

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, ASHEBORO CITY HALL
THURSDAY, MARCH 4, 2021
7:00 PM**

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

David H. Smith) – Mayor Presiding

Clark R. Bell)

Edward J. Burks)

Walker B. Moffitt) – Council Members Present

Jane H. Redding)

Katie L. Snuggs)

Charles A. Swiers)

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

John N. Ogburn, III, City Manager
Holly H. Doerr, CMC, NCCMC, City Clerk
Michael L. Leonard, PE, City Engineer
Trevor L. Nuttall, Community Development Director
Jeffrey C. Sugg, City Attorney
D. Richard Thompson, Jr., Police Captain
Charles D. Wagner, Police Captain
Tammy M. Williams, Deputy City Clerk

1. Call to order.

A quorum thus being present, Mayor Smith called the meeting to order for the transaction of business, and business was transacted as follows. The number of elected officials, city employees, and private citizens physically present in the council chamber at any point in time was limited in order to maintain the physical distancing recommended by public health authorities during the current coronavirus pandemic.

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

2. Moment of silent prayer and pledge of allegiance.

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

3. Appearance and recognition of guests and citizens.

Mayor Smith welcomed everyone in attendance.

4. The year-end audit report for fiscal year 2019-2020.

Mr. Steve Hackett, CPA, with the firm of William R. Huneycutt, CPA presented the audit report for the fiscal year that ended June 30, 2020. During his presentation, Mr. Hackett reported that the city received what is commonly referred to as a “clean audit” (also referred to as an “unmodified opinion”). A “clean audit” means the city’s financial statements are fairly presented in accordance with generally accepted accounting principles for the year ending June 30, 2020.

The council members expressed their satisfaction with the audit report and their general consent to the acceptance of the report from the auditor. A copy of the written audit report is available for inspection in the city’s finance department.

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

5. Discussion of the “StrEATery” event that is scheduled for March 20, 2021.

- (a) Ms. Rebekah McGee, who is the Executive Director for Downtown Asheboro, Inc., reported that the first outdoor dining event that was held on November 7, 2020 was successful. The next outdoor dining event, “StrEATery,” is scheduled for March 20, 2021 from 11:00 a.m. until 9:00 p.m.

A proposed street closure map, depicting the streets within the downtown area that should be closed for the event, was presented for Council’s review and approval. The North Carolina Department of Transportation (NCDOT) has already approved the closure of North Fayetteville Street between West Academy Street and Trade Street in Asheboro between the hours of 8:00 a.m. and 10:00 p.m. as requested by Downtown Asheboro, Inc. Additionally, Downtown Asheboro, Inc. has requested that the City of Asheboro close Sunset Avenue between Church Street and North Fayetteville Street from 8:00 a.m. until 10:00 p.m.

After some discussion, Council Member Bell moved and Council Member Moffitt seconded the motion to close the above-referenced streets as indicated on the “StrEATery” Road Closures Map from 8:00 a.m. until 10:00 p.m. on March 20, 2021 for the outdoor dining and entertainment event. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

A copy of the approved street closure map is on file in the city clerk’s office.

- (b) In addition to Ms. McGee’s presentation, Mr. Joel Leonard described Makesboro USA. Makesboro USA has a 15-foot trailer, a mobile makespace, packed with technological equipment, including but not limited to a 3D printer, laser cutter, and a CNC router, in order for individuals to learn various hands-on skills in operating machinery and technological equipment.

Mr. Leonard informed the council members of his plans to hold events in the future so that the citizens of Asheboro may learn new skills and

trades. These events are free to the public and will take place in Bicentennial Park.

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

6. Public comment period.

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

Mayor Smith closed the public comment period.

7. Consent agenda:

Council Member Burks moved, and Council Member Redding seconded the motion, to approve/adopt, as presented, the following consent agenda items. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

(a) The meeting minutes for the city council's regular meeting on February 4, 2021.

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 4, 2021.

The minutes of the meeting held by the Asheboro ABC Board on January 4, 2021, 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 planning department's request to schedule for April 8, 2021, and to advertise a legislative hearing on the adoption of text amendments designed to align the city zoning ordinance with the changing legal framework for regulation and development.

The hearing concerning the application for the above-described zoning ordinance text amendments 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 8, 2021.

(d) An ordinance to amend the General Fund to account for the receipt and expenditure of CARES Act money for the Asheboro Regional Airport.

08 ORD 3-21

**ORDINANCE TO AMEND THE GENERAL FUND
FY 2020-2021**

WHEREAS, the City of Asheboro received CARES act money from NCDOT for use at the Asheboro Regional Airport, and;

WHEREAS, the City of Asheboro wishes to recognize these funds in the budget and allocate those funds to go toward the acquisition of Hangar N approved at the February 4th Council Meeting, and;

WHEREAS, the City of Asheboro desires amend the 2020-2021 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>
10-349-0000	State Grants	30,000

That the following Expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Change</u>
10-650-0400	Professional Services	30,000

Adopted this the 4th day of March 2021.

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

ATTEST:

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

- (e) **An ordinance to amend the General Fund for the David and Pauline Jarrell Center City Garden to account for the landscape design and master plan.**

09 ORD 3-21

**ORDINANCE TO AMEND THE GENERAL FUND
FY 2020-2021**

WHEREAS, In September 2019, the City Council of the City of Asheboro authorized the purchase of two parcels of land to become part of the proposed David & Pauline Jarrell Center City Garden, and;

WHEREAS, along with the parcel of land donated to the City of Asheboro, there are approximately 3 acres available for development, and;

WHEREAS, the City of Asheboro is ready to proceed with creating a master plan for the landscape design of the Garden;

WHEREAS, at the Project Ordinance to establish the David & Pauline Jarrell City Garden Fund was approved by the City Council at the February 4, 2021 meeting, and;

WHEREAS, a contribution from the General Fund is needed to cover the masterplan development, and;

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

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

That the following Revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Amount</u>
10-399-0000	Fund Balance Appropriation	\$107,000

That the following Expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Amount</u>
10-620-7500	Contribution to David & Pauline Jarrell City Garden Fund	\$107,000

Adopted this the 4th day of March 2021.

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

ATTEST:

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

(f) An ordinance to amend the General Fund to account for improvements to Whitley Street.

10 ORD 3-21

**ORDINANCE TO AMEND THE GENERAL FUND
FY 2020-2021**

WHEREAS, as part of annexation negotiations in 2007, the City of Asheboro agreed to contract and install water, sanitary sewer, storm sewer and paving improvements to Whitley Street area when the property was developed, and;

WHEREAS, the property was planned to be developed in 2017 with an expected completion time in 2018 and was thus funding was included in the General Fund with the expectation of reimbursement, and;

WHEREAS, at this time, the area is under development and the portion of the project that the City is responsible has been completed to the satisfaction of the City of Asheboro, and;

WHEREAS, the general fund budget needs to be amended to provide funding for the anticipated reimbursement for the storm sewer and street improvements as agreed to in 2007, and;

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

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

That the following Revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Amount</u>
10-399-0000	Fund Balance Appropriation	\$166,200

That the following Expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Amount</u>
10-565-4505	Contracted Maintenance- Construction	\$166,200

Adopted this the 4th day of March 2021.

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

ATTEST:

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

- (g) An ordinance to amend the Economic and Tourism Development Fund to account for the city's placemaking project.**

11 ORD 3-21

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

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

WHEREAS, NCDOT started building a 14.4 mile highway interchange between I-73 and I-74 and US HWY 64 Asheboro in June 2015 and the segment was opened on December 18, 2020, and;

WHEREAS, the City recognizes a branding opportunity to the City of Asheboro, the NC Zoo and the region by establishing unique, creative and implementable designs at six highway interchanges of the I-73/I-74 corridor that will leverage the economic synergies between the City of Asheboro and the NC Zoo, and;

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

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

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

That the following Revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
72-354-1000	Allocation for Branding on HWY 64 bypass- Phase I	\$185,000

That the following expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
72-800-0004	Branding on HWY 64 bypass- Phase I	\$185,000

Adopted this the 4th day of March 2021.

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

ATTEST:

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

(h) An ordinance to amend the Economic and Tourism Development Fund for the city's downtown broadband project.

12 ORD 3-21

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

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

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

WHEREAS, in November 2020, the City Council approved a budget amendment in the amount of \$86,000 to begin the project of extending internet in the downtown area, and;

WHEREAS, the additional cost to extend fiber in the downtown area for work expected to be completed in the 2020-2021 fiscal year is estimated at \$133,000, and;

WHEREAS, the projected cost to extend fiber in the downtown area for work expected to be completed in the 2021-2022 fiscal year is estimated at \$100,000, and;

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

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

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

That the following Revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
72-384-0000	Downtown Redevelopment	\$233,000

That the following expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
72-800-0003	Downtown Redevelopment	\$233,000

Adopted this the 4th day of March 2021.

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

ATTEST:

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

8. **Public Hearing (Case No. RZ-21-01): A public hearing on proposed zoning ordinance text amendments pertaining to encroachments into public rights-of-way.**

Mayor Smith opened the public hearing on the following request.

Community Development Director Trevor Nuttall utilized a slide show to provide an overview of the proposed text amendments. During his presentation, Mr. Nuttall noted the following:

1. The Asheboro Zoning Ordinance generally prohibits encroachments into public rights-of-way. Encroachments may include features such as canopies, awnings, signs, or improvements related to outdoor dining.
2. There has been an increase in the number of requests for encroachments described in (1) above, particularly in the central business district that makes up the historic core of the city and coincides with part of the Center City Planning Area, where the setbacks of existing structures tend to be minimal, or in some cases are directly along the public right-of-way line. The proposed text amendments are focused on the Center City Planning Area.
3. The Asheboro City Code includes provisions for encroachments into public rights-of-way, with review to ensure such encroachments do not create safety problems or prevent free passage across them.
4. The City only has jurisdiction over city-maintained public rights-of-way. The North Carolina Department of Transportation (NCDOT) reviews encroachment requests within public rights-of-way for state-maintained roads. State law, for example, allows encroachments into the public right-of-way in cases such as sidewalk dining (which may include structures regulated by the zoning ordinance). This is subject to an agreement between the local government and NCDOT (Session Law 2013-266).
5. The intent of the amendments is to ensure the zoning ordinance isn't in conflict with the provisions of the city code, or allowances

by state law. However, the other provisions related to design standards, provisions related to area, height, and placement, and other general requirements are not affected by this proposal.

The proposed amendments to Article 200A, Center City Planning Area of the Asheboro Zoning Ordinance consist of the following underlined text:

Tier 1

(4) *Development Standards for Buildings*

The following sections identify standards that shall apply to development within the Central Business Planning Area in addition to all other applicable standards contained in this Ordinance. In general, infill uses shall be compatible with the established architectural character of the area by using complementary building style, form, size, color, materials, and detailing. New construction should reinforce existing building and design patterns.

(a) *Building Materials:*

(i) *Permitted Materials: Buildings shall be clad in one or more of the following: brick, brick veneer, ornamental split-faced concrete block or similar ornamental concrete masonry unit (CMU), stucco (synthetic or natural), stone or simulated stone/marble. Vinyl and/or aluminum may be used to clad soffits, trim, or windows. Aggregate stone panels may be used provided it does not cover more than 30 percent of any wall area.*

(ii) *Prohibited Materials: Materials specifically disallowed as primary siding materials include, but are not limited to: vinyl and aluminum siding, unfinished wood, concrete block (except split-faced block). In addition, materials prohibited in Sections 316A, 317A and 318A of this Ordinance are prohibited.*

(b) *Colors: No high intensity colors metallic colors, or fluorescent colors shall be allowed on any building or architectural element. Exception: The use of such colors shall be permitted on business identification signs.*

(c) *Existing Street Fronting Facades:*

(i) *For existing buildings, no openings on any portion of a wall oriented toward a public street shall be covered or blocked with any material so as to render the opening functionally obsolete (unable to be utilized for entry into the building) or inhibit transparency.*

(ii) *Security bars, panels, curtains, and like devices, whether retractable or permanent, shall not be constructed or used on the exterior portion of any building wall oriented toward a public street. Such devices may be installed on the interior of the building.*

(iii) A zoning compliance permit shall be obtained prior to painting, staining, or covering any street front facade. Any street front facade of masonry buildings that has historically been left in a natural, uncovered state shall not be painted, stained or otherwise covered; this prohibition shall apply only to the masonry portion of the building and not to any non-masonry building trim or accents. This subsection shall not apply to single-or two family dwellings. (Amended 2-4-2016)

(iv) Notwithstanding Sections 304.4 and 505 of the Asheboro Zoning Ordinance, objects and structures over sidewalks otherwise permitted by Chapter 99 of the Code of Asheboro shall be allowed to encroach into city- maintained public right-of-ways and, with state approval, state-maintained public right-of-ways, provided:

(aa) any sidewalk within the public right-of-way is not rendered non-compliant with Americans with Disabilities Act standards by such object or structure; and

(bb) the object or structure does not prevent the city and any other entitled entity from maintaining public infrastructure within the public right-of-way; and

(cc) the object or structure is in strict compliance with Chapter 99 of the Code of Asheboro and all other provisions of the city Zoning Ordinance.

Tier 2

(4) Development Standards for Buildings

The following sections identify standards that shall apply to development within the Central Fringe Planning Area in addition to all other applicable standards contained in this Ordinance. In general, infill uses shall be compatible with the established architectural character of the area by using complementary building style, form, size, color, materials, and detailing. New construction should reinforce existing building and design patterns.

(a) Building Materials:

(i) Permitted Materials: Buildings shall be clad in one or more of the following: brick, brick veneer, ornamental split-faced concrete block or similar ornamental concrete masonry unit (CMU), stucco (synthetic or natural), stone or simulated stone/marble. Vinyl and/or aluminum may be used to clad soffits, trim, or windows. Aggregate stone panels may be used provided it does not cover more than 30 percent of any wall area.

(ii) Prohibited Materials: Materials specifically disallowed

as primary siding materials include, but are not limited to: vinyl and aluminum siding, unfinished wood, concrete block (except split-faced block). In addition, materials prohibited in Sections 316A, 317A and 318A of this Ordinance are prohibited.

- (b) *Colors: No high intensity colors metallic colors, or fluorescent colors shall be allowed on any building or architectural element. Exception: The use of such colors shall be permitted on business identification signs.*

- (c) *Existing Street Fronting Facades:*
 - (i) *For existing buildings, no openings on any portion of a wall oriented toward a public street shall be covered or blocked with any material so as to render the opening functionally obsolete (unable to be utilized for entry into the building) or inhibit transparency.*
 - (ii) *Security bars, panels, curtains, and like devices, whether retractable or permanent, shall not be constructed or used on the exterior portion of any building wall oriented toward a public street. Such devices may be installed on the interior of the building.*
 - (iii) *Notwithstanding Sections 304.4 and 505 of the Asheboro Zoning Ordinance, objects and structures over sidewalks otherwise permitted by Chapter 99 of the Code of Asheboro shall be allowed to encroach into city- maintained public right-of-ways and, with state approval, state-maintained public right-of-ways, provided:*
 - (aa) *any sidewalk within the public right-of-way is not rendered non-compliant with Americans with Disabilities Act standards by such object or structure; and*
 - (bb) *the object or structure does not prevent the city and any other entitled entity from maintaining public infrastructure within the public right-of-way; and*
 - (cc) *the object or structure is in strict compliance with Chapter 99 of the Code of Asheboro and all other provisions of the city Zoning Ordinance*

In reviewing this request, careful consideration is given to each Goal and Policy as outlined in the Land Development Plan.

LDP Goals/Policies Supporting the Request:

- 2.1.1** The Zoning Ordinance will periodically be reviewed to ensure that the specific regulations for each Zoning District are aligned with the desired character and focus of each district.

3.2.1 The City will amend Zoning requirements (i.e. setback regulations, permitted building materials, orientation of streetscapes, parking areas, pedestrian access, etc.) to ensure that new development is compatible with, and enhances, the architectural design of surrounding land uses.

Checklist Item 10: Text amendment is consistent with Land Category Descriptions. Staff Note: Actual checklist item refers to rezoning request consistency with Land Category Descriptions, but as articulated in final analysis, the text amendment also complies with this item.

The City of Asheboro Planning Board concurred with the following planning staff analysis and recommended approval of the proposed text amendments:

“The proposed text amendments are intended to allow encroachments into the public right-of-ways under certain circumstances to enhance the unique experience and design of the Asheboro City Center area, but must be done prudently.

The current proposal is intended to ensure that all other requirements of the zoning ordinance and other regulatory provisions addressing appearance, safety, and public accessibility are strictly maintained but allows accommodation of appropriately designed spaces in the public realm. The proposal also clarifies, and as necessary, removes language that is currently in conflict with the Asheboro City Code and allows for the appropriate review process to occur if encroachments are proposed in state-maintained right-of-ways.

Recognition that buildings in the Center City were developed with limited space separating them from the street acknowledges both unique design challenges not usually faced outside this area and opportunities to prudently respond to changing conditions and encourage features that enliven the City Center’s streetscape, which the Land Development Plan envisions as a ‘unique and vibrant atmosphere setting the City Center apart from other districts.’

Considering these factors and state law requiring these changes, staff believes that the proposed text amendment is overall consistent with the Land Development Plan and is therefore reasonable and in the public interest.”

Mr. Mark Trollinger, who is the owner and general manager of Trollinger Construction, presented comments in support of the requested text amendments. With no other comments from the public, Mayor Smith transitioned to the deliberative phase of the case.

The city council concurred with the staff and planning board’s analysis of the consistency of the request with the land development plan. Council Member Bell moved, and Council Member Snuggs seconded the motion, to adopt the following plan consistency statement and to approve the text amendments with the following multi-part motion:

1. The proposed text amendments are intended to allow encroachments into the public rights-of-way under certain circumstances and thereby enhance the unique experience and design of the Asheboro City Center area, but must be done prudently.

The current proposal will ensure that all other requirements of the zoning ordinance and other regulatory provisions addressing appearance, safety, and public accessibility are strictly maintained while allowing accommodation of appropriately designed spaces in the public realm. The proposal also clarifies, and as necessary, removes language that is currently in conflict with the Asheboro City Code and allows for the appropriate review process to occur if encroachments are proposed in state-maintained rights-of-way.

Recognition that buildings in the Center City were developed with limited space separating them from the street helps with addressing both unique design challenges not usually faced outside this area and the opportunities presented by the need to respond to changing conditions and encourage features that enliven the City Center's streetscape, which the Land Development Plan envisions a 'unique and vibrant atmosphere setting the City Center apart from other districts.'

Considering these factors, the requested text amendments maintain overall consistency with the Land Development Plan. Furthermore, the council finds the requested text amendments to be reasonable and in the public interest.

2. In light of the above-stated analysis, and looking at the totality of the evidence, the requested text amendments are approved as consistent with the adopted plan.

Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes. Consequently, the above-stated motion was adopted unanimously.

A copy of the slide show utilized by Mr. Nuttall is on file in the city clerk's office.

9. Water Resources Division items.

(a) Funding for proposed improvements at Sewer Lift Station No. 3.

Water Resources Director Michael Rhoney, PE utilized a slide show in order to provide an update on the Sanitary Sewer Lift Station No.3 Improvements Project. Lift Station No. 3 is located on Mine Street in Asheboro.

The Division of Water Infrastructure within the North Carolina Department of Environmental Quality has reviewed the city's application for funding for this project. In a letter dated March 1, 2021, the city received notice that the state Water Infrastructure Authority has approved the project as eligible to receive funding.

The State Reserve Project Loan will be \$2,705,240.00 at a maximum interest rate of 1.10%. A loan fee of 2% will be invoiced after bids have been received.

The intent to fund is contingent on approval of the loan through the Local Government Commission and on meeting all of the following milestones:

	<u>Milestone</u>	<u>Date</u>
1.	Engineering Report Submittal	July 1, 2021
2.	Engineering Report Approval	December 1, 2021
3.	Bid and Design Package Submittal	June 1, 2022
4.	Bid and Design Package Approval	October 3, 2022
5.	Advertise Project, Receive Bids, Submit Bid Information, and Receive Authority to Award	February 1, 2023
6.	Execute Construction Contract(s)	March 1, 2023

The total budgeted cost of the project is \$2,730,240.00. Mr. Rhoney will update the council members as more information becomes available. A copy of the slide show utilized by Mr. Rhoney is on file in the city clerk's office.

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

(b) Consideration of consulting forester services contract.

Water Resources Director Michael Rhoney, PE presented and recommended adoption, by reference, of a resolution authorizing the entry of the city into professional services contract for consulting forester services.

Council Member Moffitt moved, and Council Member Bell seconded the motion, to adopt the following resolution by reference. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

RESOLUTION NUMBER 04 RES 3-21

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**RESOLUTION AUTHORIZING THE ENTRY OF THE CITY INTO A
PROFESSIONAL SERVICES CONTRACT FOR
CONSULTING FORESTER SERVICES**

WHEREAS, the City of Asheboro (the "City") owns several acres of land, initially estimated to be approximately 86 acres, at the City of Asheboro Wastewater Treatment Plant with standing timber that, in accordance with good asset management practices, should be evaluated for a potential timber sale; and

WHEREAS, Tugwell Consulting Forestry, P.A. of Asheboro, North Carolina (the "Consultant") has provided competent and satisfactory consulting forester services to the City during past timber sales; and

WHEREAS, the Consultant is willing to provide the professional services needed to conduct a proper evaluation of the wastewater treatment plant property for a potential timber sale; and

WHEREAS, the professional services contract submitted by the Consultant is attached to this Resolution as EXHIBIT 1 and is hereby incorporated into this instrument by reference as if copied fully herein; and

WHEREAS, the Asheboro City Council concurs with the recommendation from the water resources director and the city manager to enter into the proposed professional services contract.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the professional services contract attached to this Resolution as EXHIBIT 1 is hereby approved; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that the city manager is authorized and directed to execute the contract on behalf of the municipal corporation.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 4th day of March, 2021.

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

ATTEST:

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

EXHIBIT 1

STATE OF NORTH CAROLINA

PROFESSIONAL SERVICES

CONTRACT

COUNTY OF RANDOLPH

THIS CONTRACT, made and entered into as of the date of the last signature affixed hereto, by and between the **CITY OF ASHEBORO**, a North Carolina municipal corporation located in Randolph County, North Carolina, hereinafter called "Owner", and **TUGWELL CONSULTING FORESTRY, P.A.** of Asheboro, N.C., Randolph County, State of North Carolina, hereinafter called "Consultant";

WITNESSETH

THAT for the purpose and subject to the conditions hereinafter set forth said Owner hereby contracts for the professional services of the Consultant, and the Consultant hereby agrees to provide such services.

THE PURPOSE, TERMS, AND CONDITIONS OF THIS CONTRACT ARE AS FOLLOWS:

1. The property that is the subject of this Contract is various tax identification parcel numbers, of approximately 86 +/- total acres, known as the ***Wastewater Treatment Plant Property***, located adjacent to Bonkemeyer Drive in

Asheboro. Tax ID #'s: 7763-64-5814, 7763-75-8973, and 7763-74-2717. Deed references, respectively: DB 652/648, DB 652/645, and DB 652/651.

2. The **Consultant** agrees to perform the following professional services, in preparation to conduct a timber sale and in so doing, shall:
 - a. Go upon the property, and locate and mark cutting boundaries within which the harvesting of timber is to be done. If any question arises as to the location of property lines, he will recommend a survey, if the same is deemed necessary.
 - b. The Consultant will perform a timber inventory and appraisal, and recommend to the Owner a fair market value for which the timber should be sold, based upon current markets. If Owner is not satisfied with the fair market value, Owner may void the remainder of this contract, by paying the appraisal fee as described in 4.b. below.
 - c. The Consultant will recommend to the Owner the method of sale to a buyer at not less than the value determined by the Consultant prior to posting or giving any notice of the type of sale. Any recommended method of sale shall be in strict compliance with Article 12 (Sale and Disposition of Property) in Chapter 160A of the North Carolina General Statutes.
 - d. The Consultant will make himself available to interested buyers to show the timber and answer any questions they may have concerning this timber sale.
 - e. If timber is to be sold by the negotiated offer, advertisement, and upset bid process, Consultant will seek to promote such type sale among available prospective buyers or offer to prospective buyers the timber at no less than the agreed price between the Owner and Consultant.
 - f. Supply to the attorney the proper information for preparation of the timber deed. Work with the attorney, timber purchaser, and Owner to coordinate and facilitate closing of the timber sale transaction.
 - g. Periodically check upon, and inspect the manner in which the timber is being harvested to be certain that the logging contractor follows all conditions specified in the timber deed.
 - h. Assist the landowner with reforestation, if desired, by preparing all cost-share forms and reforestation plans for submitting to the appropriate government agency.
3. The **Owner** agrees:
 - a. To guarantee the title and legal ownership to any timber proposed to be sold.
 - b. To provide survey if necessary.
 - c. To provide legal right of ingress, egress, and regress to the property in locations approved by the City of Asheboro Water Resources Director as compatible with the operations of the City of Asheboro Wastewater Treatment Plant.

- d. To the extent permitted by law, not to negotiate with any buyer as to price, terms or conditions of the timber sale without the prior consent of the Consultant.
 - e. Subject to strict compliance with the applicable legal authorities, to place on the Asheboro City Council's meeting agenda a formal request for authorization to execute a General Warranty Timber Deed, or Timber Sale Agreement, when presented.
 - f. To delineate, in writing before the timber sale, any and all fences, structures, improvements, sewer lines, equipment within the sale area, power lines, easements, or any item of importance or concern within the timber sale area.
4. The Owner agrees to pay the Consultant 10% of the total sale price for his efforts to sell said timber.
- a. The Consultant is due full commission if an acceptable offer is obtained at the sale. An acceptable offer is defined as an offer that satisfies both of the following requirements: (i) The offer must be submitted in strict compliance with the laws and regulations applicable to a sale conducted by the City of Asheboro for standing timber on the Wastewater Treatment Plant Property; and (ii) Such an offer meets or exceeds the fair market value, as set by the Consultant's timber appraisal.
 - b. If timber is not sold by the date set by the parties hereto for the sale by a method of sale strictly compliant with the laws and regulations applicable to the City of Asheboro, because of low, no, or unacceptable bids, then Owner shall pay to Consultant an appraisal fee of \$2,500.00. Payment is due within 15 days after the date set for such sale.
 - c. Full payment is due at closing of the timber sale upon delivery of the timber deed and receipt of the sale proceeds. Consultant shall have the authority to take the sale proceeds into his escrow account for disbursement. A final disbursement of funds to the Owner in accordance with this contract and a settlement statement detailing the transaction shall be provided to the Owner within 3 business days of the Consultant's receipt of funds.
 - d. If the timber is not sold because of low, no, or unacceptable offers, Consultant shall then have for a period of six months the exclusive right to negotiate for the sale of the timber at the price established by the current appraisal by Consultant; provided, however, any such sale and the related negotiations must be conducted in strict compliance with the laws and regulations applicable to a sale conducted by the City of Asheboro for standing timber on the Wastewater Treatment Plant Property. If such a sale is successfully concluded, payment shall be made as specified in 4 above, less any appraisal fee previously paid.
5. It is understood and agreed that the duties to be performed by the Consultant with respect to preparing for and conducting the timber sale shall be done within a period of 60 days.
6. E-Verify Requirements: Consultant and any of its subcontractors that perform work on this Project shall comply with the applicable requirements in Article 2 (Verification of Work Authorization) of Chapter 64 of the North Carolina General Statutes.

IN WITNESS WHEREOF, the parties hereto have executed this Contract the day, month, and year indicated below.

E. Gerald Tugwell, R.F., A.C.F.
Manager
Tugwell Consulting Forestry, P.A.
Carolina
Phone: 336-953-2063

John N. Ogburn, III, City
City of Asheboro, North

Date Contract Signed

Date Contract Signed

This instrument has been preaudited in the manner prescribed by the Local Government Budget and Fiscal Control Act.

Deborah P. Reaves, Finance
Officer
City of Asheboro, North Carolina

10. The preliminary report for Dixieland Acres traffic study.

City Engineer Michael Leonard, PE, reported on the traffic study completed by DRMP, Traffic Engineering, Inc. The study was initiated in order to address citizens' safety concerns with traffic issues, including but not limited to, increased traffic within the subdivision and speeding.

During the study, DRMP, Traffic Engineering, Inc. investigated and provided recommendations in order to decrease traffic and address speeding within the area. Additionally, Mr. Leonard utilized a slide show suggesting the recommendations should be implemented. The study suggests the following changes:

- (1.) Installing thirteen speed cushions located on six different streets;
- (2.) Two traffic circles which would not require additional real estate;
- (3.) One median island; and
- (4.) Six realigned intersections.

City staff will update the council as the details necessary for the implementation of the recommendations are refined and prepared for presentation as action items.

A copy of the slide show utilized by Mr. Leonard is on file in the city clerk's office along with a copy of the traffic study.

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

11. Consideration of a resolution of intent to permanently close a portion of the public right-of-way for Sunset Avenue between Church Street and Davis Street.

Mr. Leonard reported that the plat of survey needed for the street right-of-way closure project has not been completed. The documentation needed for this project will be ready for the council's regular meeting in April 2021.

Upon the general consent of the council members, the above-referenced item was continued to the council's next regular meeting that is scheduled for April 8, 2021.

12. A request by Mr. Donald Lanier to de-annex certain territory located on the south side of Tot Hill Road.

City Manager John Ogburn presented and recommended adoption, by reference, of a resolution requesting the enactment of a local act of the General Assembly of North Carolina to remove approximately 0.355 of an acre of land from the city's satellite corporate limits.

Council Member Bell moved and Council Member Swiers seconded the motion to adopt, by reference, the following resolution. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

RESOLUTION NUMBER 05 RES 3-21

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

RESOLUTION REQUESTING THE REMOVAL OF CERTAIN TERRITORY FROM THE CITY LIMITS BY LOCAL ACT OF THE GENERAL ASSEMBLY OF NORTH CAROLINA

WHEREAS, Farrell D. Potts and wife, Brenda C. Potts own a parcel of land (Randolph County Parcel Identification Number 7628894062) that is approximately 2.637 acres in size and is more specifically described by a North Carolina General Warranty Deed recorded in the Office of the Register of Deeds for Randolph County, North Carolina (the "Randolph County Registry") in Deed Book 2734, Page 596; and

WHEREAS, the above-described parcel of land was acquired from Donald W. Lanier on December 29, 2020, and was unimproved land at the time of the conveyance; and

WHEREAS, approximately 0.355 of an acre of the parcel of land acquired by the Potts is inside the satellite corporate limits of the City of Asheboro; and

WHEREAS, the existence of this small portion of the described parcel of land within the satellite corporate limits of the City of Asheboro has added challenges to the implementation of development plans for the parcel; and

WHEREAS, the satellite corporate limits of the City of Asheboro were extended to include the described territory as part of a larger legislative annexation of the Tot Hill Farm development that occurred when the General Assembly of North Carolina enacted Session Law 2008-21, with an effective date of June 30, 2008; and

WHEREAS, Donald Lanier has requested that the above-referenced 0.355 of an acre of land be removed from the satellite corporate limits of the City of Asheboro; and

WHEREAS, the Asheboro City Council does not have the authority to remove territory from the city's corporate limits; and

WHEREAS, the Asheboro City Council is supportive of Donald Lanier's efforts to remove the territory described herein from the satellite corporate limits of the City of Asheboro.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, effective on the 4th day of March, 2021, as follows:

Section 1. The Asheboro City Council hereby respectfully requests that the local legislative delegation to the General Assembly of North Carolina introduce and support the enactment of a local act to remove from the satellite corporate limits of the City of Asheboro the following territory, which is comprised of two separate deannexation areas, described by metes and bounds as follows:

DEANNEXATION AREA 1

Cedar Grove Township, Randolph County, North Carolina:

BEGINNING on the existing City of Asheboro satellite city limits line at stones and a 1/2-inch existing iron rod that is up 10 inches at the southwest corner of both Deannexation Area 1 and the Farrell D. Potts and wife, Brenda C. Potts property, which is the tract of land containing two areas of territory to be removed from the satellite corporate limits of the City of Asheboro, the Farrell D. Potts and wife, Brenda C. Potts property (the "Potts Tract") is described in Deed Book 2734, Page 596, Randolph County Registry and shown as Lot 15 in Plat Book 164, Page 17, Randolph County Registry; thence from the beginning point at the southwest corner of Deannexation Area 1 and proceeding along the existing City of Asheboro satellite city limits line by following the shared boundary line between the Potts Tract and the Donald Lanier property described in Deed Book 2675, Page 187, Randolph County Registry and shown as Lot 14 in Plat Book 166, Page 9, Randolph County Registry the next two bearings and distances: North 06 degrees 28 minutes 20 seconds East 127.70 feet to a 1/2-inch existing iron rod that is up 2 inches; thence North 06 degrees 28 minutes 20 seconds East 16.30 feet to a point at the northwest corner of Deannexation Area 1, this northwest corner of Deannexation Area 1 is located by means of the North Carolina Coordinate System at the coordinates of North 688,919.25 feet and East 1,728,306.26 feet (NAD 83 (2011)); thence continuing to run along the existing City of Asheboro satellite city limits line by departing from the western boundary line for the Potts Tract and Deannexation Area 1 in order to follow the northern boundary line for Deannexation Area 1 across the Potts Tract the next two bearings and distances: South 73 degrees 46 minutes 57 seconds East 172.97 feet to a point; thence North 87 degrees 49 minutes 26 seconds East 90.96 feet to a point at the northeastern corner of Deannexation Area 1; thence departing from the northern boundary line of Deannexation Area 1 by following the next three bearings and distances along the shared boundary line between the Potts Tract and the Tot Hill Farm, LLC property described in Deed Book 1684, Page 1799, Randolph County Registry in order to proceed along the proposed City of Asheboro satellite city limits line, which will be the new satellite city limits line for the City of Asheboro after the removal of the territory within Deannexation Area 1 from the satellite corporate limits of the City of Asheboro: South 51 degrees 43 minutes 28 seconds West 39.10 feet to a point; thence South 83 degrees 23 minutes 26 seconds West 193.63 feet to a 3/4-inch existing iron pipe that is up 7 inches; thence South 44 degrees 07 minutes 48 seconds West 72.06 feet to the point and place of BEGINNING, and containing a total of 13,652.004 square feet (0.313 of an acre) of land, more or less, within Deannexation Area 1 that is to be removed from the satellite corporate limits of the City of Asheboro.

The above-stated description is in accordance with a plat of survey titled "PLAT OF PROPOSED DEANNEXATION of Certain Territory at the Request of the CITY OF ASHEBORO(;) PROPERTY OF FARRELL D. POTTS AND BRENDA C. POTTS" that was drawn under the supervision of William C. Burrow, Professional Land Surveyor with License Number L-2497. The project number listed on the plat is 5782, and the plat of survey's title block bears the date of February 22, 2021.

DEANNEXATION AREA 2

Cedar Grove Township, Randolph County, North Carolina:

BEGINNING at a point in the western margin of the 60-foot public right-of-way for Tot Hill Farm Road (North Carolina Secondary Road 1163) that is both (a) the easternmost corner of the Farrell D. Potts and wife, Brenda C. Potts property (the "Potts Tract") described in Deed Book 2734, Page 596, Randolph County Registry and shown as Lot 15 in Plat Book 164, Page 17, Randolph County Registry; and (b) the southeast corner of Deannexation Area 2, which is one of two areas within the "Potts Tract" containing territory that is proposed for removal from the satellite corporate limits of the City of Asheboro; thence from the beginning point proceeding South 51 degrees 43 minutes 28 seconds West 136.85 feet along the southern boundary line of Deannexation Area 2 to a point at the southwest corner of Deannexation Area 2 (this southern boundary line for Deannexation Area 2 is labeled as the proposed City of Asheboro satellite city limits line and will be the new satellite city limits line subsequent to the removal of the territory within Deannexation Area 2 from the satellite corporate limits of the City of Asheboro), the above-referenced southern boundary line for Deannexation Area 2 follows the southern boundary line for the Potts Tract that runs along the Tot Hill Farm, LLC property described in Deed Book 1684, Page 1799, Randolph County Registry; thence departing from the proposed City of Asheboro satellite city limits line and the Potts Tract boundary line shared with the Tot Hill Farm, LLC property in order to proceed across the Potts Tract and follow the existing City of Asheboro satellite city limits line, which is the northern boundary line for Deannexation Area 2, the next two bearings and distances: North 34 degrees 15 minutes 27 seconds East 60.61 feet to a point; thence North 54 degrees 27 minutes 55 seconds East 80.27 feet to a point in the western margin of the 60-foot public right-of-way for Tot Hill Farm Road; thence departing from the existing City of Asheboro satellite city limits line to follow the proposed City of Asheboro satellite city limits line, which is also the eastern boundary line for Deannexation Area 2, South 33 degrees 43 minutes 15 seconds East 14.40 feet along the western margin of the 60-foot public right-of-way for Tot Hill Farm Road to the point and place of BEGINNING, and containing a total of 1,822.557 square feet (0.042 of an acre) of land, more or less, within Deannexation Area 2 that is to be removed from the satellite corporate limits of the City of Asheboro.

The above-stated description is in accordance with a plat of survey titled "PLAT OF PROPOSED DEANNEXATION of Certain Territory at the Request of the CITY OF ASHEBORO(;) PROPERTY OF FARRELL D. POTTS AND BRENDA C. POTTS" that was drawn under the supervision of William C. Burrow, Professional Land Surveyor with License Number L-2497. The project number listed on the plat is 5782, and the plat of survey's title block bears the date of February 22, 2021.

Section 2. City staff members are hereby authorized to undertake all administrative actions deemed necessary to implement the provisions of this Resolution, specifically including without limitation engaging in discussions and correspondence on behalf of the municipal corporation with members of the local delegation to the General Assembly of North Carolina and the legislative bill drafting office, to facilitate consideration of the proposed removal of territory from the satellite corporate limits of the City of Asheboro.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 4th day of March, 2021.

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

ATTEST:

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

13. Update on the pandemic’s impact on municipal operations.

Mr. Ogburn utilized a slide show to provide an update on the continuing impact of the pandemic on the city. As of, March 4, 2021 there were 13,262 confirmed cases and 201 confirmed deaths in Randolph County.

Randolph County has been downgraded from a code red county with critical community spread to code yellow with significant community spread. Mr. Ogburn emphasized the continued use of “The 3 W’s:”

1. Wash-hands
2. Wear-face covering
3. Wait-at least six (6) feet apart

The above-referenced agenda item was for informational purposes only, and no formal action was taken by the council during this portion of the meeting.

14. A discussion of upcoming events and other items not on the agenda.

Mayor Smith and City Manager Ogburn led a discussion of upcoming events for the city government and the community in general. No action was taken by the council during this portion of the meeting.

There being no further business, the meeting was adjourned at 8:36 p.m.

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

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