

**REGULAR MEETING  
ASHEBORO CITY COUNCIL  
THURSDAY, SEPTEMBER 8, 2005  
7:00 PM**

\*\*\*\*\*

This being the time and place for a Regular Meeting of the Mayor and City Council, a meeting was held with the following officials and members present:

- David Jarrell ) – Mayor Presiding
  
- Talmadge Baker )
- Linda Carter )
- Keith Crisco )
- Nancy Hunter ) – Council Members Present
- John McGlohon )
- Archie Priest )
- David Smith )

- John N. Ogburn, III, City Manager
- Carol J. Cole, CMC, City Clerk
- Dumont Bunker, P. E., City Engineer
- Debbie Juberg, Finance Director
- Reynolds Neely, Planning Director
- Lynn Priest, CD Director
- Wendell Holland, Zoning Administrator
- Trevor Nuttall, Planner
- John Evans, Code Enforcement Officer
- Gary Mason, Police Chief
- Jim Smith, Fire Chief
- Foster Hughes, Parks & Recreation Director
- Myers Johnson, Human Resources Director
- Holly Hartman, Legal Assistant
- Jeff Sugg, City Attorney

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

**1. Pledge of Allegiance and Invocation.**

Mayor Jarrell asked everyone to stand and repeat the Pledge of Allegiance. Reverend Thomas Denny, pastor of Central Wesleyan Church, gave the invocation.

**2. Appearance and Recognition of Guests and Citizens.**

Mayor Jarrell welcomed everyone in attendance.

**3. Presentation by Mr. Roger Halligan Requesting City Participation in the Proposed Downtown Sculpture Show.**

Mayor Jarrell stated that he has received a letter from the Asheboro/Randolph Chamber of Commerce Board thanking the Citizens for Arts Advocacy for the efforts that have already been made.

Mr. Roger Halligan reported that the artists have been chosen for the Downtown Sculpture Show. Insurance has been purchased; funds have been pledged; and part of the funds has been collected. Mr. Halligan requested that council make the sculpture show a city-sponsored event.

Mr. Ogburn informed council that the city's insurance coverage will only allow space for the event. If council wishes to participate with unloading, setting up of equipment, etc. for the show, the city could negotiate with its insurance company for coverage obtained through the risk pool for the city's exposure while the sculptures are in the care, custody, or control of the city.

Upon motion by Mr. Crisco and seconded by Mr. Baker, council voted unanimously to authorize the city to negotiate with its insurance company to provide coverage for the sculpture show.

**4. Consent Agenda.**

Mayor Jarrell asked council if it wanted to discuss anything on the Consent Agenda individually or to vote on the items collectively.

Upon motion by Mr. Smith and seconded by Mr. McGlohon, council voted unanimously to approve all of the items on the Consent Agenda as follows:

- Minutes of the special and regular meetings and closed session of August 4, 2005
- Order Sealing the General Account of the closed Session Held on August 4, 2005

51 RES 9-05

**RESOLUTION TO SEAL GENERAL ACCOUNT OF CLOSED SESSION**

WHEREAS, Section 143-318.10(e) of the North Carolina General Statutes provides, in pertinent part, that the "minutes or an account of a closed session conducted in compliance with G. S. 143-318.11 may be withheld from public inspection so long as public inspection would frustrate the purpose of a closed session;" and

WHEREAS, the City Council of the City of Asheboro properly conducted a closed session during its meeting on August 4, 2005, pursuant to Section 143-318.11(a)(4) of the North Carolina General Statutes, in order to discuss matters relating to the location or expansion of industries or other businesses in the City of Asheboro.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the general account of the closed session held by the City Council on August 4, 2005 is to be sealed so long as public inspection of the records would frustrate the purpose of the closed session; and

BE IT FURTHER RESOLVED that the City Manager is authorized to act as the Council's agent with the authority to unseal these records when the purpose of the closed session would no longer be frustrated by making the records available for public inspection or when the unsealing of the said general account is otherwise required by law.

S/ David H. Jarrell  
David H. Jarrell, Mayor  
City of Asheboro

ATTEST:

S/ Carol J. Cole  
Carol J. Cole, CMC, City Clerk  
City of Asheboro

- Findings of Fact, Conclusions of Law, and Order in the Matter of CUP-05-20

Case No. CUP-05-20  
City Council  
City of Asheboro

IN THE MATTER OF THE APPLICATION OF SUMMERS RUN, LLC FOR A  
CONDITIONAL USE PERMIT, WHICH INCLUDES A SPECIAL USE PERMIT FOR A  
FLOOR AREA RATIO UP TO 22%, ALLOWING MULTI-FAMILY DEVELOPMENT

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING THE REQUESTED  
CONDITIONAL USE PERMIT

---

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during the Council's regularly scheduled meeting on August 4, 2005. Having considered all competent evidence and argument, the Council, on the basis of competent, material, and substantial evidence, does hereby make the following:

#### FINDINGS OF FACT

1. Prior to the Council's consideration of the request by Summers Run, LLC (hereinafter referred to as the "Applicant") for a Conditional Use Permit, including a Special Use Permit, the Council legislatively approved the Applicant's request to have a portion of its property located on the west side of North Fayetteville Street and approximately five hundred (500) feet north of the intersection of Greenvale Road with North Fayetteville Street rezoned from a B2 zoning district to a CU-OA6 zoning district.
2. The real property subject to the requested Conditional Use Permit (hereinafter referred to as the "Zoning Lot") consists of a total of approximately 14.5 acres of land that is more specifically identified by Randolph County Parcel Identification Numbers 7763035377 and 7763032145.
3. The specific permit sought by the Applicant is a Conditional Use Permit that would allow multi-family development and would include a Special Use Permit allowing a floor area ratio (hereinafter referred to as "FAR") up to 22% on the Zoning Lot.
4. The Zoning Lot is located in an area designated on the Growth Strategy Map as a "Primary Growth" area, and said area is identified on the Proposed Land Development Plan Map as "Urban Residential."
5. The Summers Run Apartment complex already exists on a portion of the Zoning Lot, and the proposed land use would be an expansion of the complex with fifty (50) units and a rental office.
6. The Zoning Lot is within the corporate limits of the City of Asheboro, and all city services are available.
7. North Fayetteville Street is a major thoroughfare with a 100-foot right-of-way.
8. The surrounding land uses can be properly classified as high-density residential, and a new apartment complex is under construction just east of the Zoning Lot.
9. The floodplain of Hasketts Creek is located on the northwest corner of the Zoning Lot. The Land Development Plan Map shows a future greenway following the floodplain. The plan recommends "dedication of open space and greenway easements as part of the land development process." The city has secured a greenway easement for the Madison Heights Apartment Complex to the east of this site. Continuation of this easement is possible with the granting of an easement along the northern and western boundaries of the Zoning Lot.
10. The proposed land use is an urban residential use that is consistent with the situation on the ground and with the city's Land Development Plan.
11. The Applicant is simply doing more of what has already been done on the Zoning Lot without overusing the existing infrastructure.
12. Nothing unusually hazardous is associated with the proposed use.
13. The Applicant does not plan to build in the flood plain and will provide the requested greenway easement.
14. The businesses in the area around the Zoning Lot will not be damaged by the existence of high-density residential apartments.
15. During the hearing of this matter, no evidence was presented in opposition to the Applicant's request for the issuance of a Conditional Use Permit.

Based on the foregoing findings of fact, the Council makes the following:

#### CONCLUSIONS OF LAW

1. The Council has concluded that the proposed use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.
2. The evidence received during the public hearing established that the proposed use does meet all of the required conditions and specifications of the Asheboro Zoning Ordinance.

3. The evidence presented during the course of the hearing of this matter established that the proposed use would not substantially injure the value of the adjoining or abutting property.

4. The location and character of the Applicant's proposed use if developed according to the plan as submitted and approved is 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 above-recited findings of fact and conclusions of law, the Council hereby enters the following:

ORDER

Summers Run, LLC is hereby issued a Conditional Use Permit allowing a multi-family development, and this Conditional Use Permit includes a Special Use Permit allowing a FAR up to 22%. This Conditional Use Permit, including the Special Use Permit, shall be valid so long as, and only so long as, the approved land use is conducted in strict compliance with the approved site plan and the provisions of the Asheboro Zoning Ordinance and so long as the Applicant, and its successors and assigns, remain in strict compliance with the following conditions:

1. A greenway easement shall be granted along the northern and western boundaries, approximately following the one hundred (100) year floodplain as suggested by the Land Development Plan and in accord with a similar condition imposed on the Madison Heights project.

2. The properties comprising the Zoning Lot shall be combined into one parcel of land by means of a recombination plat, which must be submitted in an approvable form to the city planning staff, so as to ensure continued compliance with the 22% FAR limit.

3. Detailed plans for recreation areas shall be provided to the city planning department staff showing the type and location of recreation provided in order to ensure the minimum area is in fact provided. No compliance certificate shall be issued until installation of recreational amenities as approved are provided.

4. No fill shall be permitted in the floodplain without the submittal of an engineered flood study.

5. Engineering plans shall be resubmitted with corrections as noted by the Engineering and Public Works Department.

Adopted by the Asheboro City Council in regular session on this the 8<sup>th</sup> day of September, 2005.

S/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole  
Carol J. Cole, CMC, City Clerk

- Resolution Authorizing the Mayor to Enter Into a Municipal Agreement Between the North Carolina Department of Transportation and the City of Asheboro for Reinspection of Bridges on the Municipal Street System, With 80% Funding by the Federal Highway Administration for the Following Bridges:
  - Greenvale Road and Bonkemeyer Drive Crossing Haskett's Creek
  - Vance Street Crossing Penwood Branch
  - Newbern Avenue Crossing a Tributary to Vestal Creek
  - Chamberlin Drive Crossing Cedar Fork Creek

**RESOLUTION**

WHEREAS, the City of Asheboro has requested the Department of Transportation to perform certain work under the Federal-Aid Highway Bridge Replacement and Rehabilitation Program, said work to consist of the inspection and analysis of all public bridges on the Municipal Street System in the City of Asheboro; and

WHEREAS, the City of Asheboro proposes to enter into an agreement with the North Carolina Department of Transportation for said work wherein the Department of Transportation or a Consulting Engineering firm retained by the Department of Transportation will inspect and prepare the necessary reports for all public bridges on the Municipal Street System in accordance with the National Bridge Inspection Standards; and

WHEREAS, under the proposed agreement the Federal Highway Administration shall reimburse the Department of Transportation for eighty (80) percent of the cost of the work subject to compliance with all applicable federal policy and procedural rules and regulations; and

WHEREAS, under the proposed agreement the City of Asheboro shall reimburse the Department of Transportation for all costs of the work incurred by the Department of Transportation not paid by the Federal Highway Administration.

NOW, THEREFORE. BE IT RESOLVED that the agreement for the hereinabove referenced bridge inspection work is hereby formally approved by the City of Asheboro and the Mayor and Clerk (or Manager) of this Municipality are hereby empowered to sign and execute the required agreement between the City of Asheboro and the Department of Transportation.

This resolution was passed and adopted the 8<sup>th</sup> day of September, 2005.

S/ Carol J. Cole  
Clerk

City of Asheboro  
North Carolina

OLD BUSINESS:

**5. Findings of Fact, Conclusions of Law, and Order in the Matter of SUP-05-04.**

Upon motion by Mr. Smith and seconded by Mr. Priest, council voted unanimously to approve the following Findings of fact, Conclusions of Law, and Order in the matter of SUP-05-04, which concerns Guy B. Teachey Elementary School:

Case No. SUP-05-04  
City Council  
City of Asheboro

IN THE MATTER OF THE APPLICATION OF THE ASHEBORO CITY BOARD OF  
EDUCATION FOR A SPECIAL USE PERMIT ALLOWING THE EXPANSION  
OF A SCHOOL IN A RESIDENTIAL DISTRICT

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

---

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during a regular meeting of the Council on July 14, 2005. Having considered all competent evidence and argument, the Council, on the basis of competent, material, and substantial evidence, does hereby make the following:

FINDINGS OF FACT

1. The Asheboro City Board of Education (hereinafter referred to as the "Applicant") has properly filed an application with the City of Asheboro Planning Department for a Special Use Permit that would allow the expansion of the Guy B. Teachey Elementary School located at 294 Newbern Avenue in Asheboro.

2. Guy B. Teachey Elementary School (hereinafter referred to as the "School") is located upon a parcel of land (hereinafter referred to as the "Zoning Lot") that is more specifically identified by Randolph County Parcel Identification Number 7750905864.

3. The Applicant proposes to add new administration offices, classroom additions, a reconfigured bus lane, and enlarged parking areas.

4. The Zoning Lot consists of approximately 20.47 acres of land and is located in an R10 zoning district.

5. The Growth Strategy Map identifies the area in which the Zoning Lot is located as "Adjacent Developed," and the Proposed Land Development Plan Map designates the area in question as "Neighborhood Residential."

6. The land uses to the north, south, and west are single-family residential, while the land use to the east is single-family residential/undeveloped.

7. The Zoning Lot is located within the corporate limits of the City of Asheboro, and all city services are available.

8. Newbern Avenue is a public street with a 60-foot right-of-way, and Teachey School Drive is a state maintained private access drive for the school.

9. The Applicant will have to obtain driveway permits for the proposed project from the North Carolina Department of Transportation.

10. The Applicant's site plan is in compliance with the Asheboro Zoning Ordinance.

11. The Applicant proposes to create separate access drives for buses and other vehicular traffic in order to reduce the amount of vehicles parked along the road, and the site plan calls for 900 linear feet of queue space and 130 linear feet of loading/unloading space to be created.

12. The proposed parking lot more than doubles the amount of individual parking spaces.

13. The Applicant will install lighting for the parking lot, and this lighting will be directed and low in height so as to minimize interference with surrounding dwellings.

14. The School has been in existence since 1962.

15. The proposed addition to the School will increase the student population by approximately one hundred twenty (120) students.

16. The Applicant's architect offered uncontroverted testimony, on the basis of his extensive experience with the design of schools, that a quality elementary school will increase the value of surrounding residential property because it becomes a desirable location and draws new families with a concern about a quality education for their children.

17. The traffic circulation configuration utilized by the Applicant is within the standards of the State of North Carolina and acceptable to the North Carolina Department of Transportation.

18. The additions and renovations will be designed to match, compliment, and improve the existing building in design, geometry, color, and material.

19. While an adjoining property owner did express some concerns about the proposed plan and asked some questions of the Applicant's representative, no evidence that rose above the level of speculation and conjecture was offered in opposition to the Applicant's requested Special Use Permit.

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

CONCLUSIONS OF LAW

1. During the hearing of this matter, the evidence submitted to the Council indicated 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. The proposed site plan addresses certain solutions to current safety issues. Buses and vehicles will have separate access drives for loading/unloading. Additional parking will be added with adequate lighting that does not interfere with the quiet enjoyment of the surrounding property owners.

2. The proposed use meets all required conditions and specifications of the Asheboro Zoning Ordinance.

3. The Applicant's proposed use will not substantially injure the value of the adjoining or abutting property. The modernization and improvements of the elementary school will enhance the value of the surrounding property by continuing to attract new families concerned with quality education.

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

ORDER

The Asheboro City Board of Education is hereby issued a Special Use Permit allowing the expansion of Guy B. Teachey Elementary School so long as the approved land use is conducted in strict compliance with the approved site plan and the provisions of the Asheboro Zoning Ordinance and so long as the Applicant, and its successors and assigns, remain in strict compliance with the following conditions:

1. The sidewalk shall be extended to the eastern property boundary to help ensure the safety of pedestrians traveling from residential areas east of the site.

2. The Land Development Plan recommends a future greenway near the southern property boundary. The property is near the proposed Asheboro-Zoo greenway. Arrangements shall be made to protect the corridor for a future spur of the Asheboro-Zoo greenway.

3. If, in the future, the Asheboro Zoning Ordinance permits more than two curb cuts, the temporary construction entrance/proposed third driveway shall be allowed to become permanent. In the event such an amendment of the ordinance is approved, and the Applicant wishes to utilize a third driveway, the Applicant shall re-submit the site plan to the Planning Department for review of the revised site plan for compliance with this Special Use Permit and the Asheboro Zoning Ordinance and, so long as the site plan is in compliance with the applicable land use regulations of the City of Asheboro, inclusion in this file without further review by the Council.

Adopted by the Asheboro City Council in regular session on this the 8<sup>th</sup> day of September, 2005.

S/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole  
Carol J. Cole, CMC, City Clerk

**6. Consideration of a Resolution to Renew the Hangar Lease Agreement Between the City of Asheboro and the Randolph Composite Squadron – Civil Air Patrol (C. A. P.) for a Term of Ten (10) Years at One Dollar (\$1.00) Per Year Annual Rent.**

The city attorney reported that there has been a name change of the Lessee from “Randolph Composite Squadron – Civil Air Patrol” to “North Carolina Wing, Civil Air Patrol.” The proposed Hangar Lease Agreement will remain the same, but the resolution authorizing the lease of city-owned property at the Asheboro Municipal Airport will need to be re-advertised because of the name change of the Lessee.

Upon motion by Mrs. Carter and seconded by Mr. McGlohon, council voted unanimously to authorize the re-advertisement as advised by Mr. Sugg.

**7. Public Hearing on Special Use Permit Modification (SUP-05-05).**

Mayor Jarrell opened the public hearing on the following request:

Special Use Permit Modification for a Transfer Station: The property of P&R Development located at 2501-2505 North Fayetteville Street, consisting of 8.39 acres and further identified by Randolph County Parcel ID Numbers 7753978580 and 7753975316. The applicant is Garco, Inc.

Mr. Neely was sworn in and described the aforementioned property. He presented the site plan, which is in compliance with the city’s ordinance. He stated that the use is a transfer facility and the request is for approval of a master plan, proposing the addition of an office, maintenance building, and truck wash. The property is in the city limits and all city services are available. The transfer station is regulated by state and federal permits with regard to storm water control and storage of hazardous materials.

Mr. Neely stated some suggested conditions for council’s consideration if it finds in favor of the request.

Mr. Steve Cofer, architect and representative for the applicant, was sworn in and stated that they are requesting approval of the complete master plan development, which will be a phase process project. Mr. Cofer reported that the neighbors have been notified of the request, and there will be no changes to the existing permit. He gave a brief history of the property and showed slides of the proposed additions.

Mr. Cofer addressed the four standard tests as follows: (1) The proposed use will not endanger the public health or safety. There are no changes related to this test that would affect the existing conditions. (2) The use meets all required conditions and specifications of the Asheboro Zoning Ordinance. (3) The use will not substantially injure the value of adjoining or abutting property. Mr. Cofer stated that the original conditions will continue, and the proposed uses will improve the value and character of the neighborhood. (4) The use will be in harmony, compatible and in compliance with the ordinance.

There being no further comments nor opposition, Mayor Jarrell closed the public hearing.

Mayor Jarrell asked Mr. Cofer if he agreed to the conditions as stated by Mr. Neely. Mr. Cofer agreed to the conditions.

Upon motion by Mr. Smith and seconded by Mr. Crisco, council voted unanimously to approve the request with the conditions as stated by Mr. Neely, based on the four standard tests being met per testimony by Mr. Cofer.

The conditions will be further detailed in the city attorney’s Findings of Fact, Conclusions of Law, and Order Granting the Special Use Permit Modification to be approved by council at its October meeting.

NEW BUSINESS:

**8. Public Hearings on Rezoning, Permits, and Text Amendments.**

Mayor Jarrell opened the public hearing on the following request:

- (a) CUP Modification for a Vehicle Repair Business – Major (CUP-05-21): The property of Joseph B. Shuping, located at 1339 East Salisbury Street, totaling 1.521 acres and further identified by Randolph County Parcel ID Number 7761427896.

Mr. Neely was sworn in and presented the site and elevation plans, which were found to be in compliance with the zoning ordinance. Mr. Neely stated that in September of 2004, the council issued a permit for a motor vehicle repair business (major). The applicant thereafter discovered site conditions that make development of the property as indicated on the approved site plan difficult. The applicant therefore desires to alter building and parking locations previously approved to facilitate development. The zoning ordinance considers such changes as permit modifications that warrant review and approval by the council. The property is outside the city limits. Connection to city services is proposed. Annexation will be required.

Mr. Neely stated some suggested conditions for council's consideration if it finds in favor of the request.

Mr. Ben Morgan, attorney representing the applicant, was sworn in and stated that his client is seeking a minor change to the Conditional Use Permit that was issued in September, 2004. He wishes to move the building 60 feet east closer to the line, which he feels is a better site plan. The garage doors will be in different places; they are moved away from the residential side to the commercial side.

Mr. Morgan addressed the four standard tests as follows: (1) The use will not endanger the public health or safety. The garage doors will be closed when working on vehicles, and the business will be subject to the noise ordinance. (2) The use meets all required conditions and specifications of the Asheboro Zoning Ordinance. (3) The use will not substantially injure the value of adjoining or abutting property. The modification will be an improvement to the building that is there now, as the old building will be torn down. (4) The use is in harmony with the area and complies with the Land Development Plan.

Council asked if the contiguous property owners had been notified.

Mr. Nuttall was sworn in and stated that the owners of all of the tracts of land were notified instead of just the contiguous property owners.

Mr. Joe Shuping, applicant, was sworn in to answer any questions.

Ms. Elizabeth Ruffin affirmed and asked what the buffer would consist of.

Mr. Nuttall described the types of buffering required.

Mayor Jarrell asked if the applicant agreed to the conditions as stated by Mr. Neely. Mr. Morgan agreed to the conditions.

There being no further comments nor opposition, Mayor Jarrell closed the public hearing.

Upon motion by Mr. Crisco and seconded by Mr. Priest, council voted unanimously to approve the request with the conditions as stated by Mr. Neely, based on the four standard tests being met per testimony by Mr. Morgan.

The conditions will be further detailed in the city attorney's Findings of Facts, Conclusions of Law, and Order Granting the Conditional Use Permit Modification to be approved by council at its October meeting.

Mayor Jarrell opened the public hearing on the following request:

- (b) Rezone From R10 Medium Density Residential to B2 General Business (RZ-05-22):  
The property of Matthew and Lisa Salyer, located on the west side of Browers Chapel Road approximately 500 feet south of East Dixie Drive, totaling 2.1 acres and further identified by Randolph County Parcel ID Number 7760378608.

Mr. Neely described the aforementioned property and stated that the property is outside of but adjacent to the city limits. Water and sewer are in the area; connection would require annexation. Browers Chapel Road is a minor thoroughfare with a 60' right-of-way. Commercial uses exist to the north and east of the property, and residential uses are to the west and south. Approval of the request would permit all uses permitted by right in the B2 District. The B2 Commercial District is intended to provide convenience and shoppers' goods and services along major and minor thoroughfares. The LDP recommends keeping commercial uses north and east of this property and preserving residential uses from this property south. The same request was denied in 2001.

Mr. Ben Morgan, attorney representing the applicant, stated that he doesn't feel that the subject property will be bought for residential use. A B2 District is for convenience and retail, and the adjoining property is heavy commercial. His client does not want a Conditional Use Permit locked in.

Mr. Dave Forrest, a resident of Timberlane, stated that he wasn't against a business being built on said property. Mr. Forrest reported that when it rains, he and his neighbors get all of the storm water from higher ground. He asked that the storm water runoff be taken care of.

Mrs. Terry Johnson, a resident of 1111 Timberlane, stated that she and her family have had to reconstruct their house because of storm water runoff. She is concerned about standing water in a house posing a health problem. Mrs. Johnson stated that she had a letter signed by her neighbors who are opposed to the request. Mr. Johnson also addressed water problems.

Mr. Fred Baker, a resident of 1043 Mackie Avenue, stated that when the Golden Corral Restaurant was built he was told a 25' buffer would be installed. His house has been flooded by rain water.

Mr. Ben Johnson stated that if the subject property is developed as proposed, it may solve some of the water problems.

There being no further comments, Mayor Jarrell closed the public hearing.

The city council discussed that the state should be asked to fix the water problem, as Dixie Drive is a state-maintained road.

Upon motion by Mr. Crisco and seconded by Mr. Priest, council voted to deny the request. Mr. Baker voted against the motion.

Mayor Jarrell opened the public hearing on the following request:

- (c) Amend Asheboro Zoning Ordinance, Table 400-1, to Modify Parking Requirements for Motor Vehicle Repair Businesses (RZ-05-23):

Mr. Neely reported that Mr. Donald Clapp has requested the city to modify its parking requirements (Table 400-1) for motor vehicle repair (minor and major), from one space 300 sq. ft. of gross floor area, plus one per two employees, plus one per vehicle used directly in the conduct of such use to three spaces per bay/work area, plus two for each three employees on the largest shift. This request would change parking space requirements based on building floor area to a calculation based on the number of bays and employees.

Mr. Neely stated that based on staff research, other municipalities use the number of workstations, employees, and business vehicles for parking calculations more often than gross floor area. The staff recommends approving the request with the addition of "one space per vehicle used directly in the conduct of such use" to provide spaces for business vehicles.

Mr. Jerry King, who was representing Mr. Clapp, stated that they felt the ordinance was excessive in this situation since he only had three employees.

There being no further comments nor opposition, Mayor Jarrell closed the public hearing.

Upon motion by Mr. Baker and seconded by Mrs. Carter, council unanimously ordained to approve the modification to the Asheboro Zoning Ordinance as stated by Mr. Neely.

Mayor Jarrell opened the public hearing on the following request:

- (d) Technical Amendments/Airport Zoning, Curb Cuts, Temporary Signs (RZ-05-24): Amend airport zoning regulations (Articles 300 & 300A), the number of curb cuts permitted (Article 400), and temporary signage permitted (Article 500).

Mr. Neely reported that the city's infrastructure consultant, W. K. Dickson, recommended updating the ordinance's airport regulations. The amendments are reference corrections only. No functional changes are recommended. The zoning ordinance currently permits a maximum of two curb cuts per street frontage per property. Staff has determined this regulation is contrary to the state's driveway permit requirements for properties with a large amount of road frontage. The recommended amendment is to permit a third curb cut on one frontage for properties with at least 400 feet of road frontage on one frontage, as long as the

third drive is at least 100 linear feet from another curb cut on the property, per NCDOT standards. The amendment to Article 500 is to clarify requirements for temporary signage, specifically gas-filled and windblown devices.

The staff recommended approval of the proposed amendments, as they correct erroneous references, provide greater flexibility for property development, and more clearly define permitted temporary signage.

There being no further comments nor opposition, Mayor Jarrell closed the public hearing.

Upon motion by Mr. Smith and seconded by Mrs. Carter, council unanimously ordained to approve the proposed amendments to the airport zoning regulations as stated by Mr. Neely.

Mayor Jarrell opened the public hearing on the following request:

- (e) Rezone From I-1 Light Industrial and R15 Low Density Residential to CU-RA6 Conditional Use High Density Residential and Consider Permits for a Planned Unit Development Consisting of 26 Townhouse Lots (RZ/CUP/SUB-05-25): The property of E & C Investments located at the terminus of Springwood Road, consisting of 6.75 acres and further identified by Randolph County Parcel ID Numbers 7750423605 and 7750432053.

Mr. Neely was sworn in and presented the sketch design and elevation plan, which meet the requirements of the zoning ordinance. He described the aforementioned property and stated the property is located in the city limits and city services are available. The property is currently split-zoned I1 and R15 residential. The I1 Light Industrial district is intended to produce areas for manufacturing, processing, assembly, and commercial uses. The R15 district is intended to produce low intensity residential uses. This property is between medium density and low density residential zoning and light industrial zoning. Springwood Road is a local public street with a 50-foot right-of-way. Approval of the request would require a site specific development approval by the city council. The LDP recommends this property develop as a neighborhood residential area. An intermittent stream traverses the property.

The applicant has requested a CU-RA6 zoning to allow for a Planned Unit Development of 26 townhouses, and RA6 zoning and a Special Use Permit to allow attached townhouses using a cluster development concept. Easements on the property and site conditions make cluster development a practical alternative to traditional subdivision design.

Mr. Neely stated that one LDP Goal/Policy does not support the request, specifically 2.1, which states "The city will use the Growth Strategy and Land Development Plan as a policy guide when evaluating development proposals and determining appropriate zoning designations."

Mr. Neely reported the planning board recommended approval of the rezoning. The current industrial zoning on a portion of the property has the potential to negatively impact residents along Springwood Road should a use with heavy industrial traffic be proposed. Although the RA6 district is usually more appropriate for properties with access to minor or major thoroughfares, the conditional use zoning request will allow city council the opportunity to address compatibility issues such as development layout, density and traffic generation. Staff supports the elimination of industrial zoning on this property and supports the LDP's recommendation for residential development. The district and development, if properly designed, can serve as an appropriate transition for property abutting future Interstate I-73/74 and between single-family residential uses and industrial uses.

Mr. Ben Morgan, attorney representing the applicants, was sworn in and reviewed the sketch design for the proposed townhouses and described the current zoning classification. Mr. Morgan addressed the four standard tests as follows: (1) The use will not materially endanger the public health or safety, as the current zoning will allow 25 single-family or 19 duplexes on the property. (2) The use meets all required conditions and specifications of the Asheboro Zoning Ordinance, per testimony by Mr. Neely. (3) The use will not substantially injure the value of adjoining or abutting property. Mr. Morgan will introduce Mr. Jim Wright to address this test. (4) The use will be in harmony with the area.

There will be only one entrance and exit accessible to emergency vehicles and garbage trucks, which concerned council.

Mr. Neely stated that council could make a condition regarding the length of the cul-de-sac.

Mr. Heath Craven, applicant, was sworn in to answer any questions that council might have.

Mr. Jerry King was sworn in and stated that Springwood Road is 22 feet wide, and the cul-de-sac is 40 feet in diameter.

Mr. Jim Wright was sworn in and stated that he has been a real estate appraiser for over 20 years and feels that the proposed use will enhance the neighboring property value and that the rezoning will provide some level of protection for property owners.

Mr. Jon Megerian, attorney representing the residents who are against the request, was sworn in. Mr. Megerian stated that there are two requests—rezoning and a Conditional Use Permit. He addressed Policy 2.1, a goal which is not supported by the city's Land Development Plan. Mr. Megerian stated that the four standard tests are not met, especially the safety issues (Test No. 1). There are 26 houses on Springwood Road now. All cars will be spilling out onto Springwood, and the proposed use will double the traffic. There is a visibility problem now. Mr. Megerian showed photos of the road. Mr. Megerian stated that instead of the 26 townhouses requested, 15 units would be more desirable. Test No. 3 is not met, as he feels that more traffic and houses will harm property value. He did not agree with Mr. Wright's testimony that the proposed use would not harm the value of adjoining or abutting property. Test No. 4 is not met, as the proposed use is not in harmony with the area. All houses are currently single-family. Test No. 2 is not met, as the request does not meet the growth strategy in the city's Land Development Plan.

Mr. Megerian asked council to deny the request. Several residents opposed to the request were present.

Mr. Mike Willett, who owns the Mini-Mart near the subject property, was sworn in and stated that he is not opposed to the development but to the size of it because of safety issues.

Mr. Charles Allen, was sworn in and stated that Springwood Road is not wide enough for two large vehicles to travel through at the same time. He is concerned about the trucks going in and out during construction of the proposed development.

Mr. Ben Morgan responded to several of the statements made. He stated that the residents feel the road is already a problem and thinks that the new development might improve the road, as the neighbors may agree to widen the road.

Mayor Jarrell asked Mr. Neely to read the suggested conditions that the staff had prepared.

There being no further comments, Mayor Jarrell closed the public hearing and recessed the meeting for five minutes so that the attorneys could confer.

Mayor Jarrell called the meeting back to order.

Mr. Morgan asked council to defer action on this request until its next regular meeting in October.

Upon motion by Mr. Crisco and seconded by Mr. Smith, council voted unanimously to defer action until October.

Upon motion by Mr. Crisco and seconded by Mrs. Carter, council also voted to defer action on approval of the sketch design for the townhomes on Springwood Road.

**9. Subdivisions.**

(a) Preliminary Plat Approval Extension for Robin's Nest Subdivision (SUB-04-04)

Mr. Neely reported that Anchor Homes of the Triad, developer of the aforementioned subdivision, has requested a one-year extension of the preliminary plat.

Upon motion by Mrs. Carter and seconded by Mrs. Hunter, council voted unanimously to approve the one-year extension.

**10. Public Comment Period.**

There were no comments from the public.

**11. Public Hearing on Contiguous Annexation of 1.175 Acres Along the South Side of Sherwood Road (BSR, LLC).**

Mr. Bunker reported that notice of this public hearing was advertised as provided for by law.

Mayor Jarrell opened the public hearing on the contiguous annexation of 1.175 acres along the south side of Sherwood Road.

There being no comments nor opposition from the public, Mayor Jarrell closed the public hearing.

Mr. Bunker presented and recommended adoption, by reference, of an ordinance to extend the corporate limits.

Upon motion by Mr. McGlohon and seconded by Mrs. Carter, council voted unanimously to adopt the following ordinance by reference:

35 ORD 9-05

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEBORO, NORTH CAROLINA  
(1.175 Acres of Land Located Along the South Side of Sherwood Road)**

**WHEREAS**, the City Council of the City of Asheboro has been petitioned under Section 160A-58.1 of the North Carolina General Statutes to annex the area described below; and

**WHEREAS**, the City Council of the City of Asheboro has by resolution directed the City Clerk to investigate the sufficiency of the petition; and

**WHEREAS**, the City Clerk has certified the sufficiency of the petition, and a public hearing on the question of this annexation was held in the Council Chamber of the City of Asheboro Municipal Building, which is located at 146 North Church Street in Asheboro, North Carolina, at 7:00 o'clock p.m. on the 8<sup>th</sup> day of September, 2005, after due notice by publication was given on August 11, 2005 in *The Courier Tribune*, a newspaper having general circulation in the City of Asheboro; and

**WHEREAS**, the City Council of the City of Asheboro finds that the area described therein meets the standards of Section 160A-58.1(b) of the North Carolina General Statutes, to wit:

- a. The nearest point on the proposed satellite corporate limits is not more than three (3) miles from the corporate limits of the City of Asheboro;
- b. No point on the proposed satellite corporate limits is closer to another municipality than to the City of Asheboro;
- c. The area described is so situated that the City of Asheboro will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;
- d. Under the City Council's interpretation of the above-referenced statutorily prescribed standards, no subdivision, as defined in Section 160A-376 of the North Carolina General Statutes, will be fragmented by this proposed annexation;
- e. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, does not exceed ten percent (10%) of the area within the primary corporate limits of the City of Asheboro; and

**WHEREAS**, the City Council of the City of Asheboro further finds that the petition has been signed by all of the owners of real property in the area proposed for annexation that are required by law to sign; and

**WHEREAS**, the City Council of the City of Asheboro further finds that the petition is otherwise valid and that the public health, safety, and welfare of the City of Asheboro and the area proposed for annexation will be best served by annexing the area described below.

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

**Section 1.** By virtue of the authority granted by Section 160A-58.2 of the North Carolina General Statutes, the following described non-contiguous territory is hereby annexed and made part of the City of Asheboro, and is described as follows:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a right-of-way monument set at the intersection of the southern right-of-way line of Sherwood Road with the eastern right-of-way line of United States Highway 220 By Pass (I-73/74), said right-of-way monument is located South 16 degrees 44 minutes 40 seconds East 1394.37 feet from NCGS monument "Holiday" that is itself located by means of the North Carolina Coordinate System at the coordinates of North 705,574.5510 feet and East 1,753,586.990 feet (NAD 83); thence from said Beginning point along the eastern right-of-way line of United States Highway 220 By Pass the following courses and distances: South 16 degrees 04 minutes 31 seconds East 26.59 feet to a point not set; thence South 15 degrees 42 minutes 09 seconds East 50.47 feet to a point not set; thence South 15 degrees 41 minutes 29 seconds East 39.80 feet to a point not set; thence South 14 degrees 56 minutes 22 seconds East 50.27 feet to a point not set; thence South 12 degrees 07 minutes 44 seconds East 50.17 feet to a point not set; thence South 12 degrees 37 minutes 49 seconds East 88.14 feet to a point not set; thence South 10 degrees 23 minutes 38 seconds East 35.94 feet to a point not set; thence South 8 degrees 55 minutes 23 seconds East 64.82 feet to a point not set; thence South 9 degrees 42 minutes 42 seconds East 103.28 feet to a point not set; thence South 6 degrees 43 minutes 55 seconds East 55.80 feet to a new iron pin; thence North 82 degrees 38 minutes 44 seconds East 40.81 feet to a right-of-way monument; thence along the Roy Lee Pierce property described in Deed Book 1141, Page 634, Randolph County Public Registry North 2 degrees 43 minutes 36 seconds West 67.96 feet to an existing iron pipe; thence along the Alpha Solutions, LLC property described in Deed Book 1880, Page 632, Randolph County Public Registry North 2 degrees 38 minutes 36 seconds West 77.63 feet to an existing iron pipe; thence along the Mike T. Bennett property described in Deed Book 1159, Page 1664, Randolph County Public Registry North 2 degrees 47 minutes 14 seconds West 100.35 feet to an axle; thence along the Louis C. Gaines property described in Deed Book 1359, Page 214, Randolph County Public Registry North 2 degrees 38 minutes 20 seconds West 99.61 feet to an existing iron rod; thence along the Charles D. Johnson property described in Deed Book 1735, Page 425, Randolph County Public Registry North 2 degrees 44 minutes 28 seconds West 4.62 feet to a new iron rod; thence continuing along the previously referenced Charles D. Johnson property and the Charles G. Lewis property described in Deed Book 1180, Page 123, Randolph County Public Registry North 2 degrees 44 minutes 28 seconds West 195.38 feet to a new iron rod set in the southern right-of-way line of Sherwood Road; thence south 89 degrees 11 minutes 13 seconds East 16.03 feet along the southern right-of-way line of Sherwood Road to a point not set in the existing corporate limits line of the City of Asheboro; thence North 12 degrees 38 minutes 16 seconds West 61.69 feet along the existing corporate limits line of the City of Asheboro and across the 60-foot right-of-way for Sherwood Road to a point not set; thence North 89 degrees 11 minutes 13 seconds West 151.02 feet along the northern right-of-way line of Sherwood Road to a point not set in the eastern right-of-way line of United States Highway 220 By Pass; thence South 16 degrees 44 minutes 40 seconds East 62.93 feet across the 60-foot right-of-way for Sherwood Avenue to the point and place of BEGINNING, and containing 1.175 acres, more or less.

The above-listed description is in accordance with a plat of survey entitled "ANNEXATION MAP FOR CITY OF ASHEBORO." This plat of survey was drawn under the supervision of Jerry A. King, Professional Land Surveyor with Registration Number L-3373, from an actual survey made under his supervision. Said plat of survey is dated April 12, 2005 and is identified as Job No. 4297 B 10.

**Section 2.** 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. Said 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 Register of Deeds of Randolph County, and in the Office of the Secretary of State at Raleigh, North Carolina, 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 163-288.1 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 adoption.

Adopted in regular session on this the 8<sup>th</sup> day of September, 2005.

S/ David H. Jarrell  
David H. Jarrell,  
Mayor

ATTEST:

S/ Carol J. Cole  
Carol J. Cole, CMC  
City Clerk

Approved as to form:

S/ Jeffrey C. Sugg  
Jeffrey C. Sugg,  
City Attorney

**12. Public Hearing on Contiguous Annexation of 14.7471 Acres Along the South Side of NC Highway 49 South (Callicutt and Lambeth).**

Mr. Bunker reported that notice of this public hearing was advertised as provided for by law.

Mayor Jarrell opened the public hearing on the aforementioned contiguous annexation.

There being no comments nor opposition from the public, Mayor Jarrell closed the public hearing.

Mr. Bunker presented and recommended adoption, by reference, of an ordinance to extend the corporate limits.

Upon motion by Mr. Baker and seconded by Mrs. Carter, council voted unanimously to adopt the following ordinance by reference:

36 ORD 9-05

**ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF  
ASHEBORO, NORTH CAROLINA  
(14.7471 Acres of Land Along the South Side of North Carolina Highway 49 South)**

**WHEREAS**, pursuant to Section 160A-31 of the North Carolina General Statutes, a petition signed by the owners of all of the real property located within the area hereinafter described was heretofore presented to the City Council, by which petition a request was made that said area be annexed to the City of Asheboro; and

**WHEREAS**, the City Council has by resolution directed the City Clerk of the City of Asheboro to investigate the sufficiency of the petition, and the City Clerk has certified the sufficiency of said petition; and

**WHEREAS**, the City council did publish notice to the public on the 11<sup>th</sup> day of August, 2005 in *The Courier Tribune*, a newspaper having general circulation in the City of Asheboro, setting forth that a public hearing would be held at 7:00 o'clock p.m. on the 8<sup>th</sup> day of September, 2005 at the City of Asheboro Municipal Building to consider the adoption of an ordinance annexing said area to the City of Asheboro; and

**WHEREAS**, the said public hearing was in fact held on the 8<sup>th</sup> day of September, 2005; and

**WHEREAS**, the City Council has determined that the 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, North Carolina as follows:

**Section 1.** By virtue of the authority granted in the North Carolina General Statutes, Chapter 160A, Article 4A, Part 1, the following described area is hereby annexed and made part of the City of Asheboro, North Carolina:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a point marked by a nail at a bent iron that is set in the southern right-of-way line of North Carolina Highway 49 South, said nail at bent iron is located North 64 degrees 18 minutes 53 seconds East 982.14 feet from NCGS monument "Stout" that is itself located by means of the North Carolina Coordinate System at the coordinates of North 701,245.974 feet and East 1,743,790.193 feet (NAD 27); thence from said Beginning point North 56 degrees 14 minutes 30 seconds East 376.46 feet along the southern right-of-way line of North Carolina Highway 49 South to a point not set; thence across the 200-foot right-of-way for North Carolina Highway 49 South the following course and distance: North 2 degrees 55 minutes 10 seconds East 245.53 feet to a point not set in the northern right-of-way line of North Carolina Highway 49 South; thence along the northern right-of-way line of North Carolina Highway 49 South and the existing corporate limits line of the City of Asheboro the following courses and distances: North 56 degrees 02 minutes 17 seconds East 249.63 feet to a point not set; thence North 02 degrees 55 minutes 42 seconds East 7.70 feet to a point not set; thence North 56 degrees 47 minutes 01 second East 257.33 feet to a point not set; thence South 61 degrees 00 minutes 20 seconds East 226.70 feet across the 200-foot right-of-way for North Carolina Highway 49 South to a nail at a bent iron that is set in the southern right-of-way line of North Carolina Highway 49 South; thence along the Klaussner Furniture Industries, Inc. property described in Deed Book 1349, Page 1862, Randolph County Public Registry South 02 degrees 55 minutes 30 seconds West 980.53 feet to an existing iron pipe or pin; thence along the Klaussner Furniture Industries, Inc. property described in Deed Book 1599, Page 1050, Randolph County Public Registry the following course and distance: North 87 degrees 15 minutes 24 seconds West 623.77 feet to an existing iron pipe or pin; thence along the Charles and Patsy Reeder property described in Deed Book 1221, Page 1984, Randolph County Public Registry the following courses and distances: North 02 degrees 13 minutes 20 seconds East 189.75 feet to an axle; thence North 65 degrees 38 minutes 00 seconds West 308.22 feet to the point and place of BEGINNING, and containing 14.7471 acres, more or less.

The above-listed description is in accordance with a plat of survey entitled "Annexation Map For The City Of Asheboro." This plat of survey was drawn under the supervision of Steven D. Brown, Professional Land Surveyor with Registration Number L-1435, from an actual survey made under his supervision. Said plat of survey is dated October 15, 2004 with a revision date of April 22, 2005, and the job number for the plat of survey is 2004032 Annex.

**Section 2.** Upon and after September 8, 2005, 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. Said 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 Register of Deeds of Randolph County, and in the Office of the Secretary of State at Raleigh, North Carolina, 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 163-288.1 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 from the 8<sup>th</sup> day of September, 2005.

Adopted in regular session on this the 8<sup>th</sup> day of September, 2005.

S/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole  
Carol J. Cole, CMC, City Clerk

Approved as to form:

S/ Jeffrey C. Sugg  
Jeffrey C. Sugg, City Attorney

**13. Public Hearing on Contiguous Annexation of 1.28 Acres Located at 1314 Martin Luther King, Jr. Drive (Allene Woodle).**

Mr. Bunker reported that notice of this public hearing was advertised as provided for by law.

Mayor Jarrell opened the public hearing on the aforementioned contiguous annexation.

There being no comments nor opposition from the public, Mayor Jarrell closed the public hearing.

Mr. Bunker presented and recommended adoption, by reference, of an ordinance to extend the corporate limits.

Upon motion by Mr. Priest and seconded by Mrs. Carter, council voted unanimously to adopt the following ordinance by reference:

37 ORD 9-05

**ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF  
ASHEBORO, NORTH CAROLINA  
(1.28 Acres of Land Located at 1314 Martin Luther King, Jr. Drive)**

**WHEREAS**, pursuant to Section 160A-31 of the North Carolina General Statutes, a petition signed by the owners of all of the real property located within the area hereinafter described was heretofore presented to the City Council, by which petition a request was made that said area be annexed to the City of Asheboro; and

**WHEREAS**, the City Council has by resolution directed the City Clerk of the City of Asheboro to investigate the sufficiency of the petition, and the City Clerk has certified the sufficiency of said petition; and

**WHEREAS**, the City Council did publish notice to the public on the 11<sup>th</sup> day of August, 2005 in *The Courier Tribune*, a newspaper having general circulation in the City of Asheboro, setting forth that a public hearing would be held at 7:00 o'clock p.m. on the 8<sup>th</sup> day of September, 2005 at the City of Asheboro Municipal Building to consider the adoption of an ordinance annexing said area to the City of Asheboro; and

**WHEREAS**, the said public hearing was in fact held on the 8<sup>th</sup> day of September, 2005; and

**WHEREAS**, the City Council has determined that the 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, North Carolina as follows:

**Section 1.** By virtue of the authority granted in the North Carolina General Statutes, Chapter 160A, Article 4A, Part 1, the following described area is hereby annexed and made part of the City of Asheboro, North Carolina:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a point set on the existing corporate limits line of the City of Asheboro and marked by an existing iron stake, said point is located by means of the North Carolina Coordinate System at the coordinates of North 713,051.133 feet and East 1,764,489.841 feet (NAD 27) and is identified as point number 212 on the City of Asheboro Annexation Survey dated October 1970 that was prepared by Willard C. Lewis of Moore, Gardner & Associates, Inc.; thence from said Beginning point along the existing corporate limits line of the City of Asheboro the following course and distance: North 22 degrees 11 minutes 00 seconds West 29.15 feet to an existing iron pipe; thence along the Carolyn Woodle property described in Deed Book 983, Page 76, Randolph County Public Registry the following course and distance: North 03 degrees 45 minutes 00 seconds East 331.50 feet to an existing iron stake set in the southern right-of-way line of the 50-foot public right-of-way for Martin Luther King, Jr. Drive (North Carolina Secondary Road 2189); thence along the southern right-of-way line of Martin Luther King, Jr. Drive the following courses and distances: South 61 degrees 40 minutes 00 seconds East 87.81 feet to an existing iron stake; thence South 61 degrees 40 minutes 00 seconds East 115.80 feet to an existing iron pipe; thence South 07 degrees 01 minute 25 seconds West 270.07 feet along the Clarence Goodman property described in Deed Book 1338, Page 564, Randolph County Public Registry to an existing iron pipe; thence along the Larry Wright property described in estate file 96E / 725 in the office of the Randolph County Clerk of Superior Court the following courses and distances: North 87 degrees 29 minutes 00 seconds West 104.35 feet to an existing iron stake; thence North 87 degrees 29 minutes 00 seconds West 52.68 feet to the point and place of BEGINNING, and containing 55,826.944 square feet, more or less.

The above-listed description is in accordance with a plat of survey entitled "ANNEXATION PLAT FOR CITY OF ASHEBORO, JOEANN McLEAN COBLE SUBDIVISION, LOTS 1 & 2." This plat of survey was drawn under the supervision of William C. Burrow, Professional Land Surveyor with Registration Number L-2497, from an actual survey made under his supervision. Said plat of survey is dated February 24, 2005, and the project number for the plat of survey is 2744.

**Section 2.** Upon and after September 8, 2005, 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. Said 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 Register of Deeds of Randolph County, and in the Office of the Secretary of State at Raleigh, North Carolina, 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 163-288.1 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 from the 8<sup>th</sup> day of September, 2005.

Adopted in regular session on this the 8<sup>th</sup> day of September 2005.

S/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole  
Carol J. Cole, CMC, City Clerk

Approved as to form:

S/ Jeffrey C. Sugg  
Jeffrey C. Sugg, City Attorney

**14. Public Hearing on Request by Energizer Battery Manufacturing, Inc. to Close a Portion of Art Bryan Drive 50 Feet Long Located at the West End of Art Bryan Drive.**

Mr. Bunker reported that a resolution of the city's intent to close said portion of Art Bryan Drive was advertised as provided for by law, and this date was set for the public hearing.

Mayor Jarrell opened the public hearing on the city's intent to close a portion of Art Bryan Drive.

Mr. Danny Small, a representative from Energizer, stated that Energizer plans to install an automatic gate system, and they will sign a right-of-way agreement with the city.

There being no further comments nor opposition, Mayor Jarrell closed the public hearing.

Mr. Bunker presented and recommended adoption, by reference, of an Order to Close a Certain Portion of Art Bryan Drive.

Upon motion by Mr. McGlohon and seconded by Mrs. Carter, council voted unanimously to adopt the following Order by reference:

38 ORD 9-05

**STATE OF NORTH CAROLINA**

**COUNTY OF RANDOLPH**

**IN RE THE CLOSING OF A )  
CERTAIN PORTION OF ) ORDER  
ART BRYAN DRIVE )**

---

**WHEREAS**, pursuant to the provisions of Section 160A-299 of the North Carolina General Statutes, the City Council of the City of Asheboro adopted on the 14<sup>th</sup> day of July, 2005, at its regularly scheduled July meeting, a resolution (37 RES 7-05) declaring the intent of the City Council to permanently close a certain portion of Art Bryan Drive; and

**WHEREAS**, Resolution Number 37 RES 7-05 properly called for a public hearing to be held at 7:00 o'clock p.m. on the 8<sup>th</sup> day of September, 2005, in the Council Chamber of the City of Asheboro Municipal Building located at 146 North Church Street in Asheboro, on the question of whether or not such closing would be detrimental to the public interest or the property rights of any individual; and

**WHEREAS**, pursuant to Section 160A-299 of the North Carolina General Statutes, said resolution of intent was published in *The Courier Tribune*, a newspaper published in the City of Asheboro, Randolph County, North Carolina, once a week for four successive weeks (August 8, 15, 22, and

29, 2005) prior to the public hearing called on the question of the permanent closure of the portion of Art Bryan Drive described below; and

**WHEREAS**, a copy of said resolution of intent was sent by certified mail to all of the owners, as determined by reviewing the county tax records, of property adjoining Art Bryan Drive, said property owners are more particularly identified as follows:

1. Energizer Battery Mfg., Inc.
2. David A. & Harrison H. Presley
3. Richard W. & Patricia Walker
4. Neal H. & Susan W. Atkinson
5. James P. & Teresa Clark
6. James N. & Charlotte Robb
7. Jeffrey Schwarz
8. D & S of Michigan, LLC
9. Summitt Properties, LLC
10. Weeks Construction Company; and

**WHEREAS**, notice of both the City Council's intention to permanently close the above-described portion of Art Bryan Drive and the call for a public hearing on the question of closure of said street was prominently posted in two places along Art Bryan Drive; and

**WHEREAS**, after holding the public hearing called by the adopted resolution of intent to permanently close the portion of Art Bryan Drive described below, it appears to the satisfaction of the City Council of the City of Asheboro that the permanent closure of said portion of Art Bryan Drive is not contrary to the public interest and that no individual owning property in the vicinity of the said portion of Art Bryan Drive would thereby be deprived of reasonable means of ingress and egress to his property.

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

**Section 1.** The portion of Art Bryan Drive described below by means of a metes and bounds description is hereby permanently closed. Said permanently closed portion of Art Bryan Drive is located within the corporate limits of the City of Asheboro and is more particularly described as follows:

Randleman Township, Randolph County, North Carolina:

BEGINNING at a new iron rod that is set in the northern right-of-way line of the 60-foot right-of-way for Art Bryan Drive, this new iron rod can be tied to the centerline of the intersection of Art Bryan Drive and North Fayetteville Street (United States Highway 220 Business) by means of the following courses and distances: South 00 degrees 37 minutes 37 seconds East 29.97 feet to a point in the centerline of Art Bryan Drive; thence along the centerline of Art Bryan Drive the following courses and distances: North 88 degrees 24 minutes 31 seconds East 175.06 feet to a point not set; thence North 88 degrees 23 minutes 19 seconds East 2018.12 feet to the centerline of the intersection of Art Bryan Drive and North Fayetteville Street; thence from the said Beginning point that is set in the northern right-of-way line of the existing 60-foot right-of-way for Art Bryan Drive South 88 degrees 25 minutes 04 seconds West 50.01 feet along the said right-of-way line to an existing iron pipe; thence South 00 degrees 37 minutes 37 seconds East 59.91 feet across the right-of-way for Art Bryan Drive to an existing iron pipe set in the southern right-of-way line for Art Bryan Drive; thence along the southern right-of-way line for Art Bryan Drive the following course and distance: North 88 degrees 25 minutes 30 seconds East 50.01 feet to a new iron rod; thence across the right-of-way for Art Bryan Drive the following course and distance: North 00 degrees 37 minutes 37 seconds West 59.92 feet to the point and place of the BEGINNING, and being all of that certain 2,996 square feet of land, more or less, encompassed by the preceding metes and bounds description.

Also included is the right-of-way for the above-described portion of Art Bryan Drive, the said portion of right-of-way to be permanently closed is shown on the plat of survey referenced below.

This description is in accordance with a plat of survey entitled "PROPOSED STREET CLOSURE OF A PORTION OF ART BRYAN DRIVE" that was drawn under the supervision of Jerry A. King, a professional land surveyor with registration number L-3373. The said plat of survey is dated June 2, 2005, and is hereby incorporated into this resolution by reference as if copied fully herein.

**Section 2.** The City of Asheboro, pursuant to the provisions of Section 160A-299 of the North Carolina General Statutes, hereby reserves its perpetual right, title, and interest in and to the water line shown on the above-referenced plat of survey. This express reservation of a perpetual right, title, and interest in the said water line includes, without limitation, an express reservation of a perpetual right, title, and interest in an easement for the said water line. The easement referenced in the immediately preceding sentence shall be twenty (20) feet in width (10 feet on each side of the water line) and shall be utilized for the operation and maintenance of said water line. Furthermore, this reservation by the City of Asheboro of its right, title, and interest in the existing utility improvement expressly includes, without limitation, the city's perpetual right and privilege of going in, upon, and over the area within the water line easement at any time or times, and from time to time, at the city's option, for the purpose of constructing, inspecting, operating, repairing, and maintaining a water line, including such alterations, replacements, and expansions of capacity as may, in the city's sole judgment, be necessary or proper as a part of the Municipal Water System of the City of Asheboro, North Carolina.

**Section 3.** This ordinance and order shall become effective upon adoption.

**Section 4.** Any person aggrieved by the permanent closure of the above-described portion of Art Bryan Drive may appeal the adoption of this ordinance and order to the General Court of Justice of Randolph County, North Carolina within thirty (30) days after the adoption of said ordinance and order.

**Section 5.** In the event there is no appeal within thirty (30) days after the adoption of this ordinance and order, a certified copy of said ordinance and order shall be filed in the Office of the Register of Deeds of Randolph County, North Carolina as provided by law.

Adopted in regular session on this the 8<sup>th</sup> day of September, 2005.

S/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole  
Carol J. Cole, CMC, City Clerk

**15. Resolution Accepting the Lowest Responsible Bid Submitted by Cooper Electrical Construction Company, Inc. for Installing Power Generators at the W. L. Brown, Jr. Water Treatment Plant and at the Lake Lucas Raw Water Pump Station.**

Mr. Bunker presented and recommended adoption of the aforementioned resolution.

Upon motion by Mr. Priest and seconded by Mrs. Carter, council voted unanimously to adopt the following resolution:

53 RES 9-05

**TENTATIVE AWARD RESOLUTION**

WHEREAS, the City of Asheboro publicly advertised for bids to be received for the W. L. Brown, Jr. Water Treatment Plant and Lake Lucas Raw Water Pumping Station Generators on August 30, 2005; and

WHEREAS, the City of Asheboro has accepted a loan from the North Carolina State Revolving Loan Fund (SRF) in the amount of \$5,331,881 for water supply projects that include the referenced generators; and

WHEREAS, the City of Asheboro publicly opened bids on August 30, 2005; and

WHEREAS, Cooper Electrical Construction Co., Inc. submitted the low responsive, responsible lump sum price for the project of \$1,225,000 (excluding the 10-year service contract).

NOW, THEREFORE, BE IT RESOLVED, the City of Asheboro tentatively awards (subject to review by the North Carolina Public Water Supply Section) the project in accordance with the Engineer's recommendation to Cooper Electrical Construction Co., Inc. in the amount of \$1,225,000.

This resolution was adopted by the City of Asheboro on September 8, 2005 at a regularly scheduled Council Meeting in Asheboro, North Carolina.

S/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole  
Carol J. Cole, CMC, City Clerk

**16. Resolution Approving the Class Allocation Under the City of Asheboro Position Classification Plan of Certain Positions Within the Parks and Recreation Department.**

Human Resources Director Myers Johnson presented and reviewed the aforementioned resolution. He recommended that said resolution be adopted by reference.

Upon motion by Mrs. Carter and seconded by Mr. Crisco, council voted unanimously to adopt the following resolution by reference:

54 RES 9-05

**RESOLUTION APPROVING THE CLASS ALLOCATION OF CERTAIN  
POSITIONS WITHIN THE PARKS AND RECREATION  
DEPARTMENT UNDER THE CITY OF ASHEBORO  
POSITION CLASSIFICATION PLAN**

**WHEREAS**, the City of Asheboro Personnel Policies and Procedures Manual, which was promulgated by the City Manager and approved by resolution of the City Council of the City of Asheboro on March 4, 2004, provides in Section 1 of Article II of the said manual that a position classification plan shall be prepared by the City Manager and adopted by the City Council; and

**WHEREAS**, such a position classification plan has been duly adopted by the City Council; and

**WHEREAS**, under the adopted position classification plan and within the Parks and Recreation Department, the classification of Assistant Parks and Recreation Director has been established with a pay grade of 20 under the city's pay plan, Director of Sports Programs has been established with a pay grade of 17 under the city's pay plan, Athletic Coordinator has been established with a pay grade of 14, Program Coordinator has been established with a pay grade of 14, and the Recreation Program Assistant has been established with a pay grade of 13; and

**WHEREAS**, Section 10 of Article II of the City of Asheboro Personnel Policies and Procedures Manual provides, in pertinent part, as follows:

When a new position is established or the duties of an existing position change, the department head shall submit in writing a comprehensive job description describing in detail the duties of such a position. The city manager shall investigate the actual or suggested duties and recommend the appropriate class allocation or the establishment of a new class to the City Council for approval; and

**WHEREAS**, the Parks and Recreation Director has made the determination that the duties and corresponding job descriptions of the Assistant Parks and Recreation Director, Director of Sports Programs, Athletic Coordinator, Program Coordinator, and Recreation Program Assistant should be changed in order to enhance the operations of the parks and recreation department; and

**WHEREAS**, the Parks and Recreation Director has prepared and submitted to the Director of Human Resources and the City Manager comprehensive job descriptions for the positions of Assistant Parks and Recreation Director, Program Coordinator – Athletics (replacing the position of Director of Sports Programs), Program Coordinator – General (replacing the position of Athletic Coordinator), Program Coordinator – Aquatics (replacing the position of Program Coordinator), and Recreation Program Assistant; and

**WHEREAS**, these new job descriptions are attached to this resolution as Exhibit 1 and are hereby incorporated into this resolution by reference as if copied fully herein; and

**WHEREAS**, the Director of Human Resources and the City Manager have approved the job descriptions submitted by the Parks and Recreation Director with an effective date of October 1, 2005; and

**WHEREAS**, upon the recommendation of the Director of Human Resources, the City Manager has determined that, effective October 1, 2005 and in light of the duties prescribed by the attached job descriptions, the Assistant Parks and Recreation Director should be established at a pay grade of 20, the Program Coordinator – Athletics should be established with a pay grade of 14, Program Coordinator – General should be established with a pay grade of 14, Program Coordinator – Aquatics should be established with a pay grade of 14, and Recreation Program Assistant should be established with a pay grade of 10.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the job descriptions attached hereto as Exhibit 1 are hereby approved with an effective date of October 1, 2005; and

**BE IT FURTHER RESOLVED** that the pay grade recommendations made by the City Manager for each of the positions listed in Exhibit 1 are hereby adopted and approved without modification, specifically including the City Manager's recommendation of utilizing an effective date of October 1, 2005.

Adopted by the Asheboro City Council in regular session on this the 8<sup>th</sup> day of September, 2005.

S/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole  
Carol J. Cole, CMC, City Clerk

(Exhibit 1, as referred to above, is attached to the original resolution on file in the city clerk's office.)

**17. Resolution Exempting the Skate Park Project From the Provisions of Article 3D of Chapter 143 of the North Carolina General Statutes.**

Parks & Recreation Director Foster Hughes presented and recommended adoption of the aforementioned resolution.

Upon motion by Mr. Baker and seconded by Mrs. Carter, council voted unanimously to adopt the following resolution:

55 RES 9-05

**RESOLUTION EXEMPTING THE SKATE PARK PROJECT FROM THE PROVISIONS OF ARTICLE 3D OF CHAPTER 143 OF THE NORTH CAROLINA GENERAL STATUTES**

**WHEREAS**, Section 143-64.31 of Chapter 143, Article 3D of the North Carolina General Statutes provides in pertinent part as follows:

It is the public policy of this State and all public subdivisions and Local Governmental Units thereof . . . to announce all requirements for architectural . . . services, to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm; and

**WHEREAS**, Section 143-64.32 of the North Carolina General Statutes provides in pertinent part as follows:

Units of local government . . . may in writing exempt particular projects from the provisions of this Article (Article 3D) in the case of:

- (a) Proposed projects where an estimated professional fee is in an amount less than thirty thousand dollars (\$30,000), or
- (b) Other particular projects exempted in the sole discretion of . . . the unit of local government, stating the reasons therefore and the circumstances attendant thereto; and

**WHEREAS**, the City of Asheboro desires to utilize the recently acquired real property, which is located on South Church Street across from Memorial Park and was most recently occupied by the North Carolina National Guard, as a skate park facility; and

**WHEREAS**, on the basis of the qualifications of Architect Steve Cofer, his local proximity, and his demonstrated suitability for this particular project, the city's professional staff has selected Architect S.W. Cofer, PLLC to provide the architectural services needed to successfully complete the skate park project; and

**WHEREAS**, the professional fee for architectural services rendered for the Parks and Recreation Office Project is estimated to be approximately twenty-nine thousand dollars (\$29,000.00).

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the aforementioned skate park project is hereby exempted on the basis of the above-cited factors from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes.

Adopted by the Asheboro City Council in regular session on this the 8<sup>th</sup> day of September, 2005.

S/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole  
Carol J. Cole, CMC, City Clerk

**18. Ordinance Amending Section 130.01 of the Code of Asheboro.**

City Attorney Jeff Sugg reported that Bicentennial Park is not listed in the parks and recreation areas that have an 11:00 PM curfew. He presented and recommended adoption of an ordinance amending the City Code to include Bicentennial Park.

Upon motion by Mr. McGlohon and seconded by Mrs. Carter, council voted unanimously to adopt the following ordinance by reference:

39 ORD 9-05

**AN ORDINANCE AMENDING SECTION 130.01 OF THE CODE OF ASHEBORO**

**WHEREAS**, Section 130.01 of the Code of Asheboro provides as follows:

- (A) A curfew of 11:00 p.m. is established in each of the following parks and recreation areas:
  - (1) Asheboro Memorial Park, including Nance Little League Field and Thomas Tennis Center.
  - (2) North Asheboro City Park.
  - (3) Frazier Park.
  - (4) Westwood Park.
  - (5) Hammer Memorial Park.

- (6) Mini-park at Cross and Brewer Streets
- (7) Athletic field at Brewer, Tucker and Watkins Streets.
- (8) Park on South park Street.
- (9) Kiwanis Park off Meadowbrook Road.
- (10) City ball fields on Farr Street.
- (11) McCrary Ball Field.
- (12) Pugh Little League Field on Country Club Drive.
- (13) Smith Ball Field off Balfour Avenue.
- (14) Central Falls Park off Old Liberty Road.

(B) Anyone found guilty of violating the curfew shall be guilty of a misdemeanor punishable under the General Statutes of the State of North Carolina.

**WHEREAS**, Bicentennial Park was omitted from the above-listed enumeration of the park facilities operated by the Asheboro Parks and Recreation Department; and

**WHEREAS**, the City Council of the City of Asheboro has determined that Bicentennial Park should be subject to the same curfew established for other parks.

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

**Section 1.** Section 130.01 of the Code of Asheboro is hereby amended to provide as follows:

(A) A curfew of 11:00 p.m. is established in each of the following parks and recreation areas:

(1) Asheboro Memorial Park, including Nance Little League Field and Thomas Tennis Center.

(2) North Asheboro City Park.

(3) Frazier Park.

(4) Westwood Park.

(5) Hammer Memorial Park.

(6) Mini-park at Cross and Brewer Streets

(7) Athletic field at Brewer, Tucker and Watkins Streets.

(8) Park on South park Street.

(9) Kiwanis Park off Meadowbrook Road.

(10) City ball fields on Farr Street.

(11) McCrary Ball Field.

(12) Pugh Little League Field on Country Club Drive.

(13) Smith Ball Field off Balfour Avenue.

(14) Central Falls Park off Old Liberty Road.

(15) Bicentennial Park; provided, however, no person shall be deemed guilty of violating the curfew if such a person is present in Bicentennial Park within thirty (30) minutes of the official conclusion of an event conducted in the park with the approval of the Asheboro Parks and Recreation Department.

(B) Anyone found guilty of violating the curfew shall be guilty of a misdemeanor punishable under the General Statutes of the State of North Carolina.

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

**Section 3.** This ordinance shall become effective upon adoption.

Adopted in regular session on this the 8<sup>th</sup> day of September, 2005.

S/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole  
Carol J. Cole, CMC, City Clerk

**19. Ordinance Amending Section 70.53 of the Code of Asheboro.**

Mr. Sugg presented and recommended adoption of the aforementioned ordinance, which restricts the use of play vehicles in Bicentennial Park.

Upon motion by Mr. Priest and seconded by Mrs. Hunter, council voted unanimously to adopt the following ordinance by reference:

40 ORD 9-05

**AN ORDINANCE AMENDING SECTION 70.53 OF THE CODE OF ASHEBORO**

**WHEREAS**, Section 70.53 of the Code of Asheboro provides as follows:

**USE OF PLAY VEHICLES RESTRICTED.**

(A) It shall be unlawful for any person riding on a skateboard, roller skates, coaster, toy vehicle or similar device to ride any of such devices on the premises of the municipal buildings, on any municipal parking facility, or to ride any such devices on any sidewalk or street located in the central business district of the city, as designated on the City Zoning Map as a B-3 District.

(B) It shall be unlawful for any person riding on a skateboard, roller skate or any other toy vehicle to ride on a roadway except while crossing a street at a crosswalk or intersection; provided, that this section shall not apply upon streets set aside as play streets.

(C) It shall be unlawful for any person to ride on a skateboard, roller skates, or any other toy vehicle on private property when signs are placed, erected, or installed giving notice that skateboarding, roller skating or riding any other toy vehicle is regulated, prohibited, or prohibited during certain hours, in that space or area; and

**WHEREAS**, the riding of skateboards, roller skates, coasters, toy vehicles, and similar devices has the potential to damage the stage and the associated facilities at Bicentennial Park.

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

**Section 1.** Section 70.53 of the Code of Asheboro is hereby amended to provide as follows:

**USE OF PLAY VEHICLES RESTRICTED.**

(A) It shall be unlawful for any person riding on a skateboard, roller skates, coaster, toy vehicle or similar device to ride any of such devices on the premises of the municipal buildings, on any of the facilities or structures located in Bicentennial Park, on any municipal parking facility, or to ride any such devices on any sidewalk or street located in the central business district of the city, as designated on the City Zoning Map as a B-3 District.

(B) It shall be unlawful for any person riding on a skateboard, roller skate or any other toy vehicle to ride on a roadway except while crossing a street at a crosswalk or intersection; provided, that this section shall not apply upon streets set aside as play streets.

(C) It shall be unlawful for any person to ride on a skateboard, roller skates, or any other toy vehicle on private property when signs are placed, erected, or installed giving notice that skateboarding, roller skating or riding any other toy vehicle is regulated, prohibited, or prohibited during certain hours, in that space or area.

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

**Section 3.** This ordinance shall become effective upon adoption.

Adopted in regular session on this the 8<sup>th</sup> day of September, 2005.

S/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole  
Carol J. Cole, CMC, City Clerk

**20. Resolution Authorizing the Transfer of Title of Certain Fire Prevention and Education Equipment to FIRE SAFETY FOR KIDS, INC.**

Mr. Ogburn requested that this item be deferred until the next regular meeting.

Upon motion by Mr. McGlohon and seconded by Mrs. Carter, council voted unanimously to defer said resolution until the next regular council meeting.

**21. Authorization to Transfer Surplus Police Radios to the City of Randleman.**

Police Chief Gary Mason reported that the police department has four police radios that are currently in need of repair. The City of Randleman has offered to purchase these radios. In lieu of money, Randleman pledges to repair said radios and utilize them within the Randleman Police Department and provide public law enforcement services to the citizens of Randleman and to cooperate with other law enforcement agencies for mutual aid agreement.

Upon motion by Mr. Smith and seconded by Mr. Baker, council voted unanimously to authorize the transfer of said police radios to the City of Randleman.

**22. Quote From Arrington Police Distributors, Inc. to Supply the Asheboro Police Department With 65 New Glock, 40 Caliber Pistols for the Purchase Price of \$17,184.70, Less Trade-in of 65 Used Beretta, 40 Caliber Pistols.**

Police Chief Mason recommended that the aforementioned quote of \$17,184.70 from Arrington Police Distributors, Inc. for 65 Glock, 40 caliber pistols be accepted.

Upon motion by Mr. Smith and seconded by Mr. Crisco, council voted unanimously to accept the quote as recommended by Chief Mason.

**23. Ordinance Amending Section 70.60 of the Code of Asheboro.**

Mr. Sugg presented and reviewed the aforementioned ordinance and recommended its adoption by reference.

Upon motion by Mr. McGlohon and seconded by Mrs. Carter, council voted unanimously to adopt the following ordinance by reference:

**AN ORDINANCE AMENDING SECTION 70.60 OF THE CODE OF ASHEBORO**

**WHEREAS**, Section 20-175(d) of the North Carolina General Statutes provides as follows:

Local governments may enact ordinances restricting or prohibiting a person from standing on any street, highway, or right-of-way excluding sidewalks while soliciting, or attempting to solicit, any employment, business, or contributions from the driver or occupants of any vehicle. This subsection does not permit additional restrictions or prohibitions on the activities of licensees, employees, or contractors of the Department of Transportation or of any municipality engaged in construction or maintenance or in making traffic or engineering surveys; and

**WHEREAS**, Section 70.60 of the Code of Asheboro provides as follows:

**PROHIBITION OF THE SOLICITATION OF CONTRIBUTIONS, EMPLOYMENT,  
AND BUSINESS UPON HIGHWAYS OR STREETS.**

(A) No pedestrian shall stand or loiter in any street or highway, including the shoulders and median of such street or highway, or stop any motor vehicle traveling in any street or highway for the purpose of soliciting contributions, employment, or business from any driver or occupant of any motor vehicle in the corporate limits of the city.

(B) The provisions of this section are not applicable to employees or contractors of the State of North Carolina or any of its political subdivisions engaged in construction or maintenance or in making traffic or engineering surveys. Furthermore, the provisions of this section are not applicable to employees or contractors of the State of North Carolina or any of its political subdivisions that are performing a public safety related function.

(C) If any person shall violate this section, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$500 in accordance with G.S. § 14-4.

(D) Severability is intended throughout and within the provisions of this section. If any sentence, clause, or phrase of this section is held invalid or unconstitutional by a court of competent jurisdiction, then such judgment shall in no way affect or impair the validity of the remaining portions of this section.

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

**Section 1.** Section 70.60 of the Code of Asheboro is hereby amended to provide as follows:

**PROHIBITION OF THE SOLICITATION OF CONTRIBUTIONS, EMPLOYMENT,  
AND BUSINESS UPON HIGHWAYS OR STREETS.**

(A) ~~No pedestrian person shall stand or loiter in on any street, or highway, or right-of-way excluding sidewalks including the shoulders and median of such street, or highway, or stop any motor vehicle traveling in any street or highway for the purpose of while soliciting, or attempting to solicit, contributions, any employment, or business, or contributions from any the driver or occupants of any motor vehicle. in the corporate limits of the city.~~

(B) The provisions of this section are not applicable to licensees, employees, or contractors of the State of North Carolina or any of its political subdivisions engaged in construction or maintenance or in making traffic or engineering surveys. Furthermore, the provisions of this section are not applicable to employees or contractors of the State of North Carolina or any of its political subdivisions that are performing a public safety related function.

(C) If any person shall violate this section, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$500 in accordance with G.S. § 14-4.

(D) Severability is intended throughout and within the provisions of this section. If any sentence, clause, or phrase of this section is held to be invalid or unconstitutional by a court of competent jurisdiction, then such judgment shall in no way affect or impair the validity of the remaining portions of this section.

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

**Section 3.** This ordinance shall become effective upon adoption.

Adopted in regular session on this the 8<sup>th</sup> day of September, 2005.

S/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole  
Carol J. Cole, CMC, City Clerk

**24. Special Council Meeting on September 22, 2005.**

Mr. Ogburn recommended that a special council meeting be called for September 22, 2005, at 6:30 PM, for the purpose of conducting a joint public hearing with the Randolph County Commissioners on the question of formally supporting and expending public funds for an economic development project impacting an existing industrial facility in Asheboro.

Upon motion by Mrs. Carter and seconded by Mr. Priest, council voted unanimously to accept Mr. Ogburn's recommendation.

**25. Upcoming Events.**

Mayor Jarrell announced the following upcoming events:

- Watermelon seed spitting contest, Saturday, September 10<sup>th</sup>, 9:00 AM, at the site of the Farmers' Fair on Salisbury Street (city council and county commissioners).
- Strategic Planning meeting, Tuesday, September 13<sup>th</sup>, 7:00 PM at The Exchange.
- Asheboro City Council Candidates Forum, Tuesday, October 4<sup>th</sup>, 11:30 AM at The Exchange.
- North Carolina League of Municipalities Annual Conference, October 16, 17, & 18 in Hickory,

**26. Public Works and Finance & Public Safety Matters.**

No official meetings were held.

There being no further business, the meeting was adjourned at 11:00 PM.

\_\_\_\_\_  
Carol J. Cole, CMC, City Clerk

\_\_\_\_\_  
David H. Jarrell, Mayor







