

**REGULAR MEETING
ASHEBORO CITY COUNCIL
THURSDAY, JANUARY 5, 2006
7:00 P.M.**

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

David H. Jarrell) – Mayor Presiding

Talmadge Baker)
Linda Carter)
Keith Crisco)
Nancy Hunter) – Council Members Present
Archie Priest)
David Smith)
Walker Moffitt)

John N. Ogburn, III, City Manager
Dumont Bunker, P.E., City Engineer
Clarkston Cox, Police Officer
Travis Curry, Police Officer
John Evans, Code Enforcement Officer
Holly J. Hartman, Legal Assistant/Deputy City Clerk
Wendell Holland, Zoning Administrator
Deborah P. Juberg, Finance Director
Gary Mason, Police Chief
Trevor Nuttall, Planner
Taylor Stout, Police Officer
Jeffrey C. Sugg, City Attorney
Maxine Wright, Police Lieutenant

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. Randolph Baptist Associational Missionary, Reverend Frank White, gave the invocation.

2. Oath of Office for Council Member Archie B. Priest, Sr.

Archie B. Priest, Sr. was sworn in as a member of the City Council for the City of Asheboro.

OATH OF COUNCILMEMBER

STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH
CITY OF ASHEBORO

I, Archie B. Priest, Sr., do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully perform the duties of the office of Councilmember of the City of Asheboro, on which I am about to enter, according to my best skill and ability; so help me, God.

s/ Archie B. Priest, Sr.
Archie B. Priest, Sr.

Sworn to and subscribed before me this 5th day of January, 2006.

s/ Holly J. Hartman
Holly J. Hartman
Notary Public

My commission expires: 8-15-2009

3. Appearance and recognition of guests and citizens.

Mayor Jarrell welcomed everyone in attendance.

4. Presentation of distinguished service awards by the Asheboro Police Department.

Police Chief, Gary Mason presented "Professional Esteem" Awards to Officer Travis Curry and Officer Taylor Stout for their courageous acts in rescuing a distraught individual who was planning to jump off a bridge over U.S. Highway 220 Bypass into traffic below on the morning of Sunday, October 9, 2005.

On behalf of the Piedmont Triad Chapter of MADD (Mothers Against Drunk Driving), Chief Mason presented a plaque to Officer Clarkston Cox for his efforts in getting drunk drivers off of city streets. Officer Cox arrested approximately thirty-six (36) drunk drivers during the year 2004.

5. Presentation of annual report of Randolph County Economic Development.

Ms. Bonnie Renfro, President of Randolph County Economic Development Corporation, and Mr. Harry Lane, Business and Industry Coordinator, presented the corporation's Annual Report for 2005 highlighting Randolph County's busy and successful year in growth from both new and expanding companies.

6. Resolution authorizing the amendment of a proposed economic development incentives contract between the City, the County of Randolph, and StarPet, Inc.

Mr. Ogburn, in conjunction with Ms. Bonnie Renfro, presented the above-referenced resolution and recommended adoption, by reference, of the aforementioned resolution.

Upon motion by Mr. Smith and seconded by Ms. Carter, Council voted unanimously to adopt the following resolution by reference.

01 RES 1-06

RESOLUTION AUTHORIZING THE CITY OF ASHEBORO TO ENTER INTO A MODIFIED VERSION OF A PREVIOUSLY APPROVED ECONOMIC DEVELOPMENT INCENTIVES CONTRACT

WHEREAS, pursuant to Section 158-7.1 of the North Carolina General Statutes, the City Council of the City of Asheboro adopted a resolution (Resolution Number 57 RES 9-05) on September 22, 2005 authorizing the City of Asheboro (hereinafter referred to as the "City") to enter into an economic development incentives contract with the County of Randolph (hereinafter referred to as the "County"), and StarPet, Incorporated (hereinafter referred to as the "Company") whereby the County and the City each would contribute, upon the satisfaction by the Company of certain performance requirements, a maximum of two hundred fifty thousand dollars (\$250,000.00) for a total combined payment of five hundred thousand dollars (\$500,000.00) to the Company to offset the rail track construction costs of the expansion of the Company's existing facilities in the City of Asheboro, Randolph County, North Carolina; and

WHEREAS, the original projection was that, upon the completion of the Company's expansion project, new value/investment in real and personal property associated with the project would equal or exceed forty-four million dollars (\$44,000,000.00) and a minimum of forty (40) new jobs would be created in the City and County; and

WHEREAS, Resolution Number 57 RES 9-05 originally provided that, in addition to the City's standard contract terms, the proposed economic development incentives contract by and between the City, the County, and the Company must contain the following essential terms and conditions:

- a. The total payment made to the "Company" under this contract shall not exceed five hundred thousand dollars (\$500,000.00).
- b. Fifty-percent of the contract amount is to be paid by the City, and the other fifty-percent of the contract amount is to be paid by the County.
- c. The contract amount is to be paid in two (2) installments at a frequency not to exceed one installment per fiscal year (July 1-June 30) and shall be tied to the completion by the Company of certain performance requirements, including but not limited to, the following:
 - i. The Company must properly obtain from the City a Certificate of Occupancy or letter/certificate of compliance, as appropriate, certifying that the 60,000 square foot expansion may be occupied or used for Factory-Industrial Occupancy in accordance with the provisions of zoning, building, and other applicable ordinances and laws of the City of Asheboro and the State of North Carolina, and the Company must deliver to the City and County a written certification that the actual new value/investment in real and personal property of the project equals or exceeds the sum of forty-four million dollars (\$44,000,000.00); and

- ii. The Company must deliver to the City and the County Employment Security Reports evidencing the creation of forty (40) new full-time jobs with certification of an average weekly wage equal to or exceeding seven hundred seventy-five dollars (\$775.00) per week.
- d. The contract must provide the City and the County with a means of recouping a portion of the contract amount if the Company's facility, as expanded, does not remain in full operation, maintaining the newly created jobs referenced above, for a period of two (2) years immediately following the date on which the final installment of the contract amount is paid to the Company.
- e. If the Company does not remain in full operation during this two (2) year period, a portion of the incentive money must be returned. The amount to be returned shall decrease on a pro-rated amount for each year that the company remains in the City and County. Any amounts returned by the company in this manner shall be divided equally between the City and the County; and

WHEREAS, subsequent to the adoption of Resolution Number 57 RES 9-05, the Company's officials agreed, with one exception, to enter into in a proposed contract that contained all of the above-listed essential terms and conditions; and

WHEREAS, with regard to the exception referenced in the immediately preceding paragraph, the Company is seeking to lessen the proposed job creation requirements by allowing the second installment of the incentive payments from the City and the County to be paid even if this project does not generate forty (40) new full-time jobs so long as no less than thirty-six (36) new full-time jobs are in fact generated by the project and so long as the amount of each payment to be made by the City and County as a second installment is reduced by an amount that reflects the difference between the actual number of jobs created and the goal of forty (40) new jobs; and

WHEREAS, the Company has requested that any such reduction in the payment amount due from the City and County be calculated at a rate of three thousand one hundred twenty-five dollars (\$3,125.00) per each unrealized new full-time job; and

WHEREAS, the City Council of the City of Asheboro has concluded that, even with the Company's proposed modification of the job creation requirements, the proposed economic development project will stimulate and stabilize the local economy, promote business in the City and County, and result in the creation of a significant number of new jobs in the City and County.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the Mayor and City Clerk are hereby authorized and directed to execute on behalf of the City a modified version of the previously approved economic development incentives contract with the County and the Company that requires a minimum of thirty-six (36) new full-time jobs with an average weekly wage equal to or exceeding seven hundred seventy-five dollars (\$775.00) to be created by the project and so long as the absence of the creation of forty (40) new full-time jobs with an average weekly wage equal to or exceeding seven hundred seventy-five dollars (\$775.00) is reconciled with the information previously presented to the City Council by reducing the amount of the final payment at a rate of three thousand one hundred twenty-five dollars (\$3,125.00) per unrealized new full-time job.

BE IT FURTHER RESOLVED that, in every other respect, the proposed economic development incentives contract between the City, the County, and the Company must strictly comply with the terms and conditions of Resolution Number 57 RES 9-05.

Adopted in regular session on the 5th day of January, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

7. Presentation of fiscal year end audit report by Steve Hackett, CPA, of Maxton McDowell, CPA.

Mr. Steve Hackett presented the fiscal year end audit report. (The final bound copy of said report will be sent upon completion.)

Upon motion by Mr. Crisco and seconded by Ms. Carter, Council voted unanimously to accept the Fiscal Year 2004-2005 Audit.

8. Consent Agenda.

Upon motion by Mr. Smith and seconded by Ms. Hunter, Council voted unanimously to approve the consent agenda items as follows:

- Minutes of the December 8, 2005 regular council meeting as presented.
- Findings of Fact, Conclusions of Law, and Order in the Matter of SUP-05-06.

Case No. SUP-05-06
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF THE HOPE CENTER ASSOCIATION FOR A SPECIAL
USE PERMIT ALLOWING A COMMERCIAL PLANNED UNIT DEVELOPMENT

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

THIS MATTER was commenced by the filing of an application by the Hope Center Association for a Special Use Permit allowing a commercial Planned Unit Development. This matter came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during the Council's regularly scheduled meeting on November 10, 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. Hope Center Association (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 an existing multi-use condominium development project to be converted to a commercial Planned Unit Development.
2. The existing multi-use condominium project is located on a parcel of land (hereinafter referred to as the Zoning Lot") that is owned by Environmental Protections, LLC and is located at 600 West Salisbury Street in Asheboro.
3. The Zoning Lot is more specifically identified by Randolph County Parcel Identification Numbers 7751545297 and 7751534857.
4. The Zoning Lot consists of approximately 1.97 acres of land and is located in a B2 zoning district.
5. The Growth Strategy Map identifies the area in which the Zoning Lot is located as a "Primary Growth" area, and the Proposed Land Development Plan Map designates the area in question as an "Activity Center."
6. The land use to the north of the Zoning Lot is classified as undeveloped/residential, commercial and industrial land uses are located to the west, and industrial land uses are located to the south and east.
7. The Zoning Lot is located within the corporate limits of the City of Asheboro and is served by all city services.
8. The existing multi-use condominium development project has been constructed and consists of four (4) separate commercial suites.
9. The Applicant proposes to divide the development into six (6) separate units that can be sold as building lots.
10. The Applicant's site plan and elevations for the proposed commercial Planned Unit Development comply with the rules and regulations of the Asheboro Zoning Ordinance.
11. The available evidence indicates that no abnormally hazardous chemicals or processes will be utilized as part of the proposed land use.
12. The existing partitions within the development are rated as providing four (4) hour fire protection, and any new partitions installed along the proposed building lot lines will also be rated as four (4) hour protection.
13. In terms of the outward appearance of the development, the proposed conversion to a commercial Planned Unit Development will have no noticeable impact.

14. No testimony or other form of evidence was submitted to the Council during the hearing of this matter in opposition to the Applicant's request.

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.

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 adjoining or abutting property.

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

Hope Center Association, and its successors and assigns, is hereby issued the requested Special Use Permit for a commercial Planned Unit Development that is to be located upon the Zoning Lot. This Special Use Permit shall remain valid so long as the approved land use is conducted in compliance with the approved site plan and the provisions of the Asheboro Zoning Ordinance.

Adopted by the Asheboro City Council in regular session on this the 5th day of January, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

- Findings of Fact, Conclusions of Law, and Order in the Matter of SUP-05-07.

Case No. SUP-05-07
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF THE CITY OF ASHEBORO FOR A SPECIAL USE PERMIT AMENDING AN EXISTING PERMIT FOR A TRANSFER STATION

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 the Council's regular meeting on November 10, 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 City of Asheboro (hereinafter referred to as the "Applicant") properly filed an application for a Special Use Permit that would amend an existing permit for a transfer station by removing 27, 443 square feet of land located at the eastern terminus of East Pritchard Street from the approximately 39.83 acre premises currently utilized for the transfer station.

2. The Applicant's transfer station is located within the corporate limits of the City of Asheboro at 630 Transfer Station Place.

3. The real property upon which the transfer station premises are located (hereinafter referred to as the "Zoning Lot") is more specifically identified by Randolph County Parcel Identification Numbers 7761376467, 7761362312, 7761360126, and 7761360477.

4. The Growth Strategy Map designates the area in which the Zoning Lot is located as an "Economic Development" area, and the Proposed Land Development Plan Map identifies the area as "Industrial."

5. Undeveloped/residential land uses exist to the north and south of the Zoning Lot, a construction and demolition debris landfill is located to the east of the Zoning Lot, and industrial/institutional/residential land uses are located to the west.

6. All city services are available to the Zoning Lot.

7. The original permit for the transfer station was issued in 2000, and it has been operational since February 2002.

8. As indicated by the site plan and the remainder of the evidence presented during the hearing of this matter, the real property that the Applicant proposes to remove from the transfer station premises is undeveloped, wooded land that currently serves, in part, as a component of the required landscape buffer and is not actively used by the transfer station.

9. If the Applicant's request is granted, the remaining portion of the Zoning Lot will encompass approximately 39.1 acres of land.

10. The Applicant has properly submitted a new site plan as part of the application process, and this site plan establishes a new buffer location that is also heavily wooded.

11. No new construction is proposed for the remaining 39.1 acres of land that will remain a part of the Zoning Lot and subject to the amended Special Use Permit for the transfer station.

12. The revised site plan that was submitted as part of this application complies with the rules and regulations of the Asheboro Zoning Ordinance.

13. No testimony was presented in opposition to the granting of the Applicant's request.

14. Aside from the above-referenced adjustment to the landscaped buffer, the site plan has not been changed since it was submitted as part of the application for the existing Special Use Permit for a transfer station.

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 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 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.

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 City of Asheboro and its successors and assigns are hereby issued an amended Special Use Permit for a transfer station to be located upon the Zoning Lot in accordance with the revised site plan that has been submitted as part of this application. This Special Use Permit shall remain valid so long as the approved land use is conducted in compliance with the approved revised site plan and the provisions of the Asheboro Zoning Ordinance.

Adopted by the Asheboro City Council in regular session on this the 5th day of January, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

- Second reading and final approval of an ordinance granting a franchise to Morton and Sewell Land Company, LLC for the operation of a Construction and Demolition Landfill.

02 ORD 1-06

**AN ORDINANCE GRANTING A CONSTRUCTION AND DEMOLITION DEBRIS LANDFILL
FRANCHISE TO MORTON AND SEWELL
LAND COMPANY, LLC**

WHEREAS, Morton and Sewell Land Company, LLC currently owns and operates a construction and demolition debris landfill (hereinafter referred to as the "Landfill") located at 385 Gold Hill Road, Asheboro, North Carolina (Gold Hill Road Landscape Supply and Landfill); and

WHEREAS, the real property upon which the above-referenced landfill is located was voluntarily annexed into the corporate limits of the City of Asheboro (hereinafter referred to as the "City") prior to the consideration of this franchise ordinance by the City Council of the City of Asheboro during a regular session of the council that was held on December 8, 2005; and

WHEREAS, Morton and Sewell Land Company, LLC has properly submitted the requisite franchise application and fee for a franchise from the City of Asheboro for a construction and demolition debris landfill; and

WHEREAS, no negative comments were received during a properly noticed public hearing that was held by the city council on November 10 and December 8, 2005 on the question of granting the requested franchise to Morton and Sewell Land Company, LLC.

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

Section 1. Pursuant to and in accordance with Sections 130A-294, 160A-76, 160A-174, and 160A-319 of the North Carolina General Statutes, Morton and Sewell Land Company, LLC (hereinafter referred to as the "Company") is hereby granted a franchise to operate a construction and demolition debris landfill located at 385 Gold Hill Road, Asheboro, North Carolina.

Section 2. The Landfill shall be operated as Gold Hill Road Landscape Supply and Landfill under the direction of Alfred H. Morton of 2280 Stutts Road, Asheboro, North Carolina. The hours of operation shall be Monday through Friday from 7:00 a.m. until 5:00 p.m. and Saturday from 8:00 a.m. until 12:00 p.m.

Section 3. The landfill shall actually utilize nine (9) acres of space. Approximately one hundred twenty-five (125) cubic yards of waste will be deposited into the Landfill per day each year, and the Landfill will have an estimated life of ten (10) or more years.

Section 4. Operation of the Landfill shall be contingent upon the Company obtaining and maintaining a permit from the North Carolina Department of Environment and Natural Resources, which will be inspecting said landfill on a regular basis. Before a permit is issued, monitoring wells shall be installed to insure that ground water will not be contaminated in the area. A plan shall be created to identify ground water users, land use, and zoning information within a one-fourth (1/4) and two (2) mile radius of the landfill.

Section 5. The Company shall purchase a one million dollar (\$1,000,000.00) environmental liability insurance policy and a one million dollar (\$1,000,000.00) general liability insurance policy, along with automobile and workers' compensation insurance policies that comply with the pertinent provisions of the North Carolina General Statutes. The City shall be named as an additional insured by these policies.

Section 6. The population to be served by the Landfill shall be primarily commercial contractors who specialize in construction and demolition activities. The main waste stream shall primarily come from the City of Asheboro, Randolph County, and from counties contiguous to Randolph County.

Section 7. The waste accepted by the construction and demolition debris landfill shall be composed of waste or debris resulting from roofing, construction, remodeling, repair, or demolition operations on pavement, buildings, or other structures. The Company shall monitor the wastes offered to the landfill and shall reject any loads of floor tiles, siding, and roofing shingles that are likely to contain significant levels of asbestos. The Company shall also reject other unacceptable waste including without limitation friable asbestos, organic/household waste, waste that has been in contact with petroleum, solvents, or chemicals, waste containing PCB's, and waste that has been in contact with pesticides or herbicides.

Section 8. The fee schedule for the Landfill is attached to this ordinance as Exhibit A and is hereby incorporated into this ordinance by reference as if copied fully herein. The Company shall submit

any proposed fee changes to the City for approval within sixty (60) days prior to the proposed effective date of the fee changes.

Section 9. The franchise granted by this ordinance shall have a term of five (5) years.

Section 10. The Company agrees to operate the landfill in accordance with all applicable laws and regulations and shall comply with any permit(s) issued by the State of North Carolina.

Section 11. The Company shall require anyone using the landfill to comply with Section 20-116(g) of the North Carolina General Statutes.

Section 12. This ordinance shall be effective upon its second passage at a regular meeting of the City Council of the City of Asheboro.

Adopted after first reading in regular session on the 8th day of December, 2005.

Adopted after second reading in regular session on the 5th day of January, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

(Exhibit A that is referred to in this ordinance is attached to the original ordinance on file in the city clerk's office.)

- Receive bids and authorize purchase for a front-loading refuse collection truck from Carolina Environmental Systems, Inc. in the amount of \$172,982.00.

OLD BUSINESS

9. Resolution declaring certain city-owned real property designated as Lot #4 (0.63 acre) of the East Pritchard Street cul-de-sac subdivision to be surplus property and authorizing the disposal of said property.

Mr. Bunker presented the above-referenced resolution and recommended adoption, by reference, of the aforementioned resolution.

Upon motion by Mr. Smith and seconded by Ms. Carter, Council voted unanimously to adopt the following resolution by reference.

02 RES 1-06

**RESOLUTION DECLARING CERTAIN CITY-OWNED REAL PROPERTY LOCATED AT THE
EASTERN TERMINUS OF EAST PRITCHARD
STREET TO BE SURPLUS PROPERTY**

WHEREAS, the City of Asheboro (hereinafter referred to as the "City") owns a lot, which is located at the eastern terminus of East Pritchard Street, that encompasses approximately 0.63 of an acre of land; and

WHEREAS, this lot is more specifically identified as Lot 4 of the East Pritchard Street Cul-de-Sac Subdivision on the plat of survey recorded in the Office of the Register of Deeds for Randolph County, North Carolina in Plat Book 101, Page 29; and

WHEREAS, the City's administrative staff has determined that this lot is not needed by the City and is eligible for classification as surplus property.

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

Section 1. As recommended by the City's administrative staff, Lot 4 as described on the plat of survey recorded in the Office of the Register of Deeds for Randolph County, North Carolina in Plat Book 101, Page 29 is hereby declared to be surplus property.

Section 2. The city manager and city clerk are hereby authorized to accept for publication offers received for the purchase of this property so long as any such offers are submitted on a form to be

prepared by the city attorney, the offeror expressly accepts as adequate the city's use of a Non-Warranty Deed to convey the city's interest in the real property and agrees to pay any recording fees for the deed,

the amount of the offer is equal to or greater than five hundred dollars (\$500.00), and the bid is accompanied by a bid deposit equal to five percent (5%) of the bid. Upon receipt by the City of a properly submitted offer, notice of the offer shall be given in accordance with Section 160A-269 of the North Carolina General Statutes.

Section 3. Once the procedures specified in Section 160A-269 of the North Carolina General Statutes are followed until no further qualifying upset bids are received, the final and best offer may be brought to the city council for final action. The city council may at any time reject any and all offers.

Adopted in regular session on this 5th day of January, 2006.

By: s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

 s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

10. Technical Amendments, Rezonings, and Conditional Use Permits.

- (a) RZ-05-36: Technical Amendments / Articles 200, 600, and 1100
Part 2: Amend Ordinance to establish regulations for Large Scale Integrated Commercial Developments.

The above-referenced rezoning case was previously withdrawn.

Mayor Jarrell opened the public hearing on the following request:

- (b) RZ/CUP-05-38: Rezone from RA6 to CU-OA6 / 211 Worth Street. The property of Abraham Investments is located at 211 Worth Street and contains approximately 18,000 square feet of land. Randolph County Parcel Identification Number 7751921855 (a portion) more specifically describes the property.

Mr. Nuttall was sworn in and presented the staff analysis of the request to rezone a portion of the above-referenced property to CU-OA6. In addition to having the property rezoned, the Applicant requests a Conditional Use Permit to allow General Business Services.

The Planning Department Staff and the Planning Board recommended approval of the request.

Mr. Ben Morgan, Attorney for Abraham Investments, was sworn in and addressed the four standard tests. Additionally, on behalf of Abraham Investments, Mr. Malcom Voncannon was sworn in and presented information regarding the Applicant's intent to use the property in question for an upscale office facility.

Mr. John Megarian, Mr. Charlie Brown, Mr. Clark Bell, and Ms. Sheryl McNulty presented comments and concerns in opposition to the requested rezoning.

After testimony was provided as to the submission of the revised site plan on the day of the hearing, Mr. Jeffrey C. Sugg, City Attorney, advised the Council of the provision in Section 1013.1 of the City's Zoning Ordinance that requires revisions to site plans for conditional use permits to be submitted fifteen (15) days prior to the public hearing.

The City Council determined that the applicant had not been advised of this requirement, and other applicant's had not previously complied with this requirement. In order to comply with the procedure prescribed by the zoning ordinance and in order to avoid unfair surprise to the applicant, the City Council upon motion by Mr. Crisco and seconded by Mr. Moffitt, voted unanimously to continue the public hearing until the next regularly scheduled council meeting.

NEW BUSINESS

11. Rezonings and Special Use Permits.

Mayor Jarrell opened the public hearing on the following request:

- (a) RZ-06-01: Rezone from R10 to CU-B2 (district only) North side of East Allred Street at Gold Hill Road. The property of Vision Properties of Randolph County, LLC is located on the north side of East Allred Street at its intersection with Gold Hill Road and contains

approximately 2.07 acres of land. Randolph County Parcel Identification Number 7762748113 more specifically describes the property.

Mr. Nuttall presented the staff analysis of the request submitted by Vision Properties of Randolph County, LLC to rezone the above-described property from R10 medium-density residential to CU-B2 (district only). The Planning Department Staff and the Planning department recommended approval of the request as follows:

“Residential growth in close proximity to this property makes permitting limited commercial activity advisable. Existing and new residents could benefit from a small-scale retail and/or office development, especially one that is well-connected to surrounding neighborhoods via sidewalks.”

Mr. Johnnie Harvell and Mr. Tony Vuncannon, representatives for Vision Properties of Randolph County, LLC, were present to answer any questions.

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

Upon motion by Mr. Smith and seconded by Mr. Baker, Council ordained to accept the recommendation of the Planning Board for approval of the requested rezoning.

Mayor Jarrell opened the public hearing on the following request:

- (b) SUP-06-01: Permit to allow permanent locating of three modular classroom buildings/ 400 Ross Street (McCrary Elementary School).

Upon motion by Mr. Crisco and seconded by Mr. Smith, Council voted unanimously to defer this item until the next regularly scheduled council meeting.

Mayor Jarrell opened the public hearing on the following request:

- (c) SUP-06-02: Permit to allow a public facility – Telephone Exchange / 1196 Chamberlin Drive. The property of Anchor Homes of the Triad is located at 1196 Chamberlin Drive and contains approximately 39,596 square feet of land. Randolph County Parcel Identification Number 7741794990 more specifically describes the property.

Mr. Nuttall was sworn in and presented the staff's analysis of the proposed site plan submitted by the Applicant, Carolina Telephone Company, Incorporated, along with the staff's analysis of the request for a Special Use Permit to allow a Public Facility – Telephone Exchange.

Mr. John Weldon, a representative for Sprint, was sworn in and addressed the four tests.

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

Upon motion by Mr. Smith and seconded by Mr. Priest, Council voted unanimously to approve the Special Use Permit for a Public Facility – Telephone Exchange. This motion is based on the sufficiency of the evidence presented to meet the four standard tests.

The formal Findings of Fact, Conclusions of Law, and Order for this Special Use Permit will be adopted by the City Council in regular session on February 9, 2006.

Mayor Jarrell opened the public hearing on the following request:

- (d) SUP-06-04: Permit for a Child Day Care – Medium (30-79 children) / 203 C-D English Street. The property of Ben Jian and Yong Chang Huang is located at 203 English Street, Units C and D and contains approximately 30,740 square feet of land. Randolph County Identification Numbers 7762045118 and 7762045237 more specifically describe the property.

Mr. Nuttall was sworn in and presented the staff's analysis of the proposed site plan and the overall request for a Special Use Permit to allow a child day care center – medium (30-79 children).

Ms. Sandra Cole, representative of the child day care center, was sworn in and addressed the four tests.

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

Upon motion by Mr. Smith and seconded by Ms. Hunter, Council voted unanimously to approve the Special Use Permit for a Child Day Care Center – Medium (30-79 children). This motion is based on the sufficiency of the evidence presented to meet the four standard tests.

The formal Findings of Fact, Conclusions of Law, and Order for this Special Use Permit will be adopted by the City Council in regular session on February 9, 2006.

12. Public Comment Period.

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

13. Petition received from Clarence M. Seabolt requesting contiguous annexation of 0.4378 acre along the west side of North McCrary Street.

Mayor Jarrell opened the public hearing on the contiguous annexation of 0.4378 of an acre of land along the west side of North McCrary Street.

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 of the City of Asheboro, North Carolina.

Upon motion by Mr. Baker and seconded by Mr. Crisco, Council voted unanimously to adopt the following ordinance by reference.

Ordinance Number 03 ORD 1-06
ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEBORO, NORTH CAROLINA
(0.4378 of an Acre of Land Located along the West Side of North McCrary Street)

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 of the City of Asheboro, 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 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 24th day of December, 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 5th day of January, 2006 in the Council Chamber of 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 5th day of January, 2006; 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 an existing iron pin or pipe located South 07 degrees 50 minutes 42 seconds West 205.52 feet from a PK Nail set at the intersection of Wilson Street (North Carolina Secondary Road 1461) and North McCrary Street (North Carolina Secondary Road 1455), said existing iron pin or pipe is located by means of the North Carolina Coordinate System at the coordinates of North 717,295.75 feet and East 1,754,076.16 feet (NAD 27); thence from said Beginning point along the western margin of the 30-foot right-of-way for North McCrary Street South 03 degrees 20 minutes 28 seconds West 95.61 feet to an existing iron pin or pipe; thence North 88 degrees 11 minutes 55 seconds West 199.41 feet along the Audrey A. Greene property described in Deed Book 1469, Page 185, Randolph County Registry to an existing iron pin or pipe; thence along the existing corporate limits line for the City of Asheboro the following course and distance: North 03 degrees 18 minutes 51 seconds East 95.69 feet to an existing iron

pin or pipe; thence along the R. Lee Davidson et ux Amanda Davidson property described as Lot 285 on Map 2 that is recorded in Plat Book 1, Page 195, Randolph

County Registry the following course and distance: South 88 degrees 10 minutes 32 seconds East 199.46 feet to the point and place of the BEGINNING, and containing 0.4378 of an acre of land, more or less, to be annexed. This description is in accordance with a plat of survey entitled "Annexation Plat Prepared For The City Of Asheboro Clarence Seabolt et ux Edith Seabolt" and drawn under the supervision of Steven D. Brown, Professional Land Surveyor with Registration No. L-1435. The said plat of survey is dated November 28, 2005 and is identified as Job No. 2005-029.

Section 2. Upon and after January 5, 2006, 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 5th day of January, 2006. Adopted by the Asheboro City Council in regular session on this 5th day of January, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

Approved as to form:

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

14. Airport Items:

- (a) Resolution authorizing the amendment of an existing lease agreement between the City and the airport's fixed base operator, Cardinal Air, LLC, to extend the term of the fixed base operator's lease by three (3) years to December 31, 2010, in consideration for the installation by Cardinal Air, LLC, of a self service pump dispenser for AVGAS fuel at a cost of approximately \$18,642.

Mr. Bunker presented the above-referenced resolution and recommended adoption, by reference, of the aforementioned resolution.

Upon motion by Mr. Smith and seconded by Mr. Priest, Council voted unanimously to adopt the following resolution by reference.

03 RES 1-06

RESOLUTION AUTHORIZING THE AMENDMENT OF THE EXISTING FIXED BASE OPERATOR LEASE AT THE ASHEBORO MUNICIPAL AIRPORT

WHEREAS, Section 160A-272 of the North Carolina General Statutes, as amended by the local modification found in Chapter 867 of the 1989 (Reg. Sess., 1990) Session Laws of North Carolina, authorizes the City Council of the City of Asheboro to lease in relation to the operation of the Asheboro Municipal Airport city-owned property located at said airport for a maximum lease term of thirty (30) years so long as the property will not be needed by the municipality during the term of the lease; and

WHEREAS, pursuant to a properly executed lease and operational agreement that does not expire until December 31, 2007, Cardinal Air, LLC provides the fixed base operation services at the Asheboro Municipal Airport; and

WHEREAS, in consideration of the installation by Cardinal Air, LLC of a self-service pump dispenser for AVGAS fuel at a cost of approximately eighteen thousand six hundred forty-two dollars

(\$18,642), the City Council of the City of Asheboro has agreed to extend the term of the existing lease with Cardinal Air, LLC by three (3) years; and

WHEREAS, a proposed written agreement to amend the existing lease between the City of Asheboro and Cardinal Air, LLC has been drafted by the city attorney in order to implement the agreed upon extension of the lease term; and

WHEREAS, this proposed agreement is attached hereto as "EXHIBIT 1" and is hereby incorporated into this resolution by reference as if copied fully herein; and

WHEREAS, the property subject to the aforementioned lease agreement will not be needed by the city during the extended term of the lease; and

WHEREAS, public notice of the intent to amend the existing lease agreement with Cardinal Air, LLC was given in the Courier Tribune on December 25, 2005, in accordance with Section 160A-272 of the North Carolina General Statutes.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the amendment of the existing lease agreement with Cardinal Air, LLC to extend the term of the lease to December 31, 2010 is hereby approved; and

BE IT FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized and directed to execute legal instruments substantially and materially similar in all respects to "EXHIBIT 1" in order to effectuate the approved amendment of the existing lease agreement with Cardinal Air, LLC.

Adopted by the Asheboro City Council in regular session on this 5th day of January, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman
Holly J. Hartman, Deputy City Clerk

(b) Resolution approving requests for state aid to the Asheboro Municipal Airport in the Aviation Element of the FY 2007-2011 Transportation Improvement Program

Mr. Bunker presented the above-referenced resolution and recommended adoption, by reference, of the aforementioned resolution.

Upon motion by Ms. Carter and seconded by Mr. Priest, Council voted unanimously to adopt the following resolution by reference.

04 RES 1-06

RESOLUTION APPROVING REQUESTS FOR STATE AID TO THE ASHEBORO REGIONAL AIRPORT IN THE AVIATION ELEMENT OF THE TRANSPORTATION IMPROVEMENT PROGRAM BY THE CITY COUNCIL OF THE CITY OF ASHEBORO

WHEREAS, the North Carolina Department of Transportation Division of Aviation has requested that the City of Asheboro submit a list of projects for the Aviation Element of the FY 2007-2011 Transportation Improvement Program; and

WHEREAS, the City of Asheboro has prepared a list titled "Asheboro Regional Airport Transportation Improvement Program (TIP) 2007-2011 Project Listing" incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED that the Asheboro City Council has reviewed the referenced TIP submission, and that they City Council hereby formally approves the submission of these requests for State Aid to Airports and for the State Block Grant Program where applicable.

Adopted in regular session on this 5th day of January, 2006.

s/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

(The "Asheboro Regional Airport Transportation Improvement Program (TIP) 2007-2011 Project Listing" that is referred to in this resolution is attached to the original resolution on file in the city clerk's office.)

(c) Proposals by W. K. Dickson & Company, Inc. of Charlotte, North Carolina to provide engineering services for design, plans, specifications, inspection and contract administration for the following airport projects:

- (1) Jet A Fuel Tank Site Prep/Secondary Containment System, not to exceed \$21,125.00.
- (2) Taxilane and access road, not to exceed \$37,400.00.

Mr. Bunker presented the above-referenced proposals and recommended that the Council accept the aforementioned proposals.

Upon motion by Mr. Priest and seconded by Ms. Carter, Council voted unanimously to accept the aforementioned proposals.

15. Request by Shela Fields for authorization to connect her property at 149 Bell Simmons Road to the City maintained water line along U.S. Highway 220 Business South.

Due to certain problems with the well on her mother's property, Ms. Shela Fields requested that the property located at 149 Bell Simmons Road be connected to the City maintained water line along U.S. Highway 220 Business South.

Upon motion by Mr. Crisco and seconded by Ms. Carter, Council voted unanimously to approve the aforementioned request that the above-referenced property be connected to the City water system.

16. Re-appointment of Mr. Van Rich to the Asheboro Planning Board.

Upon motion by Mr. Priest and seconded by Mr. Moffitt, Council voted unanimously to re-appoint Mr. Van Rich to the Asheboro Planning Board.

17. Update on the re-appointment of Mr. Chris Corsbie to the Asheboro Planning Board.

Mr. Nuttall stated that the Randolph County Board of Commissioners will address this item at their regularly scheduled meeting for the month of January.

18. Update on the purchase of Sunset Theatre.

Mr. Ogburn reported to the council that the City of Asheboro has completed its acquisition of the Theatre. Mr. Ogburn recommended that the Parks and Recreation Committee address certain issues involving fee schedules and guidelines for renting the building.

Mayor Jarrell requested that a meeting of the Parks and Recreation Committee be called as soon as possible for discussion of the above-referenced issues.

19. No City Council Committee reports.

20. Upcoming Events.

Strategic Planning Community Forums will be held on January 17, 2006 at North Asheboro Middle School, January 19, 2006 at Sunset Theatre, January 24, 2006 at Asheboro High School, and January 26, 2006 at Eastside Boys and Girls Club.

There being no further business, the meeting was adjourned at 10:08 p.m.