transportation. Alcohol testing shall be conducted in compliance with 49 CFR Part 40 (hereinafter referred to as "Part 40"). By way of illustration and not limitation, such compliance shall include strict adherence to Part 40 as to how alcohol testing is conducted, who is authorized to participate in the alcohol testing program, and what employees must do before they may return-to-duty following an alcohol violation.*
- (B) *A **drug test** means a test for the presence of drugs listed in the drug testing panel established by the United States Department of Transportation. Drug testing shall be conducted in compliance with Part 40. By way of illustration*

and not limitation, such compliance shall include strict adherence to Part 40 as to how drug testing is conducted, who is authorized to participate in the drug testing program, and what employees must do before they may return-to-duty following a drug violation.

- (C) *A **negative drug test** means a drug test that does not show the presence of drugs and/or drug metabolite(s) at a level specified to be a positive test.*
- (D) *A **positive drug test** means a drug test that does indicate the presence of a drug and/or drug metabolite(s) in the urine or blood at the level specified to be positive by the Substance Abuse and Mental Health Services Administration (“SAMHSA”). All positive test results will be confirmed using a different technology than the first test, such as the Gas Chromatography Mass Spectrometry (“GC-MS”) process.*
- (E) *A **negative alcohol test** means an alcohol test that indicates a breath alcohol concentration of less than 0.02.*
- (F) *A **positive alcohol test** means an alcohol test that indicates a breath alcohol concentration of 0.04 or greater.*
- (G) *The term **refusal to submit** means an occurrence when an employee does any one of the following:*
 - (1) *Fails to provide an adequate amount of urine for a drug test without a valid medical explanation after he/she has received notice of the test;*
 - (2) *Fails to provide an adequate amount of breath for an alcohol test without a valid medical explanation after he/she has received notice of the test;*
or
 - (3) *Engages in conduct that clearly indicates he/she is failing to follow through with the testing process or engages in conduct that interferes with the ability to obtain an adequate specimen.*
- (H) *With the exception of fire department employees who operate emergency equipment and are therefore exempt from the CDL requirement, the term **employees required to have a CDL** means employees who perform one or more of the following functions:*
 - (1) *Drivers of commercial motor vehicles with a gross vehicle weight rating of 26,001 pounds or more;*
 - (2) *Drivers of commercial motor vehicles with a gross combination weight rating of 26,001 pounds or more, including a towed vehicle with a gross vehicle weight rating of 10,000 pounds or more;*
 - (3) *Drivers of motor vehicles designed to transport 16 or more passengers, including the driver; and*
 - (4) *Drivers of motor vehicles of any size transporting hazardous materials in amounts that require placarding.*
- (I) *Based on definitions utilized by the United States Department of Transportation, and with the explicit notation that the following definition is not meant to serve as an exhaustive or exclusive listing of safety-sensitive functions because other job activities/requirements may also be considered safety-sensitive, the term **safety-sensitive function** shall be deemed to include the following activities:*
 - (1) *Driving a commercial motor vehicle;*
 - (2) *Inspecting, servicing, or conditioning any commercial motor vehicle;*
 - (3) *All time at a city facility or other public property waiting to operate a commercial motor vehicle;*
 - (4) *Performing all or other functions in or upon any commercial motor vehicle except resting in a sleeper berth;*

- (5) *Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading of a commercial motor vehicle, attending a commercial motor vehicle being loaded or unloaded, or remaining in readiness to operate the commercial motor vehicle;*
- (6) *All time spent performing the driver requirements associated with an accident involving a commercial motor vehicle; and*
- (7) *Repairing, obtaining assistance, or remaining in attendance with a disabled commercial motor vehicle.*

8.04 *The substance abuse prevention policy is applicable to all of the types/categories of city employees listed in this subsection.*

- (A) *All full-time, part-time, temporary, and seasonal employees.*
- (B) *All employees required as part of their job duties to obtain and maintain a CDL.*
- (C) *All applicants for employment with the City of Asheboro.*

8.05 *Under the city's substance abuse prevention policy, the drug and alcohol testing practices described in this subsection will be implemented in a manner that conforms to all applicable federal and state laws and administrative regulations.*

(A) *Pre-Employment Testing*

Drug testing shall be conducted prior to employment. This testing must be conducted on external applicants as well as current employees transferring into jobs that require a CDL. The test results must indicate a negative drug test in order to enter into employment with the city or to transfer to a job that requires a CDL.

(B) *Post-Accident Testing*

A drug test and/or an alcohol test may be used by the city as a tool, in appropriate circumstances, to evaluate the root causes of incidents that result in work-related injuries or illnesses requiring medical treatment other than first aid for city employees or others. When evaluating whether to utilize post-accident testing of one or more employees, the central inquiry will be whether a reasonable basis exists to believe that drug or alcohol use by one or more employees could have contributed to the injury or illness. The highest ranking supervisor of the employee(s) involved in an incident that results in injury or illness, in consultation with the city's safety coordinator manager or any other designee of the human resources director, must evaluate the totality of the evidence, including whether the hazardousness of the work being performed creates a heightened concern as to whether drug or alcohol use was involved, and decide whether a reasonable basis exists to order drug and/or alcohol testing because of the potential role these substances could have played in the work-related illness or injury. If a reasonable basis is found to exist for testing one or more employees, then the drug and/or alcohol test(s) indicated by the facts surrounding the work-related injury or illness shall be conducted as soon as practicable.

(C) *Post-Accident Testing for Employees Required to Have a CDL*

For employees required to have a CDL, post-accident testing for drugs and alcohol must be conducted on any surviving driver who was performing safety-sensitive functions with respect to the vehicle if:

- (1) *The accident involved a fatality; or*
- (2) *The driver received a citation under state or local law for a moving traffic violation arising from the accident and either the vehicle is towed from the scene or someone is medically evacuated from the scene.*

Testing for drugs and alcohol in employees required to have a CDL is to occur, if at all practicable, within 2 hours of the accident. If the employee is unable to be tested within 2 hours, the reasons for the delay must be documented. If an alcohol test required by this division of subsection 8.05 is not administered within 8 hours of the accident, attempts to conduct the alcohol test shall cease and the reason for the inability to conduct the test shall be documented. If a drug test required by this division of subsection 8.05 is not administered within 32 hours of the accident, attempts to conduct the drug test shall cease and the reason for the inability to conduct the drug test shall be documented.

(D) Random Testing

This type of testing must be conducted on a random, unannounced basis throughout the year on all employees required to have a CDL. Random testing for drugs and alcohol in all employees required to have a CDL shall be conducted in a manner and at a rate that is fully compliant with all of the applicable federal and state laws and administrative regulations.

(E) For Cause Testing

This type of testing can occur in two types of situations that are described as follows:

- (1) *This testing, whether the testing consists of a drug test and/or an alcohol test will depend on the facts of each case, is required of any employee who has been arrested or has had his/her driver's license suspended for any alcohol or drug related charge prior to the employee's return to work. Such an employee must notify his/her supervisor prior to returning to work after the said arrest and/or suspension has occurred. An employee's failure to report this information to a supervisor in a timely manner serves as a stand-alone basis for dismissing the employee from his/her position of employment with the city.*
- (2) *In appropriate circumstances and in consultation with the human resources department, specifically including the safety coordinator manager or any other official designated by the human resources director, a supervisor may order "for cause" testing of an employee as a tool to determine why actions are occurring that have the potential to be injurious to the employee himself or herself, other city employees, or third parties. The final decision as to whether "for cause" testing is to be ordered will be based on a case-by-case evaluation of the totality of the evidence to determine whether observations of the employee and his/her actions during the relevant time period lead to a reasonable suspicion that impairment due to drug and/or alcohol use is creating the potential for injury. An additional factor to be weighed as part of the decision making process is whether the degree of hazardousness of the work being performed and the potential for harmful consequences heightens the city's interest in quickly determining whether drug or alcohol use is impairing the ability of an employee to safely perform his/her duties. If the responsible city officials conclude that a reasonable suspicion exists to believe that alcohol or drug use by one or more employees is creating an unsafe situation, then the drug and/or alcohol test indicated by the observable facts shall be conducted as soon as practicable.*

(F) Return-to-Duty Testing

In cases where an employee is seeking to return to work after a positive drug test and/or a positive alcohol test, return-to-duty testing focused on the same type of testing that previously produced a positive test result must be successfully completed by the employee before approval can be granted for the employee to return to work. More specifically, an employee who has had a positive drug test

and/or a positive alcohol test will not be allowed to return to work until he or she has been evaluated by a substance abuse professional and has tested negative on the designated return-to-duty test.

(G) Follow-Up Testing

After an employee has successfully completed the above-described return-to-duty testing, the employee will be subject to follow-up testing during the 12-calendar month time period immediately following the date of the employee's return to duty. During the said 12-month time period, a minimum of 6 follow-up tests will be administered without advance notice of the date and time when testing will occur. Due to regulatory concerns pertaining to measuring impairment at a relevant point in time, a follow-up drug test may be administered any time the employee is at work, but a follow-up alcohol test will only be administered immediately before, during, or immediately after the performance of a safety-sensitive function. The type of test to be administered will depend on which type of positive test result necessitated the return-to-duty testing and the subsequent follow-up testing. No sentence or clause within this division of subsection 8.05 shall be construed or interpreted in any manner that precludes the administration of a drug or alcohol test that would otherwise be authorized by a separate division of subsection 8.05.

8.06 *The following list of prohibitions, inclusive of the corresponding consequences for acting in contravention of the stated prohibitions, is hereby adopted as a component of the city's substance abuse prevention policy.*

(A) *No employee shall report for duty or remain on duty while having alcohol and/or drug concentrations in his or her system in amounts that would constitute a positive test for either substance. An employee who produces a confirmed positive test result will be removed from duty without regular pay; provided, however, such an employee may use accrued leave time while relieved of his or her duties so long as such leave is used in a manner that is compliant with all other sections of the City of Asheboro Employee Policies and Procedures Manual. The employee must immediately schedule an evaluation with a substance abuse professional and must cooperate with any and all recommendations made by the substance abuse professional. Refusal to cooperate with the substance abuse professional will subject the employee to dismissal from his or her employment with the city. The employee must have a negative test result before he or she will be allowed to return to duty.*

(B) *The City of Asheboro expressly prohibits the possession, use, sale, distribution, dispensation, manufacture, purchase, or storage of controlled substances (i.e. illegal drugs) and related paraphernalia as well as alcoholic beverages by city employees while at the workplace or while performing work duties. By way of illustration and not limitation, no employee shall be on-duty while in the possession of one or more alcoholic beverages and/or controlled substances. Any action taken in violation of this prohibition will subject the offending employee to dismissal from his or her employment with the city. Notwithstanding the foregoing prohibition, the following actions by city employees will not be deemed to be a violation of a workplace rule:*

- (1) *The possession and use of medication(s) in strict compliance with prescriptions and instructions, include work limitations, issued by a properly licensed health care provider;*
- (2) *The inadvertent discovery and subsequent securing of abandoned controlled substances and associated paraphernalia as well as alcoholic beverages during the course of performing an employee's job duties so long as such abandoned items are immediately surrendered to a law enforcement officer or destroyed in a manner consistent with instructions received from the Asheboro Police Department; and*

- (3) *The interaction of sworn law enforcement officers with controlled substances and paraphernalia as well as alcoholic beverages so long as such interaction is conducted in furtherance of assigned job duties and is conducted in a manner that is compliant with all applicable laws, ordinances, administrative regulations, and agency policies and procedures.*
- (C) *No employee who is required to take a post-accident alcohol test shall use alcohol until the earlier of either of the following events: 8 hours following the accident, or until he or she fully completes the required post-accident alcohol test. A violation of this requirement will subject the non-compliant employee to dismissal from his or her employment with the city.*
- (D) *A refusal by an employee to submit to and fully cooperate with an alcohol test and/or drug test required by this policy shall be deemed to be a direct and intentional act of insubordination that will result in the termination of the non-compliant employee's employment with the city.*
- (E) *Except when the use is pursuant to the instructions of a properly licensed health care professional who has informed the employee that the prescribed use of the controlled substance will not adversely affect the employee's ability to safely perform assigned work duties, employees are prohibited from reporting for duty or remaining on duty while the employee is subject to the effects of any controlled substance.*
- (F) *A second occurrence of a positive drug test and/or alcohol test will result in the dismissal of an individual from his or her employment with the city.*
- (G) *An employee who has a confirmed breath alcohol test result of 0.02 – 0.039 will not be allowed to continue to perform any safety-sensitive functions. In furtherance of this prohibition, such an employee will be relieved of his or her job duties for 24 hours subsequent to the confirmed test result. During this 24-hour period, the employee will not be paid by the city; provided, however, the employee may use accrued leave time while relieved of his or her duties so long as such leave is used in a manner that is compliant with all other sections of the City of Asheboro Employee Policies and Procedures Manual. The occurrence of this confirmed breath alcohol test result will be documented, and the employee will be counseled about the importance of reporting to work without the presence of alcohol in his or her system. Such an employee will be subject to a return-to-duty alcohol test prior to returning to a job position that requires the performance of a safety-sensitive function.*
- (H) *No applicant will be offered employment if a confirmed positive pre-employment drug test result is produced.*
- 8.07 *This subsection lists supplemental provisions/requirements that are hereby incorporated into the city's substance abuse prevention policy.*
- (A) *The Omnibus Transportation Employee Testing Act of 1991 (final rules implemented February 15, 1994) requires, in part, that any commercial motor vehicle operator who is subject to the CDL requirements in the State of North Carolina shall be tested for alcohol and controlled substances.*
- (B) *Compliance with the Department of Health and Human Services mandatory guidelines for controlled substances testing shall be maintained by only using a laboratory certified by the Substance Abuse and Mental Health Services Administration.*
- (C) *Federally mandated alcohol testing must be conducted by a Breath Alcohol Technician ("BAT") trained to a level of proficiency that is demonstrated by successful completion of a generally recognized and accepted course of*

instruction. Alcohol testing shall be conducted using an Evidential Breath Testing (“EBT”) device.

- (D) *Consistent with the federal Drug-Free Workplace Act, if an employee is convicted of a violation of a criminal drug statute and the violation occurred while the employee was at work, the employee must notify his or her department head of the conviction within 5 days after the conviction. An employee’s failure to comply with this requirement will subject the employee to dismissal from his or her employment with the city.*
- (E) *All drug test results shall be reviewed and interpreted by a Medical Review Officer (“MRO”). The MRO must be a licensed physician with specific training in substance abuse. If the laboratory reports a positive test result, the MRO or the MRO’s designee will contact the employee, typically by telephone, and discuss the results with the employee. The MRO will then attempt to determine if there is a verifiable medical explanation for the employee to have the detected drug in his or her system. If there is none, the test result is to be reported as positive. If there is a verifiable medical explanation for the use of the drug, the result is to be reported as negative.*
- (F) *An employee who does not pass a drug and/or alcohol test and is terminated, or an applicant who does not pass the pre-employment drug test, will not be considered for re-employment for a 2-year period following the date of the failed test and then will be considered only when he or she provides documentation suitable to management that he or she has successfully completed an alcohol and/or drug rehabilitation program and passes a pre-employment drug and/or alcohol test.*

(G) Any questions regarding this policy should be directed to the Human Resources Director at (336) 629-2037.

(G) On January 6, 2020, the United States Department of Transportation’s Federal Motor Carrier Safety Administration Drug and Alcohol Clearinghouse (the “Clearinghouse”) became operational. As an employer regulated by the Federal Motor Carrier Safety Administration, the city is a registered user of the Clearinghouse with certain reporting obligations. CDL holders and applicants for jobs requiring a CDL are hereby notified that the following information will be reported to the Clearinghouse:

- (1) A verified positive, adulterated, or substituted drug test result;
- (2) An alcohol confirmation test with a concentration of 0.04 or higher;
- (3) A refusal to submit to a drug or alcohol test;
- (4) An employer’s report of actual knowledge, as defined in 49 CFR § 382.107;
- (5) On-duty alcohol use pursuant to 49 CFR § 382.205;
- (6) Pre-duty alcohol use pursuant to 49 CFR § 382.207;
- (7) Alcohol use following an accident pursuant to 49 CFR § 382.209;
- (8) Drug use pursuant to 49 CFR § 382.213;
- (9) A substance abuse professional’s report of successful completion of the return-to-duty process;
- (10) A negative return-to-duty test; and
- (11) An employer’s report of completion of follow-up testing.

(H) Any questions regarding this policy should be directed to the Human Resources Director at (336) 629-2037.

Section 3. Effective January 1, 2020, the following new Section 7 in Article II of the Manual is enacted:

ARTICLE II. RECRUITMENT AND EMPLOYMENT

SECTION 7. FIRE RECRUIT PROGRAM

The Asheboro Fire Department has implemented a recruit program focused on recruiting future firefighters who reflect the diversity of the population served by the department, specifically including the cultural and socio-economic composition of the City. The recruitment program enables the fire department to pay qualified individuals to attend a properly credentialed fire recruit training program with the intent of providing an avenue for someone to pursue a career in firefighting with the City of Asheboro. Due to the complex and evolving nature of the issues encountered when recruiting and retaining individuals who are working to become firefighters by means of a paid training period that is unique within the city's human resources system, the human resources director and the fire chief are hereby authorized to jointly monitor the training program and to implement changes, including exempting program participants on an as-needed basis from the coverage of the articles, sections, or provisions of this policies and procedures manual during the fire recruit training period. The requirements/expectations, benefits, and provisions of the employee policies and procedures manual applicable to an individual will be specified in documentation provided to training program participants by the human resources department and the fire department.

Section 4. Effective January 1, 2020, Section 2 in Article III of the Manual is rewritten to provide as stated in the following highlighted text:

ARTICLE III. PAYROLL CLASSIFICATION AND PAYROLL ADMINISTRATION

SECTION 2. THE PAY PLAN

The pay plan includes the basic salary schedule adopted and amended by the City Council. The salary schedule shall consist of minimum and maximum rates of pay with developmental pay and performance based pay components for all classes of positions included in the position classification plan.

Definitions

Developmental Pay: *The developmental pay period is the period where employees are on an accelerated learning curve to learn the duties of their job and the culture of the City. Developmental increases are pre-determined amounts added to based pay which stop when an employee reaches job rate. Developmental increases are automatic, unless there is a clear, documented trail of performance issues and corrective action has risen to the level of the employee file retained in the Human Resources office. Developmental increases occur on the anniversary date of the last pay action.*

Job Rate: *~~12.5%-17.5%~~ above range minimum and the rate at which an employee has met their developmental pay period and becomes **eligible** for budgeted performance based pay.*

Market/Pay Study: *Salary market study of the compensation system to ensure the City's compensation is in line and competitive with other similarly situated organizations.*

Market Pay Adjustments: *The result of a market/pay study. This adjustment is based solely on the job, not the individual and has nothing to do with quality or quantity of work as is 100% market driven data.*

Performance Based Pay (PBP): *Pay reserved for the City's best performers. Longevity does not make someone a candidate for performance based pay. These increases may be in the form of a percentage increase to base pay, flat dollar amounts added to base pay, one-time bonus amounts– it depends on the economic situation at the time and the budget of the City. In what form they are dispersed will be the decision of the City Manager. An employee cannot receive a developmental increase and a performance based pay increase in the same fiscal year. Unlike Market Adjustments, PBP is based on the individual, not the job. These increases will occur at a set time(s) of the year.*

Salary Grade: *The salary grade is the actual number used to refer to the position such as “This position is in grade 64, 65, 106, etc.”*

Salary Range: *The salary range is the total spread of potential pay for the position. For example, \$25,000 minimum pay to \$50,000 maximum pay means an employee in that position would be paid no less than \$25,000 annually for performing the duties of the position and no more than \$50,000 annually for performing the duties of the position.*

Years of Service (Longevity) Increases: *Years of Service (YOS) increases given at 5, 10, 15, 20, and 25 years of service at a value of 2.5% for each YOS anniversary. These increases shall be effective on the nearest payroll date to which the qualifying event occurs.*

Maintenance of Pay Plan

The human resources department under the direction of the city manager shall be responsible for the maintenance and administration of the pay plan. The pay plan is intended to provide equitable compensation for all positions when considered in relation to each other, to general rates of pay for similar employment in the private sector and in other public jurisdictions in the area, to changes in cost of living, to financial conditions of the area and other factors. The human resources department will periodically make comparative studies of all factors affecting the level of salary ranges and will recommend to the city manager such changes in salary ranges as appear to be pertinent. Adjustments to the assigned salary level for the class of employees affected will be subject to approval by the city manager.

Transition to a New Pay Plan

The following provisions shall govern the transition to a new pay plan.

- a) No employee shall receive a salary reduction as a result of the transition to a new pay plan.*
- b) An employee being paid at a rate lower than the minimum rate established for such employee's class shall be raised to a salary at or above the new minimum for the class.*
- c) An employee being paid at a rate above the maximum rate established for such employee's class shall remain at such rate until their salary falls within the established salary range for the classification.*

Use of Salary Ranges

Salary ranges are intended to furnish administrative flexibility in recognizing individual differences among positions allocated to the same class, in providing employee incentive and in rewarding employees for meritorious service. All employees covered by the pay plan shall be paid at a listed rate within the salary ranges established for their perspective job classes except for employees in a trainee status.

Hiring Rate/Starting Salaries

Hiring rates are determined using multiple factors, including, but not limited to, education and experience required for the position, market conditions, internal equity where applicable, and budget constraints. When an applicant meets the minimum requirements, the hiring rate will be the minimum of the pay grade. When an applicant exceeds the minimum requirements and those requirements are needed for the position, concessions may be allowed to hire that applicant at a higher starting salary than range minimum. Above-the-minimum appointments will be based on such factors as the applicant's qualifications where they exceed the minimum experience requirements for the position and market recruitment conditions such as job market competitiveness, talent pool, etc. Department heads wishing to hire above range minimum must complete the New Hire Worksheet for Hiring Managers prior to consulting with the human resources director to determine hiring rates above the range

minimum. The human resources director may approve hiring rates up to 15% above range minimum and will refer anything above that to the city manager for approval.

Promotion, Demotion, or Transfer

Promotions:

It shall be the policy of the city to seek qualified applicants for vacant positions giving first consideration to promoting from within and across departmental lines. In the absence of qualified candidates for promotion, vacancies shall be filled by recruiting from the outside. Employees shall be considered for promotion on the basis of job-related experience, skill knowledge and ability; and on a review of the quality of past performance and general suitability for the higher level position. Factors shall not be considered in judging eligibility for promotion that are not job related, such as age, sex, race, color, religion, non-job related handicap, national origin or political affiliation. A department head's recommendation to promote an employee shall be reviewed by the human resources department and the city manager.

When a promotion occurs, if the employee's salary is below the new minimum, it shall be at least increased to the minimum rate of the salary range assigned to the class to which he is promoted. If an employee's current salary is already above the new minimum salary rate, his salary may be increased in accordance with the new responsibilities being assigned to and required of that employee.

- a) *Employees receiving a one grade promotion will receive a one-time promotional 5% increase to base pay.*
- b) *Employees receiving a multi-grade promotion will receive a one-time promotional increase to base pay equal to two developmental pay increases in the employee's current range or will be placed at the range minimum of their new salary range, whichever is higher.*

When an employee is promoted, all compensatory time accrued up to the date of promotion will be paid out at the current rate of pay and compensatory accruals will begin on the date of the promotion for the employee at his/her new rate of pay and compensatory accrual rate (exempt v. non-exempt).

Transfers:

It is the policy of the city to transfer employees temporarily or permanently from one department to another when doing so will be in the best interest of the city. A transfer to an authorized vacancy may be arranged upon mutual agreement of all interested administrative officials and the employee.

- 1) *When an employee is transferred from the position of one class to the position of another class of the same level, the employee will continue to be paid at the same rate.*
- 2) *Subject to the following requirements, the pay of an employee transferred to a position of lower classification shall be adjusted within the grade to which the employee is assigned:*
 - a) *When the transfer is the result of a mutual decision by the employee and the city that such a transfer is in the best interest of both parties, the employee shall remain at the same rate of pay in the lower grade.*
 - b) *When the transfer is at the sole request of the employee, the employee's pay will be adjusted to the appropriate level of pay*

within the lower grade. Such an adjustment may result in a decrease in pay.

Unlike when an employee is promoted, there is no accrued compensatory time payout when someone is transferred to another position.

Demotions: *The pay of an employee demoted to a position of lower classification shall be adjusted to the new pay grade to which the employee is assigned. This action may result in a decrease in pay.*

Section 5. Effective January 14, 2020, Section 4 in Article III of the Manual is rewritten to provide as stated in the following highlighted text:

**ARTICLE III. PAYROLL CLASSIFICATION AND
PAYROLL ADMINISTRATION**

SECTION 4. OVERTIME AND SPECIAL DUTY ASSIGNMENT

- 4.01 *For the purpose of calculating compensatory time-off and overtime pay, the standard workweek for city employees is 12:01 a.m. Sunday – 12:00 Midnight Saturday. This standard workweek may not be altered without the permission of the city manager.*
- 4.02 *The city abides by all applicable sections of the Fair Labor Standards Act, the Fair Labor Standards Amendments of 1986, and all subsequent amendments. On the basis of time sheets or time cards submitted by the employees, the city will properly record all applicable overtime accrued for each covered employee.*
- 4.03 *With the exception of subsection 4.12, this overtime and special duty assignment policy is applicable only to city employees who are nonexempt under the Fair Labor Standards Act (“FLSA”).*
- 4.04 *Employees are expected to work during all assigned periods exclusive of breaks or mealtimes. Except in cases of emergency, employees are prohibited from performing work during any time that they are not scheduled to work unless they receive prior approval from their immediate supervisor. An emergency exists if a condition arises that could reasonably result in injury or harm to a person, damage to property, or that requires the immediate attention of the employee. Employees who work excess hours because of an emergency shall advise their immediate supervisor of the unscheduled work as soon as practical following completion of the work.*
- 4.05 *It is the policy of the city, in agreement with its employees, that nonexempt employees receive compensatory time-off at a rate of one-and-one-half hours for each hour of overtime worked. Except for law enforcement and fire protection employees, nonexempt employees receive compensatory time-off at the rate of one-and-one-half hours for every hour worked over 40 hours in a standard 7-day workweek. Pursuant to Section 207(k) of the FLSA and 29 CFR Part 553, nonexempt law enforcement employees are entitled to this overtime rate only for hours worked in excess of 92 hours in a 15-day ~~cycle~~ work period, and nonexempt fire protection employees are entitled to this overtime rate only for hours worked in excess of ~~114~~ 159 hours in a ~~15-day cycle~~ 21-day work period.*
- 4.06 *“Gap” time refers to the hours that fall between a nonexempt employee’s regularly scheduled hours and, in the case of an employee who is not subject to the Section 207(k) exemption, the 40 hours that the employee must work before becoming entitled to the overtime premium rate for pay or compensatory time-off. The hourly or salaried pay established in the pay plan for a nonexempt employee who is not paid under the Section 207(k) exemption is the entirety of the pay to be received by the employee for the hours worked during the standard workweek so long as the hours actually worked do not exceed the 40-hour maximum. No additional compensation will be paid or granted for “gap” hours that do not cause the employee to exceed the 40-hour maximum.*

- 4.07 *The applicability of this section of the city employee policies and procedures manual is limited to nonexempt law enforcement and fire protection personnel paid under the Section 207(k) exemption.*
- (A) *The salary established in the pay plan for a nonexempt law enforcement employee or fire protection employee paid under the Section 207(k) exemption is the only compensation that will be paid to the employee for all of the regularly scheduled hours worked by the employee. For “gap” hours in a non-overtime work ~~cycle~~ period that do not cause a law enforcement employee to exceed 92 hours in a 15-day ~~cycle~~ work period or a fire protection employee to exceed ~~114~~ 159 hours in a ~~15-day cycle~~ 21-day work period, such an employee will receive bonus compensatory time-off on an hour-for-hour basis, not the overtime premium rate of one-and-one-half hours, for each hour actually worked in excess of the total number of hours that the employee was scheduled to work during the ~~15-day cycle~~ applicable 15-day or 21-day work period.*
- (B) *During an overtime work ~~cycle~~ period, such an employee will be paid in cash on a straight time basis for all “gap” time worked and paid in cash on an overtime premium basis (one-and-one-half hours) for every hour worked by a law enforcement employee in excess of 92 hours in a 15-day ~~cycle~~ work period and every hour worked by a fire protection employee in excess of ~~114~~ 159 hours in a ~~15-day cycle~~ 21-day work period.*
- (C) *None of the foregoing provisions are to be interpreted or implemented in a manner that impedes the utilization by management officials of special duty assignments that are compensated with bonus cash payments that are calculated by using the overtime premium rate of one-and-one-half hours. Such bonuses are to be calculated as a separate and distinct form of compensation.*
- 4.08 *With the exception of holiday leave, when an employee takes leave from work, the compensatory leave time bank must be exhausted prior to using any accrued vacation or sick leave. Because accrued holiday leave expires if not used within a designated timeframe, if an employee has accrued holiday leave, the employee may exhaust the holiday leave bank first and then use any compensatory leave time prior to utilizing vacation or sick time for time away from work. The only exception to using compensatory time-off before accrued vacation and/or sick leave applies to retiring employees leaving in good standing per Article VII’s Resignation in Good Standing Policy. During the 12-month period immediately preceding retirement, a retiring employee may work with his or her supervisor to exhaust any accrued vacation leave over the 240 maximum prior to working his or her last day with the city.*
- 4.09 *In a situation where a nonexempt employee performs work that fails to qualify as overtime work because the employee did not actually work over 40 hours during the standard 7-day workweek, or for a law enforcement employee or a fire protection employee subject to the Section 207(k) exemption who did not work in excess of the threshold amount set for overtime work during the ~~prescribed 15-day cycle~~ applicable 15-day or 21-day work period, such an employee may receive a bonus in the form of one-and-one-half hours of compensatory time-off for every hour worked in furtherance of the assigned task if the work is designated as a special duty assignment by the employee’s division director or department head on the employee’s time sheet or time card. Alternatively, a nonexempt employee may receive a bonus in the form of a monetary payment rather than compensatory time-off for work on a special assignment if such work is designated for special duty pay by the employee’s division director or department head on the employee’s time sheet or time card. Such a bonus shall be calculated on the basis of one-and-one-half times the employee’s regular rate of pay for each hour worked on a special duty assignment.*
- 4.10 *When a nonexempt employee is called back to work outside regularly scheduled working hours, the employee’s division director or department head is to evaluate the totality of the circumstances and make a determination as to which of the following options will be utilized:*

- (A) *The call-back event can be designated as a special duty assignment with the granting of either bonus compensatory time-off or the payment of a monetary bonus as described above in subsection 4.09, and a guarantee that the employee will receive, under this option, credit for no less than 2 hours of special duty assignment work; or*
 - (B) *The call-back event can be integrated into flexible, alternative scheduling of the employee's work time during the workweek.*
- 4.11 *Nonexempt law enforcement employees and fire protection employees subject to the Section 207(k) exemption may accrue not more than 480 hours of compensatory time-off. All other nonexempt employees may accrue not more than 240 hours of compensatory time-off. When the thresholds specified in this subsection are reached, the nonexempt employee will receive a monetary payment of one-and-one-half times the employee's regular rate of pay for each hour in excess of the limits specified in this subsection.*
- 4.12 *Employees wishing to use accrued compensatory time-off must make a written request to their immediate supervisor. Use of such time will be allowed within a reasonable period following the request as long as the use does not unduly disrupt the operations of the city. Additionally, in order to reduce the amount of accrued compensatory time-off, an employee who has not asked to use accrued compensatory time-off may, nonetheless, be required by his or her supervisor to use that accrued time at the convenience of the city.*
- 4.13 *Accrued compensatory time-off will be paid upon termination of employment and shall be calculated at the average regular rate of pay for the final three years of employment, or the final regular rate received by the employee, whichever is higher.*
- 4.14 *Subject to the conditions specified in this subsection, an exempt employee may be granted bonus compensatory time-off or pay to the same extent that such a bonus would be granted to a nonexempt employee for work designated and approved as special duty assignment work by the management official with approval authority for the exempt employee's time sheet or time card. The receipt of bonus compensatory time-off or pay by an exempt employee is subject to the following conditions:*
- (A) *The amount of compensatory time-off or pay shall be calculated on an hour-for-hour basis, not at the rate used for nonexempt employees of one-and-one-half hours for each hour of special duty assignment. The maximum amount of time that can be accrued by exempt employees is dependent on whether the employee is subject to the Section 207(k) exemption. If the Section 207(k) exemption is not applicable, the maximum accrual of special duty compensatory time-off allowed by this policy is 240 hours. If the Section 207(k) exemption is applicable to the employee, the maximum accrual of special duty compensatory time-off allowed by this policy is 480 hours. Any special duty compensatory time-off listed on a time record that would cause a leave balance to exceed the above stated amounts shall be disregarded as non-approved special duty compensatory time-off.*
 - (B) *As with nonexempt employees, exempt employees wishing to use accrued compensatory time-off must make a written request to their immediate supervisor. Use of such time will be allowed within a reasonable period following the request as long as the use does not unduly disrupt the operations of the city. Additionally, in order to reduce the amount of accrued compensatory time-off, an employee who has not asked to use accrued compensatory time-off may, nonetheless, be required by his or her supervisor to use that accrued time at the convenience of the city. When unusual work scheduling needs arise, the employee and the employee's supervisor should make every effort to fluctuate the schedule to avoid the accrual of compensatory time-off.*

- (C) *Exempt employees who have been allowed to accumulate compensatory time-off, rather than receiving payment for overtime work, will not be paid for any portion of the accumulated compensatory time-off until the exempt employee is promoted or terminates his or her employment with the city.*
- (D) *In the event an exempt employee separating from employment with the city is to receive a payment for some or all of the accumulated compensatory time-off, such terminal pay is to be calculated at the employee's final regular rate of pay. While exempt employees can generally accrue up to 240 hours and those subject to the Section 207(k) exemption can accrue up to 480 hours, the maximum terminal pay cannot exceed 120 hours for exempt employees who do not qualify for the Section 207(k) exemption or 240 hours for law enforcement and fire protection employees who qualify for the Section 207(k) exemption. When an exempt employee terminates his or her employment with the city, the balance of any accumulated compensatory time-off that has not been used by the employee prior to the separation from employment or included in the employee's terminal pay in strict accordance with the limits set within this subsection shall be deemed to be forfeited.*

Section 6. Effective January 1, 2020, Article IV, Part B, Section 4 of the Manual is reformatted and the requirement to use donated leave in 4-hour increments is eliminated by rewriting this section of the Manual as follows:

ARTICLE IV. LEAVES OF ABSENCE

PART B. TYPES OF LEAVE

Section 4. Voluntary Shared Leave

The purpose of voluntary shared leave is to provide economic relief for full-time regular employees who are likely to suffer financial hardship due to an absence.

Eligibility

Only full-time regular employees who have exhausted all accumulated leave are eligible to receive donated leave.

In order to receive voluntary shared leave, an employee must have complied with existing leave rules and:

- *Have a medical condition; or have an immediate family member as defined under the FMLA policy whose medical care will require the employee's absence for a period of time;*
- *Apply to become a recipient of a specified amount of leave time;*
- *Produce medical evidence to support the need for the requested amount of leave time beyond the available accumulated leave, and;*
- *Upon the recommendation of the human resources director, be approved by the city manager to participate in the program.*

Application for Donated Leave

An employee who, due to a serious medical condition of self or of his/her immediate family, faces an absence from work may apply for donated leave by completing a "Voluntary Shared Leave Application" and submitting it to the human resources director. Application may also be made by someone acting on the employee's behalf if the employee is unable to make application.

Before action can be taken by human resources, the application must include a doctor's statement regarding the medical condition of the recipient or FMLA defined family member of the recipient and verification of the need for additional leave. Human resources will edit out all protected health information and forward the request, along with the human resources recommendation for approval or denial, to city manager for final approval/denial.

(h) An ordinance amending Section 31.02 of the Code of Asheboro.

ORDINANCE NUMBER 33 ORD 12-19

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

AN ORDINANCE AMENDING SECTION 31.02 OF THE CODE OF ASHEBORO

WHEREAS, Section 31.02 of the Code of Asheboro specifies the procedure to be followed for the appointment of members to various committees of the City Council; and

WHEREAS, in order to allow a committee of the Asheboro City Council to meet without raising questions as to whether a quorum of the City Council is present, the recent practice of the Mayor and Council Members has been to appoint no more than three Council Members to any specific City Council committee; and

WHEREAS, the City Council has concluded that Section 31.02 of the Code of Asheboro should be updated to reflect the practice utilized by the City Council to efficiently and properly fulfill its duties and responsibilities as a governing board.

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

Section 1. Section 31.02 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 31.02 APPOINTMENT OF COMMITTEES.

Subsequent to the initial establishment of a committee and the appointment of members to serve on the committee, the Mayor shall appoint, during the organizational meeting of the City Council following its election, the number of Council Members prescribed by this Section or by the adopted resolution creating the committee in those cases where the committee is not specifically listed in this Section. All committee appointments by the Mayor are subject to the approval of the City Council. The committees for which appointments are to be made are as follows:

- (A) Finance and Public Safety Committee, which shall be chaired by the Mayor and consists of three Council Members;
- (B) Public Works Committee, which shall be chaired by the Mayor Pro Tempore and consists of ~~three~~ two additional Council Members;
- (C) Personnel Evaluation Committee, which shall be chaired by the Mayor and consists of two Council Members;
- (D) Tourism and Marketing Committee, which shall be chaired by the Mayor and consists of two Council Members;
- (E) Identity Theft Prevention Program Committee, which shall be chaired by the Mayor and consists of two Council Members; and
- (F) Such other committees as may be established by resolution of the City Council.

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 upon and after the 5th day of December, 2019.

ORDINANCE NO. 34 ORD 12-19

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**AN ORDINANCE TO EXTEND THE ASHEBORO CITY LIMITS BY
ANNEXING A PARCEL OF LAND CONTIGUOUS TO THE EXISTING
PRIMARY CITY LIMITS AT 1730 EAST SALISBURY STREET**

WHEREAS, in accordance with Section 160A-31 of the North Carolina General Statutes, J. Truman Stout, Trustee under the Truman Stout Living Trust, by and through his agent, who is Diane C. Hill, under a general power of attorney recorded in the Office of the Register of Deeds for Randolph County, North Carolina in Book of Record 2639, Page 968, petitioned the City of Asheboro to annex into the primary city limits his approximately 2.601 acres (113,281 square feet) of land at 1730 East Salisbury Street, Asheboro, North Carolina 27203; and

WHEREAS, the territory proposed for annexation is a single parcel of land identified by Randolph County Parcel Identification Number 7761722161 and more specifically described by metes and bounds in Section 1 of this Ordinance; and

WHEREAS, on November 7, 2019, by means of a duly adopted resolution (Resolution Number 47 RES 11-19), the Asheboro City Council directed the city clerk to investigate the sufficiency of the petition submitted on behalf of Mr. Stout, and the city clerk has in fact certified the sufficiency of this annexation petition; and

WHEREAS, pursuant to Asheboro City Council Resolution Number 48 RES 11-19, a legal notice was published on November 22, 2019, in *The Courier-Tribune*, a newspaper with general circulation in the City of Asheboro, announcing that a public hearing to consider the adoption of an ordinance annexing the described territory into the City of Asheboro would be held during the Asheboro City Council's next regular meeting, which was scheduled to begin at 7:00 p.m. on the 5th day of December, 2019, in the council chamber on the second floor of Asheboro City Hall, 146 North Church Street, Asheboro, North Carolina 27203; and

WHEREAS, the public hearing was held, as advertised, on the 5th day of December, 2019; and

WHEREAS, the Asheboro City Council has determined that the annexation 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 as follows:

Section 1. By virtue of the authority granted in Section 160A-31 of the North Carolina General Statutes, the following described territory is hereby annexed and made part of the City of Asheboro, North Carolina:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a 5/8" existing iron pipe with a cap that is up 4" in the southern margin of the 60-foot public right-of-way for East Salisbury Street (North Carolina Secondary Road 2237) at the northeast corner of the Truman Stout Living Trust property described in a deed recorded in the Office of the Register of Deeds for Randolph County, North Carolina (the "Randolph County Registry") in Deed Book 1742, Page 2384 (the described Truman Stout Living Trust property is identified by Randolph County Parcel Identification Number 7761722161 and is the property for which annexation has been requested; this property will be hereinafter referred to as the "Annexation Parcel"), this beginning point is on the existing City of Asheboro primary city limits line and is located by means of the North Carolina Coordinate System at the coordinates of North 712,262.707 feet and East 1,767,464.307 feet (NAD 27); thence departing from the beginning point and following the existing City of Asheboro primary city limits line South 00 degrees 05 minutes 27 seconds East 331.21 feet along the PERKY II of Asheboro, LLC and Lackey Investments, L.L.C. property described in Deed Book 1950, Page 1696, Randolph County Registry to a 1/2" existing iron pipe that is up 32" at the southeast corner of the Annexation Parcel; thence continuing along the

9. City Clerk Holly H. Doerr administered the following oath of office to Council Member Charles A. Swiers.

OATH OF COUNCIL MEMBER

STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH
CITY OF ASHEBORO

I, Charles A. Swiers, do solemnly swear that I will support, defend, and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge and perform the duties of my office as Council Member for the City of Asheboro, on which I am about to enter, according to my best skill and ability; so help me, God.

/s/Charles A. Swiers
Charles A. Swiers

Sworn to and subscribed before me this 5th day of December, 2019.

/s/Holly H. Doerr
Holly H. Doerr
City Clerk

Organizational Phase of the Meeting

10. **Election of Mayor Pro Tempore.**

After the oaths of office were administered to Council Members Redding, Burks, and Swiers, the Council turned its attention to the election of a Mayor Pro Tempore. Council Member Bell nominated Council Member Walker B. Moffitt to serve as Mayor Pro Tempore, and Council Member Burks seconded this nomination. Mayor Smith asked if there was agreement to elect Council Member Moffitt as Mayor Pro Tempore by acclamation, and Council Member Bell and Council Member Burks agreed to so move and second. This motion to close nominations and elect Walker B. Moffitt as Mayor Pro Tempore by acclamation was approved unanimously by Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers. There were no dissenting votes.

11. **Committee appointments:**

- (a) **Appointments by Mayor.**

Mayor Smith presented a list of proposed appointments to council committees. The list of appointments is printed in its entirety in the resolution that was adopted as part of the council's next business item.

- (b) **Council concurrence with the list of appointments.**

Upon motion by Council Member Moffitt and seconded by Council Member Bell, the Council voted unanimously to adopt by reference the following resolution expressing the Council's concurrence with the committee appointments made by Mayor Smith. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

RESOLUTION NUMBER 51 RES 12-19

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**A RESOLUTION OF CONCURRENCE WITH THE COMMITTEE APPOINTMENTS
MADE BY MAYOR DAVID H. SMITH**

WHEREAS, the Code of Asheboro (the “Code”) authorizes the Mayor to appoint Council Members to the various committees listed in Section 31.02 of the Code as well as to other committees established by and organized in accordance with resolutions adopted by the Asheboro City Council (the “Council”) independent of the committee framework established in the Code; and

WHEREAS, the appointment of individuals to such committees is to take place during the organizational meeting that follows the municipal general election; and

WHEREAS, Section 31.02 of the Code provides that the above-referenced committee appointments are subject to the approval of the Council; and

WHEREAS, during the organizational meeting held on December 5, 2019, Mayor David H. Smith made the following committee appointments:

Finance and Public Safety Committee

1. Mayor, Chair (Designated as Chair by the Code)
2. Clark R. Bell
3. Jane H. Redding
4. Charles A. Swiers

Public Works Committee

1. Mayor Pro Tempore, Chair (Designated as Chair by the Code)
2. Edward J. Burks
3. Katie L. Snuggs

Personnel Evaluation Committee

1. Mayor, Chair (Designated as Chair by the Code)
2. Mayor Pro Tempore
3. Linda H. Carter

Tourism and Marketing Committee

1. Mayor, Chair (Designated as Chair by the Code)
2. Edward J. Burks
3. Katie L. Snuggs

Identity Theft Prevention Program Committee

1. Mayor, Chair (Designated as Chair by the Code)
2. Linda H. Carter
3. Charles A. Swiers

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that, without exception, the committee appointments specified in the preceding recitals are hereby approved.

