

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, SEPTEMBER 12, 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)
Walker B. Moffitt) – Council Members Present
Katie L. Snuggs)
Charles A. Swiers)

Linda H. Carter)
) – Council Members Absent

Jane H. Redding)

John N. Ogburn, III, City Manager
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
Michael L. Leonard, PE, City Engineer
Mark T. Lineberry, Assistant Chief of Police
Trevor L. Nuttall, Community Development Director
Deborah P. Reaves, Finance Director
Michael D. Rhoney, PE, Water Resources Director
Jeffrey C. Sugg, City Attorney

1. Call to order.

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

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. Resumption of the quasi-judicial hearing for Case No. RZ/CUP-19-09, which was continued from the July and August meetings, in order to obtain more evidence concerning an application to place property on the north side of Vision Drive and along Nottingham Street in a CU-I2 zoning district and to obtain a conditional use permit authorizing an industrial development with multiple uses and/or structures, including a special intensity watershed allocation.

At approximately 7:05 p.m., Mayor Smith called back to order the quasi-judicial hearing that was continued from the council's regular meetings on July 11, 2019, and on August 8, 2019. When the hearing was initially opened on July 11, 2019, the following individuals affirmed that the information they were going to provide to the council in this matter would be truthful:

1. Trevor Nuttall
2. John Thompson
3. Mack Summey, PE
4. Doris Osborne
5. Lucy King

As a continuation of the same hearing, the above-listed individuals remained under oath. On September 12, 2019, Lee Roberts, Ben Morgan, Esq., and Tom Terrell, Esq. affirmed that the information they were going to provide to the council in this matter would be truthful. Ben Morgan is serving as legal counsel for the applicant seeking the Conditional Use Permit and Tom Terrell is serving as legal counsel for an adjoining property owner, the Lucy King Living Trust.

City of Asheboro Community Development Director Trevor Nuttall was the first witness to offer testimony during this reconvened session of the quasi-judicial hearing on Land Use Case No. RZ/CUP-19-09. In addition to summarizing the procedural history of the case, including who was still under oath, Mr. Nuttall submitted, without objection, the following items for consideration by the council members and inclusion in the record of these proceedings:

1. The sections of the city council's meeting minutes for the July 11, 2019, regular meeting and the August 8, 2019, regular meeting pertaining to this Conditional Use Permit case;
2. The "Statement of Consistency with Adopted Comprehensive Plans, Reasonableness and Public Interest" proposed by the city planning staff for the city council's consideration;
3. Copies of the slide show presentation prepared by the city's planning staff for the September 12, 2019, session of this hearing;
4. The updated staff report with the city planning staff's analysis of the application; and
5. Excerpts from the City of Asheboro Zoning Ordinance describing the CU-I2 zoning district.
6. The revised site plan for the applicant's proposed land use.

During his presentation, Mr. Nuttall utilized the above-referenced slide show to summarize the application by OSOTT, LLC (the "Applicant") for a Conditional Use Permit authorizing an Industrial Development with Multiple Uses and/or Structures as well as a Special Non-Residential Intensity Watershed Allocation (SNIA). Subsequent to the original hearing date on July 11, 2019, the Applicant revised its site plan and submitted the modified plan for review by the council. Some of the highlighted amendments include the following:

- (a) An increase in the buffer/screen from 15 feet to 50 feet on the northern boundary of the Zoning Lot, adjacent to the residentially zoned property and including natural vegetation along with a planted evergreen buffer;
- (b) The southward movement of the entrance to the proposed industrial development, away from the residential property on the northern boundary of the Applicant's property, by means of relocating part of Nottingham Street and constructing a new railroad crossing south of the existing crossing;
- (c) A reduction of the proposed built-upon area so as to reduce the amount of special watershed allocation sought by the Applicant; and
- (d) Offering two potential locations for the proposed rail spur even though Norfolk Southern has apparently rejected one of the alternatives as not complying with the railroad's design requirements for rail spurs.

As part of his testimony, Mr. Nuttall also corrected an ambiguity about the zoning for the King property located to the immediate north of the Applicant's property. During the hearing on July the 11th, city staff had indicated that a portion of the King property may be subject to industrial zoning. This representation was erroneous. City planning staff has researched the issue and corrected the city records to reflect that the entirety of the King property is in an R15 zoning district.

On behalf of the Applicant, Ben Morgan offered testimony in support of the request for CU-I2 zoning and a Conditional Use Permit. Mr. Morgan started by explicitly resubmitting the evidence offered during the earlier sessions of this public hearing, most specifically the council's meeting minutes for July 11, 2019. He also testified as

to the need for warehousing space that is targeted by the industrial development for which the Applicant is seeking the requisite approvals.

Mr. Morgan's representation of the Applicant was focused on addressing the standards for issuance of a Conditional Use Permit, especially the need for additional evidence that triggered the first continuance on July the 11th.

While discussing the need for warehousing space, Ben Morgan did not assert that the Applicant's proposed land use is a public necessity. Instead, Mr. Morgan called Lee Roberts to provide expert testimony as to the impact of the proposed industrial development on the value of property adjoining or abutting the Zoning Lot.

Lee Roberts testified that he is a North Carolina licensed real estate appraiser who has been conducting residential real estate appraisals for approximately thirty years. His office is engaged in residential site development work and conducts approximately 1,200 appraisals per year in an 8-county area in the piedmont of North Carolina.

Mr. Roberts did not submit a written report such as a market impact study. Instead, he testified about his experience and the factors that he used to form his expert opinion about the impact of the proposed land use on adjoining or abutting property.

Lee Roberts cited as an essential component of his analysis the rezoning in May 1986 of a large portion of the Applicant's property on the west side of the Norfolk Southern railroad tracks to industrial zoning, specifically CU-I3 zoning. The presence of the interstate highway on one side of the property and the railroad on the other side establishes the area for industrial use.

As part of his testimony, Mr. Roberts provided specific information about the King property identified by Randolph County Parcel Identification Number 7752556741. He stated that this parcel is approximately 9.3 acres in size with a site built home, which was constructed in 1929, containing approximately 980 square feet of living space. A second dwelling on the same parcel of land is a 1959 single-wide manufactured home with multiple additions over the years.

On the basis of the stated facts and his extensive experience with this market and with other residential real estate in similar situations, Mr. Roberts testified as to his expert opinion that the proposed land use will not substantially injure the value of adjoining or abutting property.

Tom Terrell cross-examined the real estate appraiser with special emphasis on the absence of a market impact study or a listing of comparables.

Mr. Terrell also cross-examined John Thompson who is licensed as a general contractor in North Carolina and is authorized to speak on behalf of the Applicant. This cross-examination focused on the issues surrounding the relocation of the railroad crossing and the impact this relocation will have on the ability of the Kings to access their home's existing driveway. If the railroad crossing and a section of Nottingham Street is relocated as currently proposed, the Kings will lose their current means of ingress and egress and will have to access their driveway crossing part of the Applicant's property.

In addition to discussing the impact of the proposed street and railroad crossing relocation, Mr. Terrell cross-examined Mr. Thompson about the types of materials to be stored at the proposed development and inquired about any traffic studies that had been performed. The Applicant has not advanced the land development process to the point that a definitive answer could be given as to the materials to be brought onto the Applicant's property.

Similarly, the permitting process with the North Carolina Department of Transportation ("NCDOT") has not advanced to the point of conducting traffic related studies. As part of his questioning about traffic impacts, Mr. Terrell introduced a document identified as "King Exhibit A" that listed calculations of the square footage in the proposed industrial development that might be used to determine the amount

of traffic to be anticipated from the development. John Thompson said future traffic studies had been preliminarily discussed with NCDOT, but the permitting process with NCDOT had not yet reached that stage.

During this questioning, Mr. Thompson listed no planned restrictions on business operating hours and listed no additional sound dampening measures that had been undertaken beyond the buffering/screening measures and street/railroad crossing relocation measures indicated on the current site plan. Later in the hearing, Mack Summey, PE was called upon to provide greater specificity as to how much further south the railroad crossing would be moved. Depending on whether measurements are made in relation to the railroad crossing points or along the property line, the proposed relocation would move the railroad crossing and entrance to the Zoning Lot between approximately two hundred feet and two hundred forty feet south from the current location.

Due to safety concerns, limitations on truck backup alarms are not contemplated as a possibility.

Subsequently, Mr. Morgan inquired of Mr. Thompson as to whether he knew of any sound protections utilized in connection with trains operating on the existing railroad tracks next to the King property and next to the Applicant's property. Mr. Thompson is not aware of any such measures.

Tom Terrell conducted a direct examination of Lucy King. During this examination, Ms. King discussed medical issues that she experiences with her lungs and discussed her concerns about the impact of an industrial development on her ability to enjoy her home. During the cross-examination, Mr. Morgan inquired about the impact of the adjoining interstate and train traffic over the years.

Additional exhibits were entered into the record as the hearing progressed. Through John Thompson and without objection, Ben Morgan introduced into the record an email dated August 29, 2019, from a Norfolk Southern official discussing the fact that mainline turnouts have to be located in tangent (straight) track. Consequently, the railroad had not agreed with the Applicant's effort to create an alternative that would move the proposed rail spur line further south away from the King residence.

In response to a question posed by Tom Terrell, Trevor Nuttall provided a copy of the regulations found in the Asheboro Zoning Ordinance pertaining to maximum light levels at property lines.

As part of the summation, Mr. Terrell also introduced into the record the *Sun Suites Holdings, LLC* opinion from the North Carolina Court of Appeals and a legal brief titled "Brief of Lucy King Living Trust."

All of the documents entered into the record for this land use case are on file in the city clerk's office and are available for inspection.

The final decision document for this case will contain an Order listing the city planning staff's suggested conditions for attachment to the requested Conditional Use Permit. Ben Morgan consented to these conditions on behalf of his client (the Applicant).

In addition to these staff suggested conditions, there will be an additional condition listed in the referenced Order. After Mayor Smith transitioned the hearing to the deliberative phase of the proceedings and the requested rezoning was approved along with the consistency statement, the city council transitioned back to obtaining sworn testimony from the parties.

This sworn testimony was sought in order to clarify whether the parties were in agreement about access across the Applicant's property to reach the existing driveway on the King property. With the benefit of this additional testimony, it became clear, through their respective attorneys, that the parties were in agreement about a permanent access easement and maintenance agreement providing a full right of

access across the Applicant's land to the existing driveway on the King property that is identified by Randolph County Parcel Identification Number 7752556741. The maintenance of this connector to the current location of the driveway on the King property shall be the responsibility of the Applicant.

This additional agreed upon condition will be stated in the final decision document that will be entered by the city council on October 10, 2019.

In terms of the action taken on RZ/CUP-19-09 after the deliberative phase of the hearing began, the first issue to be addressed was the request to place the Applicant's property in a CU-I2 zoning district. The city council concurred with the staff and planning board analysis of the general consistency of the request with the land development plan. Council Member Moffitt moved, and Council Member Bell seconded the motion, to adopt a plan consistency statement and to approve the requested rezoning with the following multi-part motion:

1. The Land Development Plan designates the majority of this property as an Employment Center, due to its location on a major transportation corridor. In addition to the property's location adjacent to an Interstate interchange, the property also adjoins the Norfolk Southern Railroad. The Northeast Small Area plan also cites having an employment center at the interchange of I-73/I-74 and Vision Drive as a key issue.

As described by the LDP, industrial uses are an integral component of an Employment Center, along with other non-residential uses. The subject property is situated among commercial and office/institutional land uses and zoning that exist in this area along Vision Drive. Additionally, the majority of the property currently has an industrial zoning designation.

Although the property is adjacent to residential uses, close to two public schools, and has some environmental challenges, including portions being located within watershed and flood hazard areas, the Conditional Use permitting process supplements general zoning ordinance requirements and offers an opportunity for closer review and public input concerning specific uses, site design, and access.

Considering the totality of these factors, the city council has concluded that the proposed zoning map amendment is consistent with the Asheboro Land Development Plan, is reasonable, and is in the public interest.

2. In light of the above-stated analysis, the requested zoning map amendment to place the Zoning Lot in a CU-I2 Conditional Use General Industrial zoning district is approved as consistent with the adopted plan.

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

After the approval of the requested zoning map amendment, the Council Members sought, as noted above, clarifying testimony about a potential condition for attachment to the requested CUP and ultimately concluded that the standards for granting the requested Conditional Use Permit had been met. Upon motion by Council Member Moffitt and seconded by Council Member Bell, the Council voted unanimously to approve the requested Conditional Use Permit, with conditions, authorizing an Industrial Development with Multiple Uses and/or Structures land use and authorizing a Special Non-Residential Intensity Watershed Allocation (SNIA). Council

Members Bell, Burks, Moffitt, Snuggs, and Swiers voted in favor of the motion. There were no dissenting votes. Consequently, the above-stated motion was adopted unanimously.

The final decision document authorizing the requested Conditional Use Permit and specifying the conditions attached to the permit will be entered by the Council during regular session on October 10, 2019.

4. Consent agenda.

Upon motion by Council Member Bell and seconded by Council Member Burks, the Council voted unanimously to approve/adopt, as presented, the following consent agenda items. Council Members Bell, Burks, Moffitt, Snuggs, and Swiers voted in favor of the motion.

(a) The meeting minutes for the city council's regular meeting held on August 8, 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 meeting minutes for the city council's special meeting held on August 20, 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.

(c) Acknowledgement of the receipt from the Asheboro ABC Board of its meeting minutes for July 1, 2019, and August 5, 2019.

The minutes of the meetings held by the Asheboro ABC Board on July 1, 2019, and August 5, 2019, 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.

(d) The final decision document for Land Use Case No. SUP-19-03.

**Case No. SUP-19-03
Final Decision Document
City Council of the City of Asheboro, North Carolina**

**IN THE MATTER OF THE APPLICATION BY CUSTOM EXTRUSION, INC. FOR A
SPECIAL USE PERMIT AUTHORIZING A SPECIAL
NON-RESIDENTIAL INTENSITY ALLOCATION
WITHIN A WATERSHED**

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING, WITH
CONDITIONS, THE REQUESTED SPECIAL USE PERMIT**

THIS MATTER was brought before the Asheboro City Council (the "Council") for a quasi-judicial hearing conducted during a regular meeting of the Council on August 8, 2019. After receiving sworn testimony and considering all of the evidence, the Council, on the basis of competent, material, and substantial evidence, hereby enters the following:

FINDINGS OF FACT

1. By and through J. Gralen Cranford, who is the corporation's registered agent, Custom Extrusion, Inc. (the "Applicant") properly submitted an application for a special use

permit (“SUP”) authorizing a special non-residential intensity allocation (“SNIA”) within a watershed.

2. The requested SUP is needed because the proposed expansion of the Applicant’s operations on its approximately 11.38-acre parcel of land at 2971 Taylor Drive, Asheboro, North Carolina 27203 (the “Zoning Lot”) will increase the lot’s built-upon area to approximately 16%. In the absence of the SNIA sought by the Applicant, the maximum built-upon area permitted on the Zoning Lot is 12%.

3. The Zoning Lot is more specifically identified by Randolph County Parcel Identification Number 7754702203.

4. The Zoning Lot is inside Asheboro’s corporate limits.

5. There are currently two entrances from Taylor Drive, which is a city-maintained street serving industrial uses.

6. The Norfolk Southern railroad is across Taylor Drive from the Zoning Lot.

7. The existing land use on the Zoning Lot and the expansion proposed for the lot is a manufacturing, processing, and assembly land use.

8. With a limited exception, the Zoning Lot is surrounded entirely by industrially zoned parcels of land. The exception pertains to small portions of adjoining properties to the north and west with residential zoning. The residentially zoned portions of these parcels of land are more than 1,000 feet from the Zoning Lot.

9. The Zoning Lot is located in an I2 zoning district, and the manufacturing, processing, and assembly land use is permitted in the I2 zoning district.

10. The Growth Strategy Map indicates that the Zoning Lot is in a primary growth area, and the Proposed LDP Map designates the area as an employment center.

11. The City of Asheboro Zoning Ordinance (the “Ordinance”), in section 210 of the Ordinance, describes the intent for an I2 zoning district as follows:

The intent of the I2 Industrial Development District is to produce areas for manufacturing, processing and assembly uses, commercial uses, distribution and servicing enterprises, controlled by performance standards to limit the effect of such uses on uses within the district and on adjacent districts.

12. A site plan for the proposed land use has been submitted in compliance with Section 1005 of the Ordinance.

13. The Zoning Lot is located within the Back Creek Lake watershed and, consequently, is subject to the regulations found in Article 300B (Watershed Protection Regulations) of the Ordinance.

14. Watershed areas are divided into two tiers of control, critical and balance areas. Critical areas, which are the areas nearest to the water supply, are subject to the most stringent regulations because proximity to the intake creates a higher risk of contamination. The remaining part of the watershed, or the balance of the watershed, is subject to less restrictions because the greater distance from the point of intake lowers the risk of contamination. The Zoning Lot is in the balance of the Back Creek Lake watershed.

15. In the Ordinance, Article 300B, Section 310B.3, Subsection B.2. provides as follows:

All other residential and non-residential development shall not exceed twelve percent (12%) built-upon area on a project by project basis except that up to ten percent (10%) of the balance of the watershed may be developed for nonresidential uses to seventy percent (70%) built-upon area on a project by

project basis. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

16. For a project to exceed the 12% built-upon limitation, the Council must issue a SNIA. Pursuant to Article 300B of the Ordinance, the Council is authorized to consider a SUP granting a SNIA so long as the issuance of the SUP is consistent with the provisions of Article 600, Section 647 of the Ordinance.

17. Article 600, Section 647 of the Ordinance provides as follows:

All applications for a SNIA shall include the following:

- a. Projects must minimize built-upon surface area.*
- b. Projects must direct stormwater away from surface waters.*
- c. Projects must incorporate Best Management Practices to minimize quality impacts.*
- d. Projects must be connected to City of Asheboro water and sewer.*
- e. Projects must provide a positive economic benefit to the community.*

18. Within the balance of the Back Creek Lake watershed, 193.48 acres of land are available for the special allocation referred to as a SNIA.

19. The submitted site plan indicates a proposed new built-upon area of approximately 16% of the Zoning Lot's land area.

20. Impervious surfaces on the Zoning Lot that were constructed prior to July 1, 1993, are not required to be included in the requested allocation. The available records indicate that the existing facility has been in place on the Zoning Lot since 1992.

21. If the requested SNIA is granted, the Applicant's proposed project would use approximately 0.45 of an acre of the allocation area. Thus, if the current request is granted, approximately 193.03 acres of land would remain available for use as a special allocation with other projects.

22. The granting of the requested SNIA by means of the issuance of a SUP does not impact general watershed development regulations that are designed to protect water quality.

23. Mr. H.R. Gallimore, who is an experienced commercial real estate agent, testified that he had conducted a review for comparable industrial sites in the area, and he offered his professional opinion that the proposed land use will not have a negative impact on the value of adjoining properties.

24. Subject to the attachment to the requested SUP of conditions suggested by the planning staff to ensure on-going compliance with the Ordinance, Community Development Director Trevor Nuttall provided uncontroverted testimony as to the general compliance of the site plan submitted for review and approval. The conditions offered by Mr. Nuttall on behalf of the city planning staff are as follows:

- 1. If the number of parking spaces required to serve the proposed development is determined to be less than the amount of parking shown on the site plan, a decrease in the amount of parking shall not be considered to be a modification of the project requiring Council approval. The Applicant shall submit a revised site plan for review by city staff for compliance with the Ordinance and for inclusion in the file.*
- 2. Prior to the storage of any hazardous material, a spill prevention, containment, and control plan ("SPCC") must be prepared by a design professional competent in SPCC and submitted to the city staff for inclusion in the file. Any SPCC-required spill containment structures*

must be designed by a North Carolina registered professional engineer or architect.

3. *Prior to the issuance of a zoning compliance permit, the Applicant shall provide the following:*
 - (a) *A North Carolina Department of Environmental Quality erosion control permit when required.*
 - (b) *Additional detail concerning proposed grade separation between the parking area adjacent to the site's northern entrance against the building. If the paved area in this location abutting the building is used for a loading dock or loading space, such use shall not be considered a modification of the project requiring Council approval. The Applicant shall submit a revised plan for review by city staff for compliance with the Ordinance and for inclusion in the file.*
4. *A stormwater management plan identifying details of the stormwater BMP to be utilized shall be submitted prior to any zoning compliance permit authorizing built-upon area to exceed 12% of the watershed balance area on the Zoning Lot. Prior to the issuance of a certificate of zoning compliance, certification from a professional engineer stating that the stormwater BMP has been installed as designed shall be provided. Any open water retention or drainage areas shall be sprayed regularly for mosquito control. The continued maintenance of all runoff control measures shall be responsibility of the property owner.*

25. Mr. Barron Thompson, Esq. appeared on behalf of the Applicant and testified that the Applicant is in agreement with the conditions proposed by city staff for attachment to the requested SUP.

26. Mr. Thompson also testified that the Applicant currently has 12 employees and the proposed expansion of the industrial land use on the Zoning Lot has the potential to add 38 employees to the Applicant's industrial operation.

27. No testimony was offered in opposition to the requested SUP.

28. Pursuant to Section 602.1 of the Ordinance, the Council must find that the Applicant has met four general standards before the SUP application can be approved. The four general standards are as follows:

- a. *That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.*
- b. *That the use meets all required conditions and specifications.*
- c. *That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity.*
- d. *That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Asheboro and its environs.*

Based on the foregoing findings of fact, the Council hereby enters the following:

CONCLUSIONS OF LAW

1. When an applicant has produced competent, material, and substantial evidence tending to establish the existence of the facts and conditions that the Ordinance requires for the issuance of a SUP, prima facie the applicant is entitled to the permit. A

denial of the permit has to be based upon findings contra that are supported by competent, substantial, and material evidence appearing in the record.

2. In this case, the Applicant has properly submitted an application for a SUP authorizing a SNIA that will allow a built-upon area of approximately 16% within the Zoning Lot.

3. In light of the available evidence and the express agreement of the Applicant to accept and comply with the conditions recommended by the city's planning staff, the Applicant's site plan for the proposed land use is compliant with the applicable requirements of the Ordinance.

4. On the basis of the evidence presented during the hearing of this matter, the Council has concluded that the proposed use meets the four general standards for issuing the requested SUP. More specifically, the proposed use will not materially endanger the public health or safety; meets all required conditions and specifications of the Ordinance, specifically including Section 647 of the Ordinance; will not substantially injure the value of adjoining or abutting property; and will be in harmony with the area in which it is to be located and is in general conformity with Asheboro's plan of development.

Based on the above-recited findings of fact and conclusions of law, the Council hereby enters the following:

ORDER

The Applicant is hereby issued a SUP authorizing the requested SNIA to allow the proposed expansion project on the Zoning Lot. This SUP shall be valid so long as, and only so long as, the Applicant and its heirs, successors, and assigns develop and conduct the approved land use in compliance with the provisions of the Asheboro Zoning Ordinance, the approved site plan, and remain in compliance with the following conditions:

- A. If the number of parking spaces required to serve the proposed development is determined to be less than the amount of parking shown on the site plan, a decrease in the amount of parking shall not be considered to be a modification of the project requiring Council approval. The Applicant shall submit a revised site plan for review by city staff for compliance with the Ordinance and for inclusion in the file.
- B. Prior to the storage of any hazardous material, a spill prevention, containment, and control plan ("SPCC") must be prepared by a design professional competent in SPCC and submitted to the city staff for inclusion in the file. Any SPCC-required spill containment structures must be designed by a North Carolina registered professional engineer or architect.
- C. Prior to the issuance of a zoning compliance permit, the Applicant shall provide the following:
 - (1) A North Carolina Department of Environmental Quality erosion control permit when required.
 - (2) Additional detail concerning proposed grade separation between the parking area adjacent to the site's northern entrance against the building. If the paved area in this location abutting the building is used for a loading dock or loading space, such use shall not be considered a modification of the project requiring Council approval. The Applicant shall submit a revised plan for review by city staff for compliance with the Ordinance and for inclusion in the file.
- D. A stormwater management plan identifying details of the stormwater BMP to be utilized shall be submitted prior to any zoning compliance permit authorizing built-upon area to exceed 12% of the watershed balance area on the Zoning Lot. Prior to the issuance of a certificate of zoning compliance, certification from a professional engineer stating that the stormwater BMP has been installed as designed shall be provided. Any open water retention or drainage areas shall be sprayed regularly for

RESOLUTION NUMBER 33 RES 9-19

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

A RESOLUTION SUPPORTING AND AUTHORIZING AN APPLICATION FOR A STATE GRANT/LOAN FOR THE SANITARY SEWER LIFT STATION NO. 3 IMPROVEMENTS PROJECT

WHEREAS, the Federal Clean Water Act Amendments of 1987 and the North Carolina Water Infrastructure Act of 2005 (codified in Chapter 159G of the North Carolina General Statutes) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction for a wastewater collection system; and

WHEREAS, the City of Asheboro (hereafter referred to interchangeably as the “City” and the “Applicant”) needs and intends to construct wastewater collection system improvements described as the Sanitary Sewer Lift Station No. 3 Improvements Project (hereafter referred to as the “Project”); and

WHEREAS, the City intends to request state loan or grant assistance for the Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro (hereafter referred to as the “Council”) that the City, if approved for a State loan or grant award, will arrange financing for all remaining costs of the Project; and

BE IT FURTHER RESOLVED by the Council that the City will adopt and place into effect on or before completion of the Project a schedule of fees and charges, in addition to other available funds, that will provide adequate funding for the proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt; and

BE IT FURTHER RESOLVED by the Council that a provision will be included in the loan agreement authorizing the State Treasurer, upon failure of the City to make scheduled repayment(s) of the loan, to withhold from the City any State funds that would otherwise be distributed to the City in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan; and

BE IT FURTHER RESOLVED by the Council that the City will provide for the efficient operation and maintenance of the Project infrastructure upon completion of the construction thereof; and

BE IT FURTHER RESOLVED by the Council that John N. Ogburn, III, who is the city manager for the Applicant (the city manager will be hereafter referred to as the “Authorized Official”), and any successor so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a loan to aid in the construction of the Project described above; and

BE IT FURTHER RESOLVED by the Council that the Authorized Official, and any successor so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the Project, to make the assurances as contained above, and to execute such other documents as may be required in connection with the application; and

BE IT FURTHER RESOLVED by the Council that the City has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the Project and to Federal and State grants and loans pertaining thereto.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting that was held on the 12th day of September, 2019.

/s/David H. Smith
David H. Smith, Mayor
City of Asheboro, North Carolina

ATTEST:

/s/Holly H. Doerr
Holly H. Doerr, CMC, NCCMC, City Clerk
City of Asheboro, North Carolina

- (j) **An ordinance to amend the Asheboro Housing Development Fund (#62) and three ordinances amending the budget ordinance for FY 2019-2020 to address the following General Fund items:**

22 ORD 9-19

**ORDINANCE TO AMEND
THE ASHEBORO HOUSING DEVELOPMENT FUND (#62)
FY 2019-2020**

WHEREAS, Council has consistently planned and invested in community revitalization using founded urban design and strategic planning methods, and;

WHEREAS, the North Carolina Housing Finance Agency approved a \$50,000 grant for 2018 Urgent Repair Program, and;

WHEREAS, the City Match for this grant is \$8000, and;

WHEREAS, the City of Asheboro did not have any approved projects to spend these funds on at the time of its distribution in August 2018 but does now, and;

WHEREAS, revenues and expenses in the Asheboro Housing Development Fund have changed over time in relation to the current budget, and;

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

THEREFORE, BE IT ORDAINED by the City Council of the City of Asheboro, North Carolina that following revenue and expense line items are changed as follows:

Section 1: Revenues

<u>Account #</u>	<u>Revenue Description</u>	<u>Increase</u>
62-300-0000	General Fund Contribution	8,000
62-320-0000	Urgent Repair Grant	<u>50,000</u>
		58,000

Section 2: Expenses

<u>Account #</u>	<u>Revenue Description</u>	<u>Increase</u>
62-600-0002	Construction	58,000

Adopted this the 12th day of September 2019.

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

ATTEST:

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

(i) Sunset Theatre Programming and Grant Funding for the Urgent Repair Program

23 ORD 9-19

**ORDINANCE TO AMEND THE GENERAL FUND
FY 2019-2020**

WHEREAS, RhinoLeap Productions has presented a proposal to the City of Asheboro for use of the City of Asheboro Sunset Theatre for five theatrical productions to be held at the Sunset Theater and has requested sponsorship from the City of Asheboro in the amount of \$20,000 for each of these performances, and;

WHEREAS, three of these performances are incorporated into the adopted budget for 2019-2020, and;

WHEREAS, the total additional requested sponsorship of these performances is \$40,000, and;

WHEREAS, Council has consistently planned and invested in community revitalization using founded urban design and strategic planning methods, and;

WHEREAS, the North Carolina Housing Finance Agency approved a \$50,000 grant for 2018 Urgent Repair Program, and;

WHEREAS, the City of Asheboro is ready to use the grant proceeds from the 2018 North Carolina Housing Finance Agency grant allocation and the City match for this grant is \$8000, and;

WHEREAS, revenues and expenses in the General Fund have changed in relation to the current budget, and;

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

WHEREAS, The City Council of the City of Asheboro desires to amend the budget as required by law to adjust for changes in expenditures in comparison to the current fiscal year adopted budget, and;

WHEREAS, the City Council of the City of Asheboro wants 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:

Section 1: That the following revenue line item be increased:

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>
10-399-0000	Fund Balance Appropriation	48,000

Section 2: That the following expense line item be increased:

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>
10-490-3200	Grant	8,000
10-615-1201	Programs- Sunset Theatre	<u>40,000</u>
	Total	48,000

Adopted this 12th day of September, 2019.

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

ATTEST:

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

(ii) The Acquisition of Street Right-of-Way for the Proposed Extension of Commerce Place

24 ORD 9-19

WHEREAS, The City Council of the City of Asheboro desires to secure a right –of-way for the proposed extension of Commerce Place as a connector road to Pineview Street, and in order to construct these improvements, the City of Asheboro must first obtain a permanent right-or-way on a parcel of land currently owned by Schwarz Enterprises Inc. and;

WHEREAS, the property is 0.16 acres located at 460 Commerce Place and is identified as PIN 7753791468, and;

WHEREAS, an independent third party appraisal of the property establishes the property value at \$5,600, and:

WHEREAS, Schwarz Enterprises Inc. has agreed to sell this property to the City of Asheboro at the appraised value of \$5,600.00, and;

WHEREAS, the City Council of the City of Asheboro desires to amend the budget as required by law to adjust for changes in expenditures in comparison to the current fiscal year adopted budget, and;

WHEREAS, the City Council of the City of Asheboro wants 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:

Section 1: That the following revenue line item be increased / decreased:

<u>Account #</u>	<u>Expense Description</u>	<u>Increase/ Decrease</u>
10-399-0000	Fund Balance Appropriation	5,600

Section 2: That the following expense line item be increased / decreased:

<u>Account #</u>	<u>Expense Description</u>	<u>Increase/ Decrease</u>
10-565-7100	Capital Outlay- Land	5,600

- (k) A resolution awarding to Chief of Police Jody P. Williams, upon his retirement, his service side arm.

RESOLUTION NUMBER 35 RES 9-19

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**A RESOLUTION AWARDING TO JODY P. WILLIAMS
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, Chief of Police Jody P. Williams will begin his retirement from employment with the city effective October 1, 2019; 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 Chief Williams 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 October 1, 2019, in consideration of the combination of his dedicated service to the City of Asheboro and the payment to the city of \$1.00, Jody P. Williams is to be awarded ownership of his city-issued service side arm (a Glock 23, Generation 4 with serial no. SFS 910 and three magazines) upon a determination by the police department command staff that Mr. Williams is eligible under the applicable federal and state laws to receive, own, or possess a firearm.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 12th day of September, 2019.

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

ATTEST:

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

- (l) A resolution awarding to Master Police Officer Joe R. Hunt, upon his retirement, his service side arm.

RESOLUTION NUMBER 36 RES 9-19

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**A RESOLUTION AWARDING TO JOE R. HUNT, 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 Police Officer Joe R. Hunt, Jr. will begin his retirement from employment with the city effective October 1, 2019; 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 Officer Hunt 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 October 1, 2019, in consideration of the combination of his dedicated service to the City of Asheboro and the payment to the city of \$1.00, Joe R. Hunt, Jr. is to be awarded ownership of his city-issued service side arm (a Glock 23, Generation 4 with serial no. SFS 992 and three magazines) upon a determination by the police department command staff that Mr. Hunt is eligible under the applicable federal and state laws to receive, own, or possess a firearm.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 12th day of September, 2019.

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

ATTEST:

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

- (m) A resolution approving an involuntary commitment transportation agreement for the custody and transportation of respondents subject to involuntary commitment proceedings.

RESOLUTION NUMBER 37 RES 9-19

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

APPROVAL OF AN INVOLUNTARY COMMITMENT TRANSPORTATION AGREEMENT

WHEREAS, in accordance with Session Law 2018-33, Section 122C-251(g) of the North Carolina General Statutes now requires the governing bodies of cities and counties to adopt an “involuntary commitment transportation agreement” or “transportation agreement” for the custody and transportation of respondents subject to involuntary commitment proceedings under Chapter 122C, Article 5 of the North Carolina General Statutes; and

WHEREAS, since 2014, the Asheboro Police Department and the Office of the Randolph County Sheriff have utilized a memorandum of understanding (the “MOU”) to generate operational efficiencies and enhance the performance of the agencies’ respective duties under the involuntary commitment process established in Chapter 122C of the North Carolina General Statutes; and

WHEREAS, the MOU has now been updated to reflect amendments to Chapter 122C of the North Carolina General Statutes that were made by the North Carolina General Assembly with the enactment of Session Law 2018-33; and

WHEREAS, the interim chief of police and the city manager have recommended the adoption of the updated MOU to function as the City of Asheboro Involuntary Commitment Transportation Agreement; and

WHEREAS, the updated MOU 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 above-stated recommendation by the interim chief of police and the city manager.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that, effective immediately, the MOU attached to this Resolution as EXHIBIT 1 is hereby approved as the City of Asheboro Involuntary Commitment Transportation Agreement; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that the interim chief of police is hereby authorized and directed to execute, without unnecessary delay, the MOU on behalf of the City of Asheboro; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that this approval is a continuing approval that shall not lapse unless and until another Resolution providing otherwise is adopted by the Asheboro City Council; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that this transportation agreement shall be submitted to the following officials and entities: (a) the Clerk of Superior Court and the magistrates in the city's judicial district, (b) the LME/MCO that serves the city and Randolph County, and (c) the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that if this transportation agreement is subsequently modified, the modified agreement shall be submitted, at least 10 days prior to the effective date of the new plan, to the following officials and entities: (a) the Clerk of Superior Court and the magistrates in the City's judicial district, (b) the LME/MCO that serves the City and Randolph County, and (c) the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 12th day of September, 2019.

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

ATTEST:

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

EXHIBIT 1

**CITY OF ASHEBORO INVOLUNTARY COMMITMENT TRANSPORTATION
AGREEMENT**

(MOU WITH THE OFFICE OF THE RANDOLPH COUNTY SHERIFF)

MEMORANDUM OF UNDERSTANDING

This **Memorandum of Understanding** (the "MOU") is an agreement between the **CITY OF ASHEBORO** (the "City"), a North Carolina municipal corporation acting for purposes of this MOU by and through the **Asheboro Police Department** (the "APD"), and the **RANDOLPH COUNTY SHERIFF'S OFFICE** (the "RCSO"). This MOU is designed to clarify the functions performed by APD officers in conjunction with RCSO deputies so as to achieve operational efficiencies that enhance the service provided by both agencies in support of the involuntary commitment process established in Chapter 122C of the North Carolina General Statutes.

SECTION I. PURPOSE

A central purpose of this MOU is to resolve in a definitive and mutually agreed upon manner certain ambiguities that arise when APD officers receive involuntary commitment orders instructing the officers to transport a respondent directly to a facility designated as a 24-hour facility pursuant to G.S. 122C-252 and 10A NCAC 26C.0100. At the present time, there is no such facility within Randolph County.

Thus, when an APD officer receives for service an order to transport a respondent directly to a 24-hour facility, the officer has been asked to serve an order to transport a respondent to

another county. One of the objectives of this MOU is to clarify the APD officer's authority and responsibilities in such a situation.

This MOU does not change in any manner the long-standing practice of APD officers and RCSO deputies in situations where a petitioner personally appears before a magistrate who issues a custody order directing a law enforcement officer to take a respondent into custody and transport the respondent to his or her first examination (the form currently utilized for this type of case is Form AOC-SP-302A, New 11/12). Similarly, no ambiguities have arisen with regard to the service of transport orders issued in conjunction with outpatient treatment for respondents, and this MOU does not change the long-standing practices applicable to these types of transport orders.

Notwithstanding any term or condition of this MOU, nothing herein shall be construed or otherwise interpreted to limit the jurisdiction, powers, or rights possessed by APD officers and RCSO deputies, specifically including by way of illustration and not limitation the ability of the agencies to provide mutual aid to each other in accordance with the applicable laws and the directives of the chief executives for the respective agencies.

SECTION II. SELECT STATUTORY PROVISIONS GUIDING THE TRANSPORTATION OF RESPONDENTS

- (A) **Transportation within a County [G.S. 122C-251(a)]:** In general, the transportation of a respondent within a county as part of the involuntary commitment proceedings, including admission and discharge, is provided by the county or the cities located within the county. A city is responsible for transporting a respondent who is either a resident of that city or has been physically taken into custody within that city's corporate limits. The county is responsible for transporting respondents who either reside within the county, but outside the city limits of a municipality, or have been physically taken into custody within the county and outside of the city limits of a municipality.
- (B) **Transportation between Counties [G.S. 122C-251(b)]:** Transportation between counties under the involuntary commitment proceedings established in Chapter 122C, Article 5 of the North Carolina General Statutes for a first examination as described in G.S. 122C-263(a) and G.S. 122C-283(a) and for admission to a 24-hour facility shall be provided by the county where the respondent is taken into custody. Transportation between counties under the involuntary commitment proceedings established in the above-cited Article for respondents held in 24-hour facilities who have requested a change of venue for the district court hearing shall be provided by the county where the petition for involuntary commitment was initiated. Transportation between counties under the involuntary commitment proceedings established in the above-cited Article for discharge of a respondent from a 24-hour facility shall be provided by the respondent's county of residence. However, a respondent being discharged from a facility may use his or her own transportation at his or her own expense.
- (C) **Method of Transportation [G.S. 122C-251(c), (d), and (e)]:** Transportation of a respondent may be (i) by city- or county-owned vehicles, (ii) by private vehicle by contract with the city or county, or (iii) as provided in an agreement developed and adopted under G.S. 122C-251(g) and G.S. 122C-202.2. Under this MOU, transportation provided by the City will be provided by and through APD officers utilizing city-owned vehicles.

To the extent feasible, law enforcement officers transporting respondents shall dress in plain clothes and shall travel in unmarked vehicles. Further, law enforcement officers, to the extent possible, shall advise respondents when taking them into custody that they are not under arrest and have not committed a crime, but are being taken into custody and transported to receive treatment and for their own safety and that of others.

To the extent feasible, a city or county shall provide a driver or attendant who is the same sex as the respondent, unless the law enforcement officer allows a family member of the respondent to accompany the respondent in lieu of an attendant of the

same sex as the respondent.

In taking custody and providing transportation as required by G.S. 122C-251, the law enforcement officer may use reasonable force to restrain the respondent if it appears necessary to protect the law enforcement officer, the respondent, or others. Any use of restraints shall be as reasonably determined by the officer to be necessary under the circumstances for the safety of the respondent, the law enforcement officer, and other persons. Every effort to avoid restraint of a child under the age of 10 shall be made by the transporting officer unless the child's behavior or other circumstances dictate that restraint is necessary.

The law enforcement officer shall respond to all inquiries from the facility concerning the respondent's behavior and the use of any restraints related to the custody and transportation of the respondent, except in circumstances where the information is confidential or providing the information would otherwise compromise a law enforcement investigation.

- (D) Cost and Expense of Transporting a Respondent [G.S. 122C-251(h)]:** The cost and expenses of custody and transportation of a respondent as required by the involuntary commitment procedures of Chapter 122C, Article 5 of the North Carolina General Statutes, to the extent they are not reimbursed by a third-party insurer, are the responsibility of the respondent's county of residence. The State (when providing transportation under G.S. 122C-408(b)), a city, or a county is entitled to recover the reasonable cost of transportation from the county of residence of the respondent. The county of residence of the respondent shall reimburse the State, another county, or a city the reasonable transportation costs incurred as authorized by G.S. 122C-251(h).

The county of residence of the respondent is entitled to recover the reasonable cost of transportation it has paid to the State, a city, or county. Provided that the county of residence provides the respondent or other individual liable for the respondent's support a reasonable notice and opportunity to object to the reimbursement, the county of residence of the respondent may recover that cost from (1) the respondent, if the respondent is not indigent; (2) Any person or entity that is legally liable for the respondent's support and maintenance provided there is sufficient property to pay the cost; (3) Any person or entity that is contractually responsible for the cost; or (4) Any person or entity that otherwise is liable under federal, State, or local law for the cost.

- (E) Involuntary Commitment Transportation Agreement [G.S. 122C-251(g)]:** G.S. 122C-251(a) authorizes cities and counties to contract with each other to provide transportation. Furthermore, G.S. 122C-251(g) provides that the governing body of a county or city shall adopt a plan known as an "involuntary commitment transportation agreement" or "transportation agreement" for the custody and transportation of respondents in involuntary commitment proceedings under Chapter 122C, Article 5 of the North Carolina General Statutes. This MOU has been adopted by the Asheboro City Council as an integral part of the City's compliance with G.S. 122C-251(g).

- (F) Chapter 122C, Article 5, Part 7 of the North Carolina General Statutes (Involuntary Commitment of the Mentally Ill);**

Law Enforcement Officer's Duty upon Receipt of Custody Order:

- (1) G.S. 122C-261(e):** Anyone who has knowledge of an individual who is mentally ill and either (i) dangerous to self, as defined in G.S. 122C- 3(11)a., or dangerous to others, as defined in G.S. 122C-3(11)b., or (ii) in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness may appear before a clerk or assistant or deputy clerk of superior court or a magistrate and execute an affidavit to this effect, and petition the clerk or magistrate for the issuance of an order to take the respondent into custody for examination by a commitment examiner. Upon receipt of such a custody order, a law enforcement officer, a person designated under G.S. 122C-251(g), or other person identified in the order shall take the respondent into custody within 24 hours after the order is signed and proceed

according to G.S. 122C-263. The custody order is valid throughout the State.

- (2) **G.S. 122C-263(a):** After assuming custody of the respondent and without unnecessary delay, the law enforcement officer shall transport the respondent to a facility or other location identified by the LME/MCO in the community crisis services plan adopted pursuant to G.S. 122C-202.2 that has an available commitment examiner and the capability to perform a first examination in conjunction with a health screening at the same location, unless exigent circumstances require the transport of the respondent to an emergency department. If a commitment examiner is not available, whether on-site, on-call, or via telemedicine, at any such facility or location, or if a plan has not been adopted, the person designated to provide transportation shall take the respondent to an alternative non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location.

In the absence of a non-hospital provider or facility-based crisis center to perform a first examination in conjunction with a health screening at the same location, the person designated to provide transportation shall take the respondent to a private hospital or clinic, a general hospital, an acute care hospital, or a State facility for the mentally ill.

If a commitment examiner is not immediately available, the respondent may be temporarily detained in an area facility, if one is available; if an area facility is not available, the respondent may be detained under appropriate supervision in the respondent's home, in a private hospital or clinic, in a general hospital, or in a State facility for the mentally ill, but not in a jail or other penal facility.

For the purposes of this section, the term "non-hospital provider" means an outpatient provider that provides either behavioral health or medical services.

- (3) **G.S. 122C-263(a1):** A facility or other location to which a respondent is transported under G.S. 122C-263(a) shall provide a health screening of the respondent. The health screening shall be conducted by a commitment examiner or other individual who is determined by the area facility, contracted facility, or other location to be qualified to perform the health screening. The respondent may either be in the physical face-to-face presence of the person conducting the screen or may be examined utilizing telemedicine equipment and procedures.

Documentation of this required health screening that is completed prior to transporting the patient to any general hospital, acute care hospital, or designated facility shall accompany the patient or otherwise be made available at the time of transportation to the receiving facility.

- (4) **G.S. 122C-263(b):** The examination set forth in G.S. 122C-263(a) is not required when (i) the affiant who obtained the custody order is a commitment examiner who recommends inpatient commitment, or (ii) when the custody order states that the respondent was charged with a violent crime, including a crime involving assault with a deadly weapon, and the respondent was found incapable of proceeding. In any of the cases stated in the immediately preceding sentence, the law enforcement officer or person designated under G.S. 122C-251(g) shall take the respondent directly to a 24-hour facility described in G.S. 122C -252.
- (5) **G.S. 122C-263(c):** The commitment examiner described in G.S. 122C-263(a) shall examine the respondent as soon as possible, and in any event within 24 hours after the respondent is presented for examination. When a commitment examiner performs this examination, the respondent may either be in the physical face-to-face presence of the commitment examiner or may be examined utilizing telemedicine equipment and procedures.

A commitment examiner who examines a respondent by means of telemedicine must be satisfied to a reasonable medical certainty that the determinations made in accordance with G.S. 122C-263(d) would not be different if the examination had been done in the commitment examiner's physical presence. If not so satisfied, the commitment examiner must note that the examination was not satisfactorily accomplished, and the respondent must be taken for a face-to-face examination in the physical presence of a person authorized to perform examinations under G.S. 122C-263.

As used in G.S. 122C-263, "telemedicine" is the use of two-way real-time interactive audio and video between places of lesser and greater medical capability or expertise to provide and support health care when distance separates participants who are in different geographical locations. A recipient is referred by one provider to receive the services of another provider via telemedicine.

- (6) **G.S. 122C-263(d)(1):** At the conclusion of the examination, if the commitment examiner recommends outpatient commitment, the person designated in the order to provide transportation shall return the respondent to the respondent's regular residence or, with the respondent's consent, to the home of a consenting individual located in the originating county, and the respondent shall be released from custody.
- (7) **G.S. 122C-263(d)(2):** If a commitment examiner finds that the respondent is mentally ill and is dangerous to self, as defined in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b., the commitment examiner shall recommend inpatient commitment, and shall so show on the examination report. Upon notification, the law enforcement officer or other designated person shall take the respondent to a 24-hour facility described in G.S. 122C-252 pending a district court hearing.

To the extent feasible, in providing the transportation of the respondent, the law enforcement officer shall act within six hours of notification. The other designated person shall take the respondent to a 24-hour facility described in G.S. 122C-252 pending a district court hearing within six hours of notification.

If a 24-hour facility is not immediately available or appropriate to the respondent's medical condition, the respondent may be temporarily detained under appropriate supervision at the site of the first examination. Upon the commitment examiner's determination that a 24-hour facility is available and medically appropriate, the law enforcement officer or other designated person shall transport the respondent after receiving a request for transportation from the facility of the commitment examiner.

To the extent feasible, in providing the transportation of the respondent, the law enforcement officer shall act within six hours of notification. The other designated person shall transport the respondent without delay and within six hours after receiving a request for transportation from the facility of the commitment examiner.

At any time during the respondent's temporary detention under appropriate supervision, if a commitment examiner determines that the respondent is no longer in need of inpatient commitment, the proceedings shall be terminated and the respondent transported and released by the person designated in the order to provide transportation. In such a case, the respondent shall be returned to the respondent's regular residence or, with the respondent's consent, to the home of a consenting individual located in the originating county where the respondent shall be released from custody.

Additionally, during the respondent's temporary detention under appropriate supervision, if the commitment examiner determines that the respondent meets the criteria specified in G.S. 122C-263(d)(1) for outpatient commitment, the commitment examiner may recommend outpatient commitment for the

respondent. In such a case, the person designated in the order to provide transportation shall return the respondent to the respondent's regular residence or, with the respondent's consent, to the home of a consenting individual located in the originating county, and the respondent shall be released from custody.

Any decision to terminate the proceedings or to recommend outpatient commitment after an initial recommendation of inpatient commitment shall be documented and reported to the clerk of superior court in accordance with G.S. 122C-263(e).

If the respondent is temporarily detained and a 24-hour facility is not available or medically appropriate seven days after the issuance of the custody order, a commitment examiner shall report this fact to the clerk of superior court and the proceedings shall be terminated. The termination of the proceedings pursuant to G.S. 122C-263(d)(2) shall not prohibit or prevent the initiation of new involuntary commitment proceedings when appropriate.

A commitment examiner may initiate a new involuntary commitment proceeding prior to the expiration of this seven-day period as long as the respondent continues to meet the applicable criteria. Affidavits filed in support of proceedings terminated pursuant to G.S. 122C-263(d)(2) may not be submitted to support subsequent involuntary commitment petitions. If the affiant initiating new commitment proceedings is a commitment examiner, the affiant shall conduct a new examination and may not rely upon examinations conducted as part of the proceedings terminated pursuant to the above-cited statutory provision.

(8) G.S. 122C-262 [Special Emergency Procedure for Individuals Needing Immediate Hospitalization]:

Anyone, including a law enforcement officer, with knowledge of an individual who is subject to inpatient commitment according to the criteria of G.S. 122C-263(d)(2) and who requires immediate hospitalization to prevent harm to self or others may transport the individual directly to an area facility or other place, including a State facility for the mentally ill, for examination by a commitment examiner in accordance with G.S. 122C-263(e).

Upon examination by the commitment examiner, if the individual meets the inpatient commitment criteria specified in G.S. 122C-263(d)(2) and requires immediate hospitalization to prevent harm to self or others, the commitment examiner shall so certify in writing before any official authorized to administer oaths. If the commitment examiner executes the oath, appearance before a magistrate shall be waived. The commitment examiner shall send a copy of the certificate to the clerk of superior court by the most reliable and expeditious means.

Anyone, including a law enforcement officer if necessary, may transport the individual to a 24-hour facility described in G.S. 122C-252 for examination and treatment pending a district court hearing. The commitment examiner's certificate shall serve as the custody order and the law enforcement officer or other designated person shall provide transportation in accordance with the provisions of G.S. 122C-251.

If a 24-hour facility is not immediately available or appropriate to the respondent's medical condition, the respondent may be temporarily detained under appropriate supervision in accordance with G.S. 122C-263(d)(2) and released in accordance with G.S. 122C-263(d)(2).

If, upon examination of a respondent presented in accordance with G.S. 122C-262(a), the commitment examiner finds that the individual meets the criteria for inpatient commitment specified in G.S. 122C-263(d)(2) but does not require

immediate hospitalization to prevent harm to self or others, the commitment examiner may petition the clerk or magistrate in accordance with G.S. 122C-261(d) for an order to take the individual into custody for transport to a 24-hour facility described in G.S. 122C-252.

If the commitment examiner recommends inpatient commitment and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for inpatient commitment, the clerk or magistrate shall issue an order for transport to or custody at a 24-hour facility described in G.S. 122C-252. However, if a 24-hour facility is not immediately available or appropriate to the respondent's medical condition, the respondent may be temporarily detained under appropriate supervision in accordance with G.S. 122C-263(d)(2) and released in accordance with G.S. 122C-263(d)(2).

(G) Chapter 122C, Article 5, Part 8 of the North Carolina General Statutes (Involuntary Commitment of Substance Abusers);

Law Enforcement Officer's Duty upon Receipt of Custody Order:

- (1) G.S. 122C-281(e):** Anyone who has knowledge of a substance abuser who is dangerous to self or others may appear before a clerk or assistant or deputy clerk of superior court or a magistrate, execute an affidavit to this effect, and petition the clerk or magistrate for the issuance of an order to take the respondent into custody for examination by a commitment examiner. Upon receipt of such a custody order, a law enforcement officer or other designated person identified in the order shall take the respondent into custody within 24 hours after the order is signed. The custody order is valid throughout the State.
- (2) G.S. 122C-283(a):** After assuming custody of the respondent and without unnecessary delay, the law enforcement officer or the individual designated or required to provide transportation under G.S. 122C-251(g) shall transport the respondent to a facility or other location identified by the LME/MCO in the community crisis services plan adopted pursuant to G.S. 122C-202.2 that has an available commitment examiner and the capability to perform a first examination in conjunction with a health screening at the same location, unless exigent circumstances require the transport of the respondent to an emergency department. If a commitment examiner is not available, whether on-site, on-call, or via telemedicine, at any such facility or location, or if a plan has not been adopted, the person designated to provide transportation shall take the respondent to an alternative non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location.

In the absence of a non-hospital provider or facility-based crisis center to perform a first examination in conjunction with a health screening at the same location, the person designated to provide transportation shall take the respondent to a private hospital or clinic, a general hospital, an acute care hospital, or a State facility for the mentally ill.

If a commitment examiner is not immediately available, the respondent may be temporarily detained in an area facility, if one is available; if an area facility is not available, the respondent may be detained under appropriate supervision in the respondent's home, in a private hospital or clinic, in a general hospital, or in a State facility for the mentally ill, but not in a jail or other penal facility.

For the purposes of this section, the term "non-hospital provider" means an outpatient provider that provides either behavioral health or medical services.

- (3) G.S. 122C-283(a1):** A facility or other location to which a respondent is transported under G.S. 122C-283(a) shall provide a health screening of the

respondent. The health screening shall be conducted by a physician or other individual who is determined by the area facility, contracted facility, or other location to be qualified to perform the health screening. The respondent may either be in the physical face-to-face presence of the health screening examiner or may be examined utilizing telemedicine equipment and procedures. Documentation of this required health screening that is completed prior to transporting the patient to any general or acute care hospital shall accompany the patient or otherwise be made available at the time of transportation to the receiving facility.

- (4) **G.S. 122C-283(b):** The examination set forth in G.S. 122C-283(a) is not required when (i) the affiant who obtained the custody order is a commitment examiner, or (ii) the respondent is in custody under the special emergency procedure described in G.S. 122C-282. In these cases when it is recommended that the respondent be detained in a 24-hour facility, the law enforcement officer shall take the respondent directly to a 24-hour facility described in G.S. 122C -252.
- (5) **G.S. 122C-283(c):** The commitment examiner described in G.S. 122C-283(a) shall examine the respondent as soon as possible, and in any event within 24 hours after the respondent is presented for examination. The examination shall include but is not limited to an assessment of the respondent's (i) current and previous substance abuse including, if available, previous treatment history; and (ii) dangerousness to himself or others as defined in G.S. 122C-3(11).
- (6) **G.S. 122C-283(d)(1):** At the conclusion of the examination, if the commitment examiner finds that the respondent is a substance abuser and is dangerous to self or others, the commitment examiner shall recommend commitment and whether the respondent should be released or be held at a 24-hour facility pending hearing and shall so show on the examination report. Based on the commitment examiner's recommendation, the law enforcement officer or other designated individual shall take the respondent to a 24-hour facility described in G.S. 122C-252 or release the respondent. If a 24-hour facility is not immediately available or medically appropriate, the respondent may be temporarily detained under appropriate supervision and the procedures described in G.S. 122C-263(d)(2) shall apply.
- (7) **G.S. 122C-283(d)(2):** At the conclusion of the examination, if the commitment examiner finds that the condition described in G.S. 122C-283(d)(1) does not exist, the respondent shall be released and the proceedings terminated.
- (8) **G.S. 122C-282 [Special Emergency Procedure for Individuals Needing Immediate Hospitalization]:**

When an individual subject to commitment under the provisions of Chapter 122C, Article 5, Part 8 of the North Carolina General Statutes is also violent and requires restraint and when delay in taking the individual to a commitment examiner for examination would likely endanger life or property, a law enforcement officer may take the person into custody and take him or her immediately before a magistrate or clerk. The law enforcement officer shall execute the affidavit required by G.S. 122C-281 and in addition shall swear that the respondent is violent and requires restraint and that delay in taking the respondent to a commitment examiner for an examination would endanger life or property.

If the clerk or magistrate finds by clear, cogent, and convincing evidence that the facts stated in the affidavit are true, that the respondent is in fact violent and requires restraint, and that delay in taking the respondent to a commitment examiner for an examination would endanger life or property, the clerk or magistrate shall order the law enforcement officer to take the respondent directly to a 24-hour facility described in G.S. 122C-252.

Respondents received at a 24-hour facility under the provisions of G.S. 122C-

282 shall be examined and processed thereafter in the same way as other respondents under Chapter 122C, Article 5, Part 8 of the North Carolina General Statutes.

**SECTION III. DISCUSSION OF APD AND RCSO
TRANSPORT RESPONSIBILITIES**

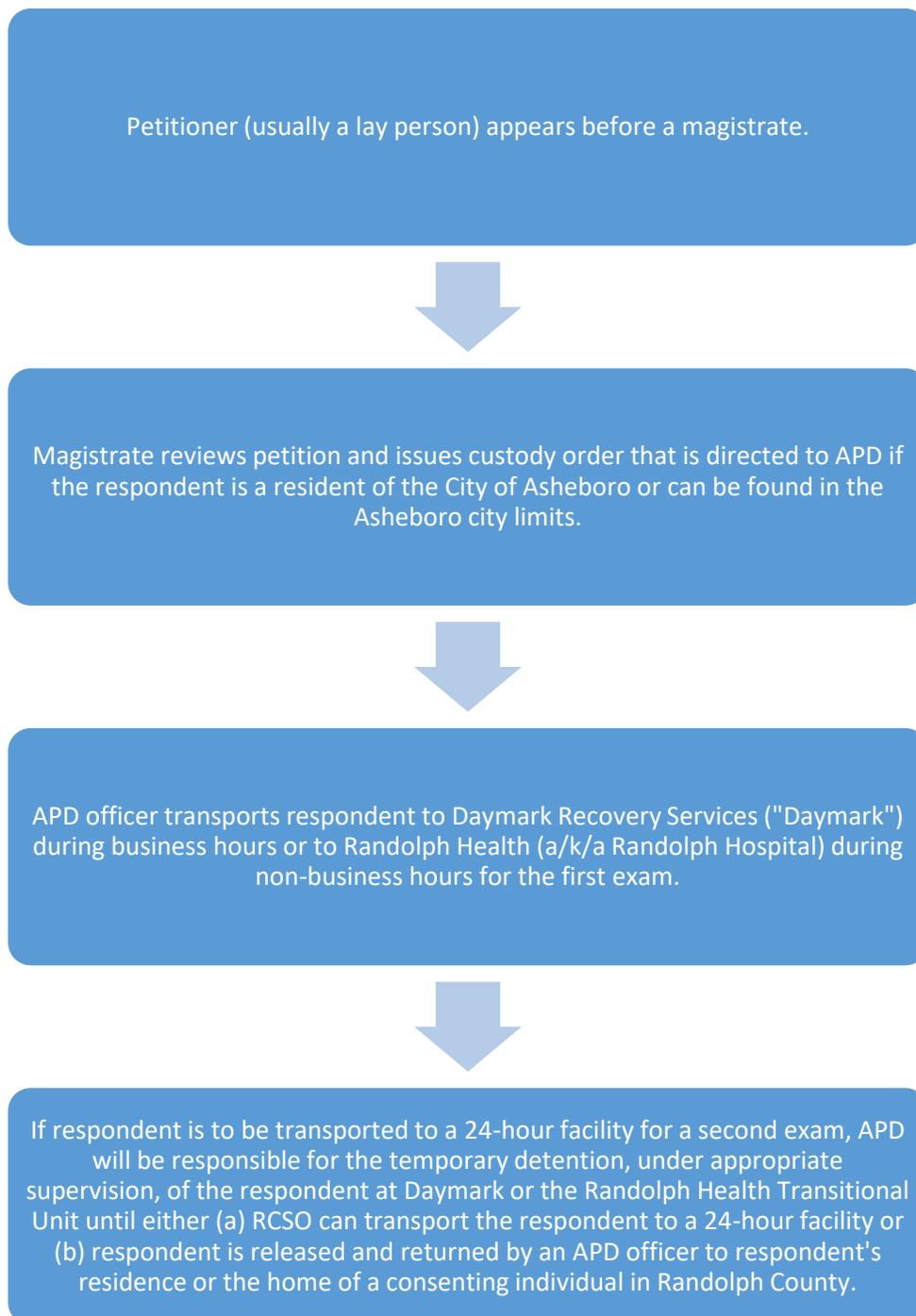
The statutory mandates that guide APD officers in discharging their responsibilities during involuntary commitment proceedings are outlined in Section II of this MOU. However, the following subsections of the MOU are designed to address certain operational ambiguities that have arisen with the implementation of the APD's role in the involuntary commitment process.

**A. Petitioner Appears before Magistrate or Clerk
[Form AOC-SP-302A]**

This MOU does not alter in any manner the long-standing procedure that has been followed by the APD and the RCSO when serving custody and transportation orders issued in response to a petitioner (typically, a layperson) appearing before a magistrate or clerk, usually a magistrate. The flow chart for the standard service by the APD of Form AOC-SP-302A is as follows:

**[The remainder of this page has been intentionally left blank.
The flow chart for this subsection of the MOU is on the next page.]**

APD Service of Form AOC-SP-302A



B. Petitioner Is a Certified Commitment Examiner (“Certified Examiner”) Who Has Examined the Respondent [Form AOC-SP-302B]

An AOC-SP-302B order directs the law enforcement officer to transport the respondent directly to a 24-hour facility. This subsection of the MOU addresses some of the challenges that arise when a 24-hour facility is not available or the direct transport of the respondent to a 24-hour facility is not medically appropriate.

When a clerk or magistrate directs an order to a law enforcement officer with Form AOC-SP-302A, the officer is to take the respondent into custody for examination by a certified examiner that is located in Randolph County. In contrast, when a clerk or magistrate directs an order to a law enforcement officer with Form AOC-SP-302B, the officer is to transport the respondent to a 24-hour facility. Currently, there is no such facility in Randolph County.

Pursuant to G.S. 122C-251(b), for purposes of involuntary commitment proceedings, transportation between counties is to be provided by the county where the respondent is taken into custody. However, G.S. 122C-251 enables and directs cities and counties to agree on a plan for the transportation of respondents. Under the agreement adopted by the

Asheboro City Council and implemented by means of this MOU, APD officers play a prescribed role in serving certain AOC-SP-302B orders.

The Asheboro City Council is supportive of the APD playing a role in the service of certain Form AOC-SP-302B orders because the City's governing board recognizes the tremendous logistical burden placed on the RCSO to transport all of the respondents taken into custody in Randolph County to 24-hour facilities located across the state. The willingness of the RCSO to partner with the City to facilitate APD officers providing certain services for respondents who are residents of Asheboro or who were physically taken into custody by law enforcement officers within the Asheboro city limits is deemed by the Asheboro City Council to be sufficient consideration to support the City undertaking the following support functions.

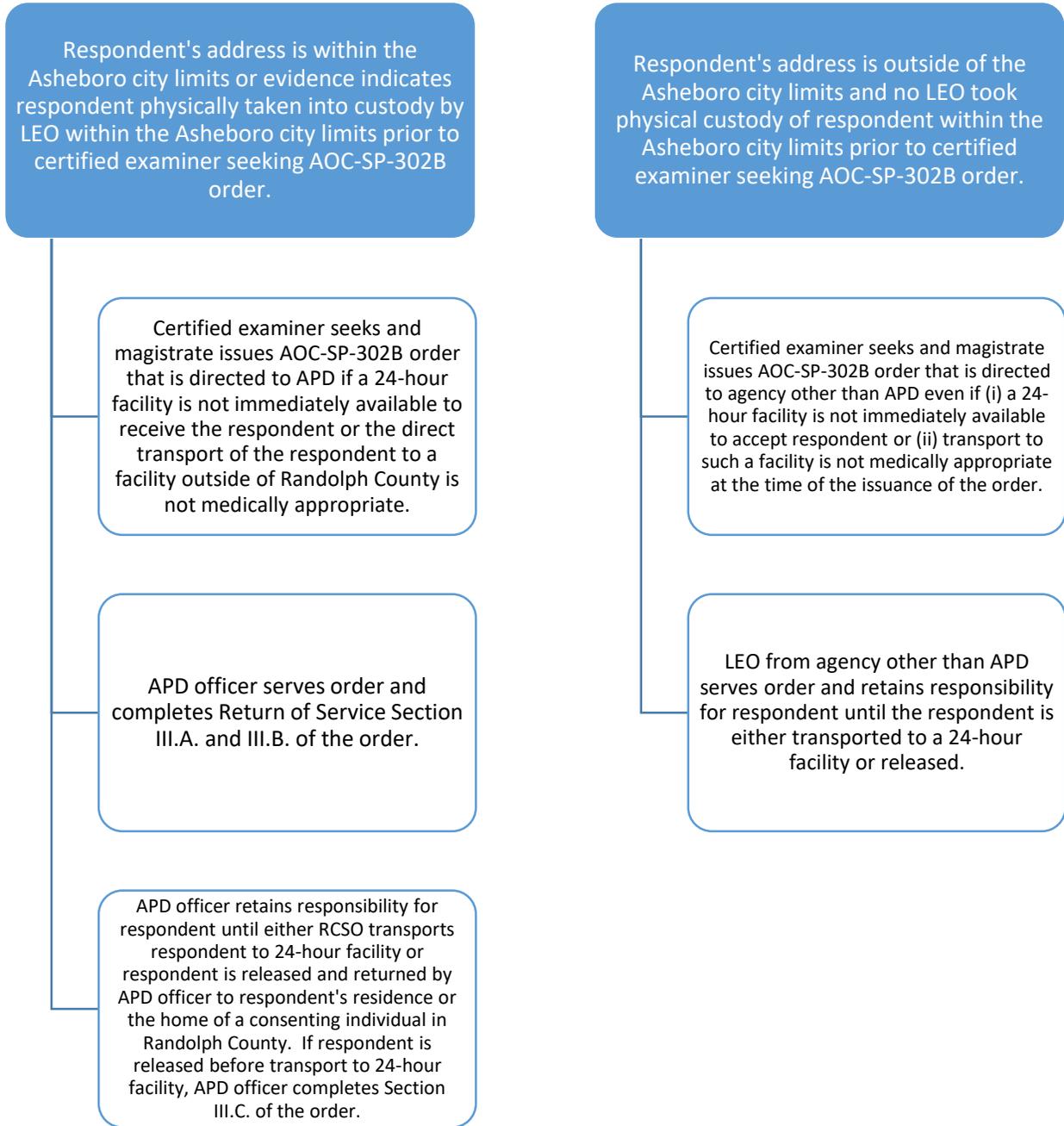
The flow chart for the provision by the APD of these support functions is as follows:

[The remainder of this page has been intentionally left blank. The flow chart for this subsection of the MOU is on the next page.]

APD Service of Form AOC-SP-302B

Order Directed to APD in the Following Situations:

Order Not Directed to APD in the Following Situation:



C. Special Emergency Procedure for Individuals Needing Immediate Hospitalization [Form DMH 5-72-01-A]

When an individual is brought to a certified examiner because of the perceived need for immediate hospitalization, the certified examiner completes the required examination form and an emergency certificate. This documentation will be forwarded to the clerk of superior court for review by the district court.

While a district court hearing is pending, the emergency certificate, as a supplement to the standard form for the examination and recommendation for involuntary commitment, serves as a custody order that directs a law enforcement officer to transport the respondent to a 24-hour facility. This emergency certificate is not a form generated by the Administrative Office of the Courts. Instead, the form, which is identified as Form DMH 5-72-01-A, is produced by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

This division is a component of the North Carolina Department of Health and Human Services.

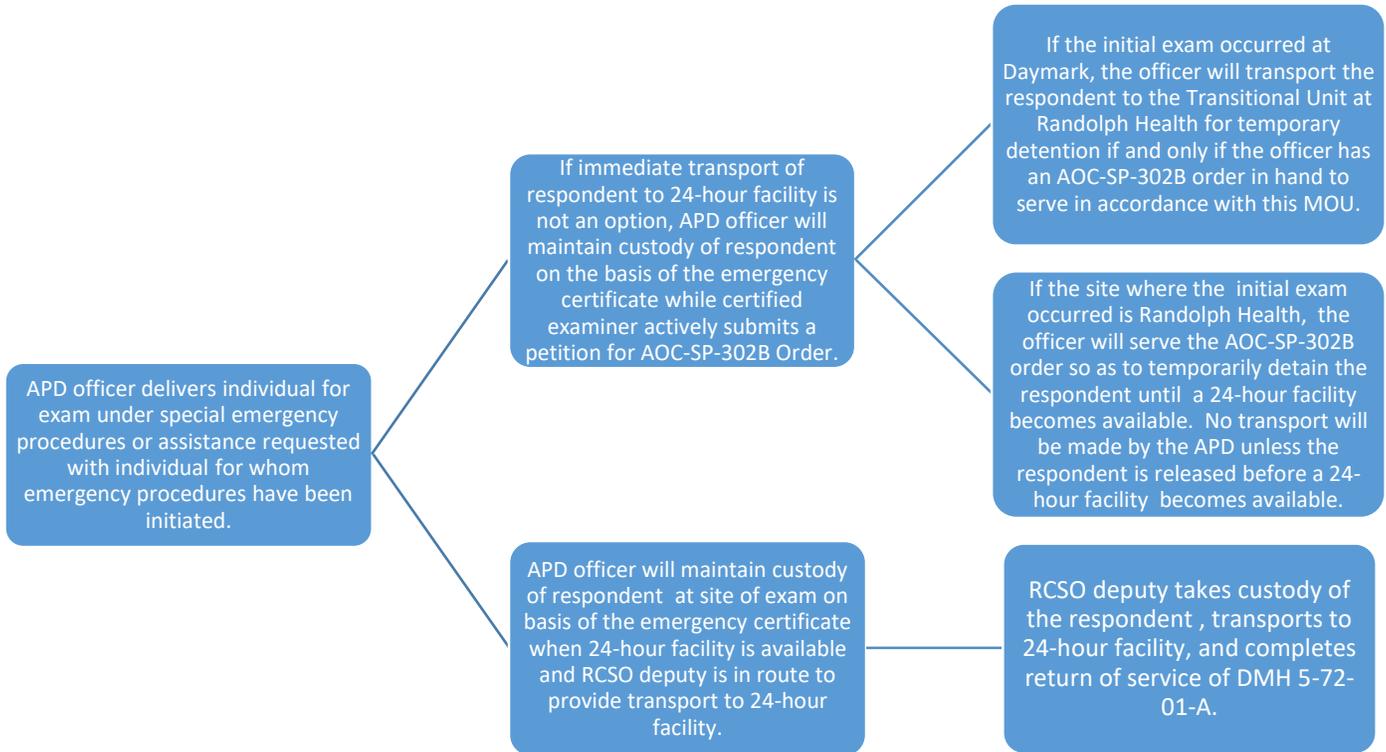
Due to the absence of a 24-hour facility within Randolph County, the APD does not perform the transport duties contemplated by the emergency certificate. The statutorily authorized emergency procedure provides authority for an APD officer to transport a respondent found within the Asheboro city limits to a certified examiner for an examination and, with the completion of the examination and the emergency certificate, to assist the staffs at Daymark and Randolph Health with the temporary detention of a respondent under appropriate supervision until a RCSO deputy can transport the respondent to a 24-hour facility. The RCSO deputy would complete the return of service for the DMH 5-72-01-A once the transport has been completed.

If a 24-hour facility is not immediately available, or transport to such a facility is not medically appropriate for a respondent who has been examined under the emergency procedure and found to be in need of immediate hospitalization, the emergency procedure should be terminated and a petition from a certified examiner should be submitted to a magistrate for the purpose of seeking the issuance of an order in the form of AOC-SP-302B. An AOC-SP-302B order issued as a consequence of the termination of a special emergency procedure with an Asheboro resident as the respondent or that originated in the Asheboro city limits shall be directed to the APD for service.

The following flow chart summarizes the role of APD officers when they initiate or are summoned to assist with a respondent subject to the special emergency procedures for individuals needing immediate hospitalization:

**[The remainder of this page has been intentionally left blank.
The flow chart for this subsection of the MOU is on the next page.]**

APD Officers and Special Emergency Procedures



Notes:

1. APD officers do not transport respondents pursuant to Form DMH 5-72-01-A, and they do not complete, under any circumstances, the return of service for a Form DMH 5-72-01-A.
2. Regardless of whether an APD officer is involved in initiating the special emergency procedures or otherwise assisting with a respondent during the clinician's examination of the individual pursuant to the special emergency procedures, the APD will assume responsibility for receiving and serving an AOC-SP-302B order that is obtained for any respondent with an address located within the Asheboro city limits.

IV. MODIFICATION OF THIS MOU

Any modifications to this MOU must be proposed in writing and approved by the signatories. In order to be valid, the approval on behalf of the City must include the concurrence of the Asheboro City Council.

However, the modification or amendment of any statute, regulation, AOC form, or any other legal authority cited herein shall be deemed to be automatically incorporated into this Agreement by reference.

Due to the fact that this MOU functions for the City of Asheboro as the involuntary commitment transportation agreement mandated by G.S. 122C-251(g), if this MOU is modified by the parties to the agreement, the modified agreement shall be submitted to the following officials and entities at least 10 days prior to the effective date of the new plan: (a) the Clerk of Superior Court and the magistrates in the City's judicial district, (b) the LME/MCO that serves the City and Randolph County, and (c) the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

V. DURATION AND TERMINATION OF THIS MOU

This MOU will be in effect from the date of signing by both parties until terminated by any party hereto. Any party to this MOU, upon thirty 30 days prior written notice to the other party, may terminate the Agreement at any time. Such notice shall be delivered personally or by certified or registered mail.

VI. NO THIRD PARTY RIGHTS AND DISTRIBUTION OF MOU

This MOU does not, is not intended to, shall not be construed to, and may not be relied upon to create any rights, substantive or procedural, enforceable at law or in equity in any civil or criminal action by any third party to this agreement.

As noted above, this MOU functions for the City of Asheboro as the involuntary commitment transportation agreement mandated by G.S. 122C-251(g). Consequently, upon execution of the agreement by the signatories listed on the next page, this MOU shall be submitted to the following officials and entities: (a) the Clerk of Superior Court and the magistrates in the City's judicial district, (b) the LME/MCO that serves the City and Randolph County, and (c) the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

With specific regard to the entry of the Asheboro Police Department into this MOU, the execution of the Agreement by the Interim Chief of Police was authorized pursuant to the adoption of a resolution (Resolution No. _____) by the City Council of the City of Asheboro, North Carolina in open session during a regular meeting held on the 12th day of September, 2019.

Mark T. Lineberry,
Interim Chief of Police
City of Asheboro, North Carolina

Gregory J. Seabolt, Sheriff
Randolph County, North Carolina

Date: _____

Date: _____

- (n) A resolution stating the intent of the Asheboro City Council to lease hangar space at the Asheboro Regional Airport to the Civil Air Patrol.**

RESOLUTION NUMBER 38 RES 9-19

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

A RESOLUTION STATING THE INTENT OF THE ASHEBORO CITY COUNCIL TO LEASE HANGAR SPACE AT THE ASHEBORO REGIONAL AIRPORT TO THE CIVIL AIR PATROL

WHEREAS, the Civil Air Patrol was incorporated under a Special Act of Congress that was approved on July 1, 1946 (Public Law 476, 79th Congress); and

WHEREAS, in preparation for the expiration of the existing hangar lease agreement at the end of the current calendar year, the Civil Air Patrol has requested the continuation of its lease of hangar space at the Asheboro Regional Airport for another 3-year term at the current rental rate of One Dollar (\$1.00) per year; and

WHEREAS, the hangar space currently leased to the Civil Air Patrol has been continuously used by its Randolph Composite Squadron for a significant number of years; and

WHEREAS, this hangar space will not be needed by the city during the requested term of the lease.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that it intends to approve a lease agreement allowing the continued use of the existing Civil Air Patrol hangar space at the Asheboro Regional Airport for a new 3-year lease term at a rental rate of One Dollar (\$1.00) per year; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that the city clerk is hereby directed to publish in *The Courier Tribune* the statutorily mandated 30-

WHEREAS, David and Pauline Jarrell, who wished to continue to enhance and preserve our natural beauty, donated a portion of this land to the City of Asheboro in December 2018; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Asheboro that the property located at 179 South Cox Street is to be named as follows:

THE DAVID AND PAULINE JARRELL CENTER CITY GARDEN

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 12th day of September, 2019.

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

ATTEST:

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

- (b) A budget amendment to purchase additional properties necessary to fully develop the David and Pauline Jarrell Center City Garden.

Mr. Ogburn presented an ordinance to amend the general fund for fiscal year 2019-2020 for the purchase of additional properties necessary to fully develop the David and Pauline Jarrell Center City Garden.

Upon motion by Council Member Burks and seconded by Council Member Swiers, the Council voted unanimously to adopt the following ordinance by reference. Council Members Bell, Burks, Moffitt, Snuggs, and Swiers voted in favor of the motion.

26 ORD 9-19

**ORDINANCE TO AMEND THE GENERAL FUND
FY 2019-2020**

WHEREAS, The City Council of the City of Asheboro desires to purchase two parcels of land to become part of the proposed arboretum, and;

WHEREAS, The City of Asheboro has already received \$76,500 in private donations toward the negotiated purchase price of \$165,000 for the property owned by David H. and Pauline Jarrell located at 179 South Cox Street, identified by PIN 7751920210, and;

WHEREAS, The City of Asheboro desires to purchase an adjacent parcel of land, located at 205 South Cox Street, identified by PIN 7751829013, for the negotiated price of \$204,000, from Sharon M. Farkas, and;

WHEREAS, the estimated closing costs and 2 months prorated taxes for both parcels is estimated to not exceed \$3,150, and;

WHEREAS, The City of Asheboro has renegotiated the contract with Waste Management to reduce our garbage disposal cost of residential waste by \$10 per ton per ton which, based on 8,802 tonnage from September 2018-June 2019, the City will save \$8,802 in tipping fees in 2019-2020, and;

WHEREAS, the City Council of the City of Asheboro desires to amend the budget as required by law to adjust for changes in expenditures in comparison to the current fiscal year adopted budget, and;

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

(b) Presentation of applications of those interested in serving on the LDP Steering Committee.

Mr. Nuttall presented a summary of applicants who have expressed an interest in serving on the Land Development Plan Steering Committee. Final applications will be presented to the Council for consideration at the Council's regular meeting on October 10, 2019. A copy of the summary is on file in the city clerk's office.

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

(c) Status report of projects on the properties list of the 2018-2023 Central Business District Redevelopment Plan:

**(i) Randolph County Parcel Identification Number 7751738346:
Acme McCrary Corporation: 170 North Church Street**

Mr. Nuttall reported that Landmark was not awarded the tax credits for the senior housing project located at 170 North Church Street (which is the Acme McCrary Corporation's building beside the Asheboro Municipal Building). Additionally, Mr. Nuttall reminded the council members how the city initiated pursuit of this project by approaching Landmark to assess their interest in the project due to their well-documented and successful history in historic rehabilitation development.

Based on a recommendation from the city's Redevelopment Commission and with no objection from the city council, the city's planning staff will reinitiate pursuit of the project and reaffirm commitment to the project by way of reference to its inclusion in the adopted 2018-2023 Central Business Redevelopment Plan.

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

**(ii) Randolph County Parcel Identification Number 7751738346:
Acme McCrary Corporation: 159 North Street**

The planning staff has had several conversations with the developers and there is a potential for affordable residential units within the facility located at 159 North Street. City staff recommended that an independent analysis be performed in order to proceed with this particular project. The UNC School of Government's Development Finance Initiative will assist city planning staff with proposals.

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

**(iii) Randolph County Parcel Identification Number 7751831174:
City of Asheboro: 148 North Street.**

Mr. Ogburn updated the council members on the progress of the city's recreation facility. Completion for this project is slated for December 2019.

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

8. Engineering Items:

(a) Consideration of a petition received from Mr. Leonard Latham requesting the contiguous annexation of a parcel of land at 1126 Oakland Avenue:

Mayor Smith opened a public hearing on the question of the annexation petition submitted by Mr. Leonard Latham. The petition requested the contiguous annexation of a parcel of land located at 1126 Oakland Avenue.

As part of the public hearing, City Engineer Michael Leonard, PE presented the staff's analysis of the annexation petition. No citizen wished to be heard during the public hearing.

Once the city council entered the deliberative phase of the hearing, Council Member Bell moved, and Council Member Swiers seconded the motion, to approve the following annexation ordinance by reference. Council Members Bell, Burks, Moffitt, Snuggs, and Swiers voted in favor of the motion.

ORDINANCE NO. 27 ORD 9-19

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 1126 OAKLAND AVENUE

WHEREAS, in accordance with Section 160A-31 of the North Carolina General Statutes, Leonard Latham petitioned the City of Asheboro to annex into the primary city limits his approximately 35,422.877-square foot (0.813 of an acre) parcel of land at 1126 Oakland Avenue, Asheboro, North Carolina 27203; and

WHEREAS, the territory proposed for annexation is a single parcel of land identified by Randolph County Parcel Identification Number 7751660777 and more specifically described by metes and bounds in Section 1 of this Ordinance; and

WHEREAS, on August 8, 2019, by means of a duly adopted resolution (Resolution Number 30 RES 8-19), the Asheboro City Council directed the city clerk to investigate the sufficiency of the petition submitted by Mr. Latham, and the city clerk has in fact certified the sufficiency of this annexation petition; and

WHEREAS, pursuant to Asheboro City Council Resolution Number 31 RES 8-19, a legal notice was published on August 16, 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 o'clock p.m. on the 12th day of September, 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 12th day of September, 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 on the existing City of Asheboro primary city limits line at a 1" existing iron pipe that is flush with the ground at the northwest corner of the Leonard Latham property described in Deed Book 2357, Page 1609, Randolph County Registry (this property is a single parcel of land identified by Randolph County Parcel Identification Number 7751660777 that

consists of Lots 64-65 of the Forest Hills Subdivision, Addition 6, as shown on a plat of survey recorded in Plat Book 6, Page 55, Randolph County Registry; the Leonard Latham property described herein is the sole parcel of land for which annexation is requested and will be referred to as the "Annexation Parcel"), the beginning point is a control corner located by means of the North Carolina Coordinate System at the coordinates of North 716,976.26 feet and East 1,756,107.29 feet (NAD 83 (2011)); thence from the beginning point and departing from the existing City of Asheboro primary city limits line by following the proposed City of Asheboro primary city limits line along the Annexation Parcel's northern boundary line, which runs with the southern margin of the 50-foot public right-of-way for Oakland Avenue (North Carolina Secondary Road 1483), South 89 degrees 51 minutes 37 seconds East 120.02 feet to a 5/8" existing iron rod that is 1" above ground at the northeast corner of the Annexation Parcel; thence continuing to follow the proposed City of Asheboro primary city limits line by departing from the southern margin of the public right-of-way for Oakland Avenue and following the Annexation Parcel's eastern boundary line along the Kenneth Thomas property described in Deed Book 1038, Page 178, Randolph County Registry South 00 degrees 25 minutes 40 seconds West 296.28 feet to a 1-1/4" existing iron pipe that is 3" above ground at the southeast corner of the Annexation Parcel; thence continuing to follow the proposed City of Asheboro primary city limits line by departing from the Annexation Parcel's eastern boundary line and proceeding the following courses and distances along the Annexation Parcel's southern boundary line that is shared with the Peter Carignan property described in Deed Book 2069, Page 2147, Randolph County Registry: North 89 degrees 17 minutes 35 seconds West 59.77 feet to a 3/4" existing iron pipe that is 6" above ground; thence North 89 degrees 18 minutes 40 seconds West 59.81 feet to a 1" existing iron pipe in concrete and 3" above ground at the Annexation Parcel's southwest corner that is on the existing City of Asheboro primary city limits line, this corner is a control corner located by means of the North Carolina Coordinate System at the coordinates of North 716,681.15 feet and East 1,756,105.53 feet (NAD 83 (2011)); thence departing from the Annexation Parcel's southern boundary line and following the existing City of Asheboro primary city limits line along the Annexation Parcel's western boundary line North 00 degrees 20 minutes 32 seconds East 295.12 feet to the point and place of BEGINNING, and containing a total of 35,422.877 square feet (0.813 of an acre) of land, more or less, to be annexed.

The above-stated legal description is in accordance with a plat of survey drawn under the supervision of William C. Burrow, Professional Land Surveyor with License Number L-2497. The plat of survey is titled "ANNEXATION SURVEY FOR CITY OF ASHEBORO(:) LEONARD LATHAM" and is identified as Project No. 5438.

Section 2. Upon and after September 12, 2019, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Asheboro and shall be entitled to the same privileges and benefits as other parts of the City of Asheboro. The above-described territory shall be subject to municipal taxes according to Section 160A-58.10 of the North Carolina General Statutes.

Section 3. The Mayor of the City of Asheboro shall cause to be recorded in the Office of the Randolph County Register of Deeds and in the Office of the North Carolina Secretary of State an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this Ordinance. Such a map shall also be delivered to the Randolph County Board of Elections as required by Section 163A-1594 of the North Carolina General Statutes.

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

Section 5. This Ordinance shall be in full force and effect upon and after the 12th day of September, 2019.

This Ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 12th day of September, 2019.

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

ATTEST:

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

Approved as to form:

Jeffrey C. Sugg
Jeffrey C. Sugg, City Attorney

(b) Approval of Work Authorization #3 between the City of Asheboro and WK Dickson for the Design/Bid Phase of the New Airfield Lighting System.

City Engineer Michael Leonard presented Work Authorization #3 between the City of Asheboro and WK Dickson for the design/bid phase of the new airfield lighting system for Asheboro Regional Airport. The existing lighting system is approximately 20 years old. The new system will include LED fixtures to improve efficiency and reduce maintenance requirements. The project will also include a new electrical vault building and power supply equipment. The existing power supply equipment is located in one of the airport hangar buildings.

All proposed costs of the project are grant eligible and reimbursable to the City of Asheboro at a ratio of 90% State/Federal and 10% Local Match. The total proposed cost for the project is \$157,878.00

Council Member Burks moved, and Council Member Snuggs seconded the motion, to approve Work Authorization #3 between the City of Asheboro and WK Dickson for the design/bid phase of the new airfield lighting system at the Asheboro Regional Airport. Council Members Bell, Burks, Moffitt, Snuggs, and Swiers voted in favor of the motion.

A copy of the work authorization presented by Mr. Leonard is on file in the city clerk's office.

(c) Update on the request to close a portion of West Pritchard Street.

Mr. Leonard presented a map illustrating the potential closure of a portion of West Pritchard Street. Once the parties involved agree on the design, work will begin in the coming weeks.

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

(d) Update on the request by Mr. Harrell Hamilton for assistance with traffic issues at Lindley Park School.

Mr. Leonard reported that Mr. Harrell Hamilton has requested the city's assistance regarding traffic issues near Lindley Park Elementary School during the morning and afternoon hours while the school is in operation. The city's engineering department will collaborate with the Asheboro Police Department in order to address citizen concerns regarding the high volume of traffic within the vicinity of Lindley Park Elementary School. City staff will update the council members as more information becomes available.

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

(e) City of Asheboro Recreation Facility Bleachers Bid Tabulation.

Mr. Leonard presented to the council a summary of the bids received for the installation of bleachers at the City of Asheboro Recreation Facility. The following bids were opened at 10:00 a.m. on September 5, 2019:

1.	Learning Environments, Inc.	\$76,510.00
2.	The Sports Flooring Group	\$85,389.84

Mr. Leonard recommended that the council award the installation of the bleachers to the lowest responsive bidder which was Learning Environments, Inc. with a bid of \$76,510.00. Council Member Bell moved to award the bleachers installation contract to the said lowest responsive bidder, and this motion was seconded by Council Member Swiers. Council Members Bell, Burks, Moffitt, Snuggs, and Swiers voted unanimously in favor of the motion and awarded the bleacher installation contract to Learning Environments, Inc.

9. Upcoming events.

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

There being no further business, the meeting was adjourned at 9:17 p.m.

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

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