

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, MARCH 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)
Linda H. Carter)
Walker B. Moffitt) – Council Members Present
Jane H. Redding)
Katie L. Snuggs)
Charles A. Swiers)

John N. Ogburn, III, City Manager
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
Jason A. Hanson, Police Captain
David L. Hutchins, Public Works Director
P. Douglas Kemp, Human Resources Director
Michael L. Leonard, PE, City Engineer
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.

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. Recognition of guests and citizens.

Mayor Smith welcomed Mr. George Kearns, a boy scout from Troop 527, who was in attendance as a requirement for his citizenship badge.

4. Public comment period.

Mayor Smith opened the floor for public comments. Mr. James Armstrong expressed his general concerns regarding the need for economic development and general improvements to public infrastructure in order to enhance the quality of life in Asheboro.

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

5. Presentation of the *Asheboro Pride Award*.

Mayor Smith presented the Asheboro Pride Award to Ms. Tammy O'Kelley, CEO of the Randolph County Tourism Development Authority, in recognition of her receipt of the Lifetime Achievement in Travel and Tourism Award and for her service to Asheboro and its citizens. No formal action was taken by the Council during this portion of the meeting.

6. Recognition of Mayor Pro Tem Walker Moffitt for his appointment to serve as Chair of the North Carolina Zoo Council.

On behalf of the Asheboro City Council, Mayor Smith congratulated Mayor Pro Tem Walker Moffitt for his appointment by Governor Roy Cooper to serve as Chair of the North Carolina Zoo Council. No formal action was taken by the City Council during this portion of the meeting.

7. Recognition of Public Services Superintendent Dwain Maness.

On behalf of Mayor Smith, the Council Members, and the City Manager's Office, Mr. Ogburn presented Public Services Superintendent Dwain Maness with a retirement plaque from the municipal corporation. Additionally, Mr. Ogburn thanked Mr. Maness for his dedicated service to the citizens of Asheboro.

8. Consideration of an appointment to fill the open seat on the Asheboro Airport Authority.

City Engineer Michael Leonard, PE, reported that the Asheboro Airport Authority (a 5-member board) has recommended that the Council consider appointing either Ms. Linda Brown or Mr. Keith Hodgin, Jr. to fill the unexpired term of Dr. James Rich. The term for this open seat on the Asheboro Airport Authority expires in February 2022.

After reviewing the interest forms/applications submitted by these individuals, Council Member Moffitt moved to appoint Ms. Linda Brown to fill the seat vacated by Dr. Rich. Council Member Carter seconded the motion, and the Council voted unanimously to appoint Ms. Brown to serve on the Asheboro Airport Authority. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion.

9. Consideration of an appointment to fill the open seat on the City of Asheboro Planning Board.

Community Development Director Trevor Nuttall reported that the planning board is a 7-member board (five city seats and two extraterritorial planning jurisdiction seats) with one open seat due to the resignation of Lynette Garner, who served as a city resident.

After reviewing interest forms/applications submitted by interested citizens, Council Member Bell moved to appoint Mr. Harold Anderson to fill the unexpired term of Ms. Garner that expires in January, 2022. Council Member Snuggs seconded the motion, and the Council voted unanimously to appoint Mr. Anderson to the Asheboro Planning Board. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion.

10. Consent agenda.

Upon motion by Council Member Bell and seconded by Council Member Burks, 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 February 6, 2020.

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 January 6, 2020.**

The minutes of the meeting held by the Asheboro ABC Board on January 6, 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.

- (c) **The community development division's request to schedule and advertise public hearings on the following land use cases that have been submitted in time for full consideration during the council's next regular meeting on April 9, 2020.**

- (i) **A Special Use Permit application requesting approval for a Manufacturing, Processing, and Assembly (Light) land use on property, which is zoned B2 (General Commercial), at 468 North Fayetteville Street (Randolph County Parcel Identification Number 7751859284).**
- (ii) **An application to rezone property located at 137 North Randolph Avenue (Randolph County Parcel Identification Number 7761027972) from R7.5 (Medium-Density Residential) to B2 (General Commercial).**
- (iii) **A zoning ordinance text amendment application pertaining to Recreational Vehicle/Travel Park/ Camp land uses in the B2 and TH zoning districts, including but not limited to Article 200, Table 200-2 (Table of Permitted Uses) and Article 300A.**

The hearings concerning the applications for the above-described land use approvals 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 April 9, 2020.

- (d) **A resolution concurring with amendments made by the city manager to the City of Asheboro Employee Policies and Procedures Manual in order to improve the process for calculating the overtime compensation (in premium pay or compensatory time) of employees engaged in law enforcement activities.**

RESOLUTION NUMBER 03 RES 3-20

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**A RESOLUTION EXPRESSING CONCURRENCE WITH REVISIONS TO THE
EMPLOYEE POLICIES AND PROCEDURES MANUAL**

WHEREAS, the City of Asheboro Employee Policies and Procedures Manual (formerly known as the City of Asheboro Personnel Policies and Procedures Manual and hereafter referred to as the "Manual"), which was originally promulgated by the city manager and approved by resolution of the Asheboro City Council on March 4, 2004, has to be updated on a regular basis; and

WHEREAS, the city manager has acted on recommendations from the human resources director and the chief of police to correct a typographical error and to improve the process for calculating overtime compensation (in premium pay or compensatory time-off) for employees engaged in law enforcement activities; and

WHEREAS, the revised provisions in the Manual are specified in Section 1 of this Resolution; and

WHEREAS, the Asheboro City Council has concluded that the city manager's decision to update the Manual as stated herein is supportive of the governing board's goal to create a positive work environment for municipal employees and thereby facilitate excellence in the provision of municipal services to the citizens of Asheboro.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that it concurs with the city manager's decision to amend the City of Asheboro Employee Policies and Procedures Manual as follows:

Section 1. Effective March 7, 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~~ 4.14, 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~~ 171 hours in a ~~15-day~~ 28-day work period, and nonexempt fire protection employees are entitled to this overtime rate only for hours worked in excess of 159 hours in a 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 period that do not cause a law enforcement employee to exceed ~~92~~ 171 hours in a ~~15-day~~ 28-day work period or a fire protection employee to exceed 159 hours in a 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 applicable ~~15-day~~ 28-day or 21-day work period.*
- (B) *During an overtime work 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~~ 171 hours in a ~~15-day~~ 28-day work period and every hour worked by a fire protection employee in excess of 159 hours in a 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 applicable ~~15-day~~ 28-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*

13. Upcoming events.

Mayor Smith led a brief discussion of upcoming events occurring with the city government and the community in general. No action was taken by the city council during this portion of the meeting.

There being no further business, Council Member Burks moved to adjourn the meeting. Council Member Carter seconded the motion, and the Council voted unanimously to adjourn the meeting at 7:45 p.m. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye.

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

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