

**REGULAR MEETING  
ASHEBORO CITY COUNCIL  
THURSDAY, APRIL 5, 2007  
7:00 p.m.**

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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               )  
Nancy Hunter             ) – Council Members Present  
Walker Moffitt            )  
David Smith               )  
  
Keith Crisco               ) – Council Member Absent

John N. Ogburn, III, City Manager  
Dumont Bunker, P.E., City Engineer  
John Evans, Code Enforcement Officer  
Holly J. Hartman, City Clerk/Senior Legal Assistant  
Wendell Holland, Zoning Administrator  
Foster Hughes, Recreation Director  
Deborah P. Juberg, Finance Director  
R. Reynolds Neely, Jr., Planning Director  
Trevor L. Nuttall, Planner  
O. Lynn Priest, Community Development Director  
Jeffrey C. Sugg, City Attorney  
Anthony C. York, Assistant Chief of Police

**1. Call to Order**

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

**2. Pledge of Allegiance and Invocation.**

Mayor Jarrell asked everyone to stand and repeat the Pledge of Allegiance. Reverend Avon Craven gave the invocation.

**3. Presentation by Carla Freemyer, Branch Board Chair of Central Boys and Girls Club.**

Ms. Carla Freemyer, Branch Board Chair of the Central Boys and Girls Club introduced Mr. Steve Morris, Director. Mr. Morris gave a brief overview of certain programs provided by the club. The Boys and Girls Clubs offer programs to help children make healthy decisions and to become contributing adults to society. The clubs participate in Mayor Jarrell's Community Clean-Up, Habitat as well as projects for Habitat for Humanity.

**4. Appearance and recognition of guests and citizens.**

Mayor Jarrell welcomed everyone in attendance.

**5. Consent Agenda.**

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

- Approval of the minutes of the regular meeting of the City Council held on March 8, 2007.
- Approval of findings of fact, conclusions of law, and order in the matter of CUP-07-06.

IN THE MATTER OF THE APPLICATION OF ROUTH BUILDERS FOR A CONDITIONAL USE PERMIT  
ALLOWING A RESIDENTIAL PLANNED UNIT DEVELOPMENT

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

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THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during a regular meeting of the Council that was held on March 8, 2007. 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. Routh Builders properly filed an application with the City of Asheboro Planning Department for a legislative rezoning of certain real property from a R15 low-density residential zoning district to a CU-R10 medium-density residential zoning district. Concurrent with the filing of an application for this legislative rezoning, Routh Builders also properly filed an application for a Conditional Use Permit that would allow the construction of a Residential Planned Unit Development on this real property. Routh Builders, and its successors and assigns, shall be hereinafter referred to as the "Applicant."

2. The Applicant proposes to construct this Residential Planned Unit Development on approximately 21.61 acres of land that is owned by First National Bank and Trust Company and located on the south side of Old Lexington Road, approximately two thousand three hundred feet (2,300') east of Chamberlin Drive. This property (hereinafter referred to as the "Zoning Lot") is more specifically identified as "New Lot 5 Section II" on a plat of survey entitled "Minor Subdivision for First National Bank and Trust Company Section I and II" that is recorded in Plat Book 109, Page 64, Randolph County Public Registry.

3. Prior to formally considering the evidence submitted in support of the requested Conditional Use Permit, the Council placed the Zoning Lot into a CU-R10 medium-density residential zoning district.

4. The Growth Strategy Map identifies the area in which the Zoning Lot is located as "Long-Range Growth" area, and the Proposed Land Development Plan Map designates the area in question as "Suburban Residential."

5. The land uses surrounding the Zoning Lot are described as low-density-residential uses along with undeveloped land to the north and east, undeveloped land to the south, and low-density residential use along with a subdivision in a R15 low-density residential zoning district to the west.

6. The existing land use found on the Zoning Lot is best described as vacant residential use and undeveloped.

7. The Applicant has requested a Conditional Use Permit authorizing a Residential Planned Unit Development with twenty-six (26) single-family homes, twenty-six (26) townhouse lots with attached dwellings (the townhouses are attached in a duplex configuration), common and recreational area, and a commons building housing a community room and a commercial real estate sales office.

8. Given the current location of the Zoning District in a CU-R10 zoning district, the proposed development is supported by several goals and policies of the city's Land Development Plan. In particular, the Land Development Plan advocates for a mixture of housing types, preservation of open space, the incorporation of compatible non-residential land uses in developments, and the construction of sidewalks in new developments. The site plan submitted by the Applicant depicts a proposed development that is consistent with these goals and policies.

9. Under the Asheboro Zoning Ordinance, a Planned Unit Development is permitted in a R10 zoning district with the issuance of a Special Use Permit, and, consequently, a Planned Unit Development is permitted in a CU-R10 zoning district with the issuance of a Conditional Use Permit.

10. The North Carolina Department of Transportation has issued a driveway permit for the proposed development, and the access to Old Lexington Road authorized by this driveway permit is compatible with the site plan submitted to the Council.

11. Old Lexington Road is a major thoroughfare maintained by the North Carolina Department of Transportation.

12. Within the proposed development, the Applicant intends to utilize a mixture of public streets maintained by the city and private streets maintained that are to be maintained by a homeowners

association. On-street parking will be available on the private streets for visitors to the development while homeowners will be able to access their garages from a service road located at the rear of the lots.

13. The site plan for the development indicates that a roundabout will be utilized to move traffic within the development. While standards for such a roundabout were not available from North Carolina governmental entities, the Applicant did use a standard obtained from the Pennsylvania Department of Transportation for the design of the proposed roundabout. In field tests conducted by the city's public works division, the determination was made that garbage collection trucks and other heavy vehicles utilized by the city, such as fire trucks, would be able to satisfactorily traverse the proposed roundabout.

14. The Applicant proposes to utilize dumpsters within the development rather than a multitude of individual garbage containers. Field tests do indicate that the city's garbage trucks can safely maneuver into and out of the proposed dumpster area.

15. Members of the planning department's staff have reviewed the site plan and elevations submitted by the Applicant, and the said site plan and elevations do comply with the requirements of the Asheboro Zoning Ordinance. However, in order to provide guidance and to ensure continuing compliance with the Asheboro Zoning Ordinance, the planning department staff did offer the following suggested conditions:

a. Additions to the rear of individual dwellings or the enclosure of patios and porches shall not be considered a modification of the permit, if one is issued.

b. Pump station screening shall be provided in accordance with the Asheboro Zoning Ordinance and shall be the responsibility of the developer.

c. Pump station access and ownership shall be provided in accordance with city policies.

d. The identified sidewalks along Olde Towne Parkway shall extend to the right-of-way of Old Lexington Road.

e. The dumpster screening that is actually installed shall utilize evergreen trees rather than the indicated deciduous trees in order to provide proper continuous screening. Such evergreen trees shall be a minimum of eight feet (8') in height at the time of planting and shall be spaced no more than ten feet (10') apart, on center.

f. All lighting, decorative or otherwise, shall comply with Section 318A of the Asheboro Zoning Ordinance.

g. The dumpster pick-up area shall be adequately sized with enough room for collection trucks to turn around without disturbing grassing or landscaping.

h. The proposed roundabout shall be adequately sized so that tractor-trailer trucks, construction equipment haulers, and refuse trucks can pass through without disturbing grassing or landscaping.

16. The Applicant's attorney, Mr. Ben Morgan, Esq., informed the Council during the hearing of this matter that the Applicant would be willing to agree to the suggested staff conditions if the Council ultimately decided to issue the requested Conditional Use Permit.

17. Ms. Patsy Woodruff, who along with Jim Routh of Routh Builders is a member-manager of the Cornerstone Group that undertook this project subsequent to the filing by Routh Builders of the application for a Conditional Use Permit, testified during the hearing of this matter as to her ownership of a real estate company and her seventeen (17) years of experience in the real estate business. Ms. Woodruff's uncontroverted testimony was that the proposed development would enhance the visuals of the area and visuals impact appraisals. Furthermore, Ms. Woodruff testified that the development would compliment the fine homes in the surrounding area and the impact on adjoining property values should be a positive impact similar to the impact experienced by homes around the existing Lexington Commons development that she used for purposes of comparison.

18. While an individual who owns property on Chamberlin Drive did have some questions about the proposed development, no testimony or other form of evidence was submitted to the Council 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 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 Applicant is hereby issued a Conditional Use Permit that authorizes a Residential Planned Unit Development land use to be conducted on the Zoning Lot. This Conditional Use Permit shall remain valid so long as the Applicant, and its successors and assigns, conduct this approved land use in compliance with the approved site plan, the provisions of the Asheboro Zoning Ordinance, and the following conditions that are hereby attached to this permit:

1. Additions to the rear of individual dwellings or the enclosure of patios and porches shall not be considered a modification of the permit.

2. Pump station screening shall be provided in accordance with the Asheboro Zoning Ordinance and shall be the responsibility of the developer.

3. Pump station access and ownership shall be provided in accordance with city policies.

4. The identified sidewalks along Olde Towne Parkway shall extend to the right-of-way of Old Lexington Road.

5. The dumpster screening that is actually installed shall utilize evergreen trees rather than the deciduous trees indicated on the site plan. Evergreen trees are necessary in order to provide proper continuous screening. Such evergreen trees shall be a minimum of eight feet (8') in height at the time of planting and shall be spaced no more than ten feet (10') apart, on center.

6. All lighting, decorative or otherwise, shall comply with Section 318A of the Asheboro Zoning Ordinance.

7. The dumpster pick-up area shall be adequately sized with enough room for collection trucks to turn around without disturbing grassing or landscaping.

8. The proposed roundabout shall be adequately sized so that tractor-trailer trucks, construction equipment haulers, and refuse trucks can pass through without disturbing grassing or landscaping.

Adopted by the Asheboro City Council in regular session on the 5<sup>th</sup> day of April, 2007.

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

ATTEST:

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

- Approval of an ordinance to amend the general fund budget FY 2006-2007.

**09 ORD 4-07**

**ORDINANCE TO AMEND THE  
GENERAL FUND BUDGET  
FY 2006-2007**

WHEREAS, on June 8, 2006, The City Council of the City of Asheboro committed to a contribution to the NC Zoological Society to be used for Project Pachyderms, and;

WHEREAS, the amount committed to was \$100,000 to be paid in 3 installments over the next three fiscal periods;

WHEREAS, the first installment of \$33,334.00 is due in fiscal year 2006-2007;

WHEREAS, the budget as adopted requires amendment to reflect adjustments in revenues and expenditures necessary for this expenditure:

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

Section 1: That the following Revenue line items be increased:

10-399-0000	Fund Balance Allocation	\$33,334
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Section 2: That the following Expenditure line items be increased:

10-610-3000	Contribution to Economic Development Fund	\$33,334
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Adopted this the 5th day of April, 2007.

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

ATTEST:

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

- Approval of ordinances to amend the economic development fund FY 2006-2007.

**10 ORD 4-07**

**ORDINANCE TO AMEND THE  
ECONOMIC DEVELOPMENT FUND BUDGET  
FY 2006-2007**

WHEREAS, on June 8, 2006, The City Council of the City of Asheboro committed to a contribution to the NC Zoological Society to be used for Project Pachyderms, and;

WHEREAS, the amount committed to was \$100,000 to be paid in 3 installments over the three fiscal periods;

WHEREAS, the budget as adopted requires amendment to reflect adjustments in revenues and expenditures necessary for this expenditure:

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

Section 1: That the following Revenue line items be increased:

72-367-1000	Contribution from General Fund	\$100,000
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Section 2: That the following Expenditure line items be increased:

72-850-2600-	NC Zoological Society	\$100,000
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Adopted this the 5th day of April, 2007.

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

ATTEST:

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

**11 ORD 4-07**

**ORDINANCE TO AMEND THE ECONOMIC DEVELOPMENT FUND  
FY 2006-2007**

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

WHEREAS, the City has made a commitment to pay for the extension of 12" water line along Bank Street as incentive for Technimark, and;

WHEREAS, the labor costs associated with this extension, and the cost for the water meter and tap is estimated to be \$23,350;

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

**Section 1: That the following Revenue items be increased:**

<u>Account #</u>	<u>Revenue Description</u>	<u>Appropriated Amount</u>
72-367-3000	Contribution from Water & Sewer Fund	\$23,350

**Section 2: That the following Expense items be increased:**

<u>Account #</u>	<u>Expense Description</u>	<u>Appropriated Amount</u>
72-850-2500	Technimark Incentive	\$23,350

Adopted this the 5th day of April, 2007.

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

ATTEST:

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

- Approval of an ordinance to amend the water and sewer fund FY 2006-2007.

**12 ORD 4-07**

**ORDINANCE TO AMEND THE WATER & SEWER FUND  
FY 2006-2007**

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

WHEREAS, the City has made a commitment to pay for the extension of 12" water line along Bank Street as incentive for Technimark, and;

WHEREAS, the labor costs associated with this extension, and the cost for the water meter and tap is estimated to be \$23,350;

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

**Section 1: That the following Revenue items be increased:**

<u>Account #</u>	<u>Revenue Description</u>	<u>Appropriated Amount</u>
30-399-0000	Retained Earnings Allocation	\$23,350

**Section 2: That the following Expense items be increased:**

<u>Account #</u>	<u>Expense Description</u>	<u>Appropriated Amount</u>
30-840-7200	Transfer to Economic Development Fund	\$23,350

Adopted this the 5th day of April, 2007.

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

ATTEST:

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

- Approval of resolution authorizing the Mayor to enter into a Municipal Agreement between the City of Asheboro and the NC Department of Transportation to relocate water lines and install sidewalks at the intersection of East Dixie Drive (US 64 & NC 49) and NC Highway 42 for the NCDOT Street Improvements Project (U-3401), wherein the estimated cost to the City is \$135,165.00 for relocation of water lines and \$27,386.00 for sidewalks.

**19 RES 4-07**

**A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF ASHEBORO AND THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION**

**WHEREAS**, the North Carolina Department of Transportation (NCDOT) has prepared and adopted plans to make certain street and highway improvements within the City of Asheboro under Project U-3401, Randolph County, said plans consisting of the improvement of the intersection at US 64/NC 49 and NC 42 in Asheboro; and

**WHEREAS**, NCDOT and the City of Asheboro (City) propose to enter into an Agreement for the above-referenced project; and

**WHEREAS**, at the request of the City, NCDOT shall place provisions in the construction contract for the adjustment and relocation of municipally-owned water and sewer lines, subject to reimbursement by the City after completion of construction; and

**WHEREAS**, the City shall reimburse NCDOT the entire cost of said utility work in accordance with the terms of the proposed Agreement; and

**WHEREAS**, NCDOT agrees to acquire the right of way and construct the project in accordance with the approved project plans; and

**WHEREAS**, at the request of the City, NCDOT shall construct sidewalks at the intersection along US 64/NC 49 and NC 42, and the City shall reimburse NCDOT 30% of the actual cost of the work; and

**WHEREAS**, upon the completion of these sidewalks, the City shall assume all maintenance responsibilities for the sidewalks; and

**WHEREAS**, the Agreement will further provide for the establishment, maintenance, and enforcement of traffic operating controls for the regulation and movement of traffic on the project upon its completion; and

**WHEREAS**, with the modification that the estimated cost to the City is \$135,165.00 for the relocation of water lines, the material terms and conditions of the above-referenced Agreement are attached hereto as Exhibit A and are hereby incorporated into this resolution by reference as if copied fully herein; and

**WHEREAS**, upon the recommendation of city staff, the City Council of the City of Asheboro is in agreement with the material terms and conditions of the proposed Agreement and wishes to proceed with the project as described above.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that Project U-3401, Randolph County, is hereby formally approved; and

**BE IT FURTHER RESOLVED** that the Mayor and City Clerk are hereby authorized and directed to sign and execute with NCDOT an agreement that contains terms and conditions that are identical, in every material respect, to the terms and conditions found in Exhibit A.

Adopted by the Asheboro City Council in regular session on the 5<sup>th</sup> day of April, 2007.

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



Upon motion by Mr. Moffitt and seconded by Ms. Carter, Council voted unanimously to deny the request for a Conditional Use Permit because such a permit cannot be issued for property located in a R10 zoning district.

The formal Findings of Fact, Conclusions of Law, and Order denying the Conditional Use Permit will be entered by the Council in regular session on May 10, 2007.

- (b) SUP-07-01: Request for a Special Use Permit for a Child Day Care Center – Medium / 3036 Forest Park Drive. The property of Roger Carl and Vanessa Adams and others is located at 3036 Forest Park Drive and consists of approximately 1.057 acres of land. Randolph County Parcel Identification Number 7764101572 more specifically describes the property.

Mayor Jarrell re-opened the public hearing on the following request, which was continued from the Council's March 8, 2007 regular meeting upon the request of the Applicant.

Mr. Neely was sworn in and presented the staff's analysis of the proposed site plan and the request by Andrew and Laura Lambert for a Special Use Permit to allow a Child Day Care Center – Medium consisting of approximately 30-79 children.

Ms. Laura Lambert was sworn in and addressed the four standard tests. Mr. Franklin Lambert, a neighboring property owner, was sworn in and presented comments in support of the request.

There being no further comments nor opposition from the public, Mayor Jarrell closed the public hearing. An audiotape recording of the testimony presented during the public hearing is on file in the City Clerk's office.

Upon motion by Mr. Smith and seconded by Ms. Hunter, Council voted unanimously to approve the requested Special Use Permit. The issuance of this permit was based on the four standard tests being met and was conditioned on the permit holder complying with certain conditions.

The formal Findings of Fact, Conclusions of Law, and Order authorizing this Special Use Permit will be entered by the Council in regular session on May 10, 2007. This order will reflect the above-referenced conditions imposed upon this permit as a consequence of the testimony presented during the hearing of this matter.

## **NEW BUSINESS**

### **7. Land Use Issues.**

- (a) CUP-07-07: Request for a Conditional Use Permit Modification for a Residential Planned Unit Development / 3140 Zoo Parkway. The property of Triangle Park Associates and others is located at 3140 Zoo Parkway and consists of approximately 8.0 acres of land. The property is further identified by the entirety of the Parkways South Planned Unit Development, recorded in Condo Book 1, Page 64 and Condo Book 1, Page 83, Randolph County Registry.

Mayor Jarrell opened the public hearing on the following request.

Mr. Neely was sworn in and presented the staff's analysis of the proposed site plan and the request by Glenn King and Triangle Park Associates for a Conditional Use Permit authorizing the City of Asheboro to assume maintenance of an existing sewage pump station located within and serving a previously approved residential planned unit development.

Mr. Glenn King was sworn in and addressed the four standard tests.

There being no further comments nor opposition from the public, Mayor Jarrell closed the public hearing. An audio tape recording of the testimony presented during the public hearing is on file in the City Clerk's office.

Upon motion by Mr. Moffitt and seconded by Mr. Baker, Council voted unanimously to approve the requested Conditional Use Permit. The issuance of this permit was based on the four standard tests being met and was conditioned on the permit holder complying with certain conditions.

The formal findings of fact, conclusions of law, and order granting this Conditional Use Permit will be entered by the Council in regular session on May 10, 2007. This order will reflect the specific conditions imposed upon this permit as a consequence of the testimony presented during the hearing of this matter.

- (b) RZ/CUP-07-08: Request to rezone from CU-OA6 and B2 to CU-B2 and Issue a Conditional Use Permit for a Hotel. This zoning request pertains to two (2) parcels of land. The property of Century 21 Integrity Group, Inc. is located on the east side of Dublin Road and consists of approximately 2.61 acres of land. Randolph County Parcel Identification Number 7760399101 more specifically describes this parcel. The property of Rodney K. and Betsy T. Moody is located on the west side of Executive Way and consists of approximately 10,000 square feet of land. Randolph County Parcel Identification Number 7760492166 more specifically describes this second parcel of land.

Mayor Jarrell opened the public hearing on the following combined request for a legislative rezoning and the issuance of a Conditional Use Permit.

Mr. Neely was sworn in and presented the staff's analysis of the applicant's request. The Applicants, Rodney and Betsy Moody, requested the rezoning of the above-described property from CU-OA6 Conditional Use Office and Apartment and B2 General Business to CU-B2 Conditional Use General Business. In addition to having the property rezoned, the Applicant requested a Conditional Use Permit for a Hotel. Mr. Neely's testimony indicated that the site plan for the proposed hotel did comply with the Asheboro Zoning Ordinance.

The Planning Department Staff and the Planning Board recommended approval of the requested rezoning based on the following analysis:

"The request is supported by several goals and policies of the Land Development Plan as well as its Proposed Land Use Map. Development considerations related to access to the site and buffering and screening of the proposed use for the benefit of the existing residential neighborhood to the west of the subject property will be able to be publicly reviewed and commented upon during the Conditional Use Permit hearing on April 5, 2007. Considering that the request is generally supported by the Land Development Plan, staff advises that the rezoning is in the public's interest as it implements the recommendations of the Land Development Plan and encourages a reasonable use of the property."

On behalf of the Applicant, Mr. Jon Megerian, Esq. was sworn in and addressed the four standard tests. Additionally, Mr. Jim Wright, CREA with Brubaker & Associates, Inc. was sworn in and addressed test number three (3). Mr. Mack Summey, P.E., was also sworn in and presented engineering comments in support of the request.

Mr. Bill Essick, a neighboring property owner was sworn in and requested that Mr. Fred Smith be allowed to present testimony reflecting their common concerns and opposition to the hotel as proposed. Ms. Ruth Ann Allred was also sworn in and presented comments and concerns in opposition to the request.

There being no further comments nor opposition from the public, Mayor Jarrell closed the public hearing. An audiotape of the testimony presented during the public hearing is on file in the City Clerk's office. Any documentary evidence submitted to the Council during this hearing is on file in the City Clerk's office.

Upon motion by Mr. Moffitt and seconded by Mr. Smith, Council, by a vote of four (4) to two (2), adopted the recommendation of the Planning Board and placed the above-described property in a CU-B2 Conditional Use General Business zoning district. Ms. Hunter and Mr. Priest opposed.

Upon motion by Mr. Moffitt and seconded by Mr. Smith, Council, by a vote of four (4) to two (2), approved the requested Conditional Use Permit to allow a hotel to be located on the above-described property. The issuance of this permit was based on the four standard tests being met and was conditioned on the permit holder complying with certain conditions. Ms. Hunter and Mr. Priest opposed.

The formal Findings of Fact, Conclusions of Law, and Order authorizing this Conditional Use Permit will be entered by the Council in regular session on May 10, 2007. This order will reflect the conditions imposed upon this permit as a consequence of the testimony presented during the hearing of this matter.

- (c) RZ-07-09: Technical Amendments to the Asheboro Zoning Ordinance. Amend Article 300A of the Zoning Ordinance.

Mayor Jarrell opened the public hearing on the following request.

Mr. Neely presented the Planning Department Staff's proposed amendment to Section 308A.1 and Section 322A of the Asheboro Zoning Ordinance. The amendment would change the permitted location of the required ten (10) foot wide no parking area of any required front yard setback to allow for a public sidewalk and would clarify when sidewalks are required.

The Planning Department Staff and the Planning Board recommended approval of the requested amendment to the Asheboro Zoning Ordinance in that the “request is supported by several goals and policies of the Land Development Plan. Furthermore, the request provides for the development of sidewalks and preserves parking and landscaping regulations.”

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

Upon motion by Mr. Smith and seconded by Mr. Moffitt, Council voted unanimously to adopt the recommendation of the Planning Board and approved, as presented, the amendments to Sections 308A.1 and 322A of the Asheboro Zoning Ordinance. A copy of the approved text of the amendment is on file in the City Clerk’s office.

- (d) RZ-07-10: Technical Amendment to the Asheboro Zoning Ordinance. Amend Article 300A of the Zoning Ordinance to provide exemptions from the noise limitations set forth in this Article for all emergency response vehicles and apparatuses performing official duties.

Mayor Jarrell opened the public hearing on the following request.

Mr. Neely presented the Planning Department Staff’s proposed amendment to Sections 316A, 317A, and 318A of the Asheboro Zoning Ordinance. The amendment would provide exemptions from the noise limitations set forth in the sections for all emergency response vehicles and apparatuses performing official duties.

The Planning Department Staff and the Planning Board recommended approval of the request in that the “original intent of the ordinance did not foresee limiting the activities of emergency response vehicles that are necessary to promote public health and safety. The proposed amendment secures the reasonable meaning and purpose of the Sections.”

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

Upon motion by Mr. Smith and seconded by Ms. Carter, Council voted unanimously to adopt the recommendation of the Planning Board and approved, as presented, the amendment to Sections 316A, 317A, and 318A of the Asheboro Zoning Ordinance. A copy of the approved text of the amendment is on file in the City Clerk’s office.

- (e) SUB-07-01: Olde Towne Village III. Sketch Design Approval.

Mr. Neely presented the sketch design for the proposed Olde Towne Village Section III. Routh Builders, LLC (Cornerstone, LLC) requested the approval of a sketch design plat for a subdivision to be located along the south side of Old Lexington Road. The proposed subdivision contains approximately 18.16 acres of land, consisting of approximately 4 lots.

As part of the sketch design review process, the Applicant requested two variances from the Subdivision Ordinance. Specifically, a variance was sought from Article IX, Section B.11 (Cul-De-Sac Length) as well as a variance from Article IX, Section B.5 (Access to Adjacent Property). Mr. Jim Routh, the developer, presented comments in support of granting the requested variances and approving the overall sketch design plat.

The Planning Board recommended to the Council that the requested variances be approved. Subject to the Council’s action on the requested variances, the Planning Department Staff and the Planning Board recommended approval of the sketch design plat with the following comments:

1. Section III shall not receive final plat approval until the public street (Olde Towne Parkway) shown in Olde Towne Village Section I and II is recorded with the connection to Old Lexington Road.
2. Provide minimum road frontage for lots 7 and 8.
3. Continue lot numbering from Sections I and II.
4. Minor plat corrections needed.
5. Hydrant locations shall be reviewed and approved by the Fire Chief during preliminary plat review.

Upon motion by Mr. Moffitt and seconded by Mr. Smith, Council voted unanimously to accept the variances from the subdivision ordinance.

Upon motion by Mr. Moffitt and seconded by Mr. Baker, Council accepted the recommendation of the Planning Board and approved, with the comments from the Planning Board, the sketch design plat for Olde Towne Village III.

(The aforementioned sketch design plat is on file in the City Clerk's office.)

(f) SUB-07-02: Patriot Woods Subdivision. Sketch Design Approval.

Mr. Neely presented the sketch design for the proposed Patriot Woods Subdivision. Mr. Herman K. McDowell, III requests the approval of a sketch Design plat for a subdivision to be located on the south side of Tory Lane in Asheboro. The proposed subdivision contains approximately 64.478 acres of land, consisting of approximately 23 lots.

As part of his request for approval of the sketch design plat, Mr. McDowell requested a variance from the curb and gutter construction requirements prescribed by Article IX, Section B.1 of the Subdivision Ordinance. Additionally, Mr. McDowell presented comments in support of the proposed sketch design plat.

The Planning Department Staff and the Planning Board recommended approval of the requested variance. Additionally, the staff and the Planning Board recommended approval of the sketch design plat, subject to the Council's approval of the requested variance, with the following comments:

Planning: "On the east side of the proposed street, two right of way stub-outs are required. One for each of the undeveloped adjoining tracts. Both stub-outs shall be provided and shown on the preliminary plat, or a variance needs to be requested and granted."

Engineering: "The proposed street stub-outs are likely unbuildable without a wider a right-of-way to allow construction and maintenance. Easements and or rights-of-way shall be provided and shown on the preliminary plat, or stub-outs may be relocated to more suitable locations."

Mr. McDowell requested a variance from the requirement of curb and gutter for the above-described proposed subdivision. Additionally, Mr. McDowell presented comments in support of the proposed sketch design plat.

Upon motion by Mr. Baker and seconded by Ms. Hunter, Council voted unanimously to approve the requested variance.

Upon motion by Ms. Carter and seconded by Mr. Smith, Council voted unanimously to accept the recommendation of the Planning Board and approved the sketch design plat for Patriot Woods with the comments listed above.

(The aforementioned sketch design plat is on file in the City Clerk's office.)

**8. Consideration of a petition received from Matthew Ryan Salyer and Lisa A. Salyer requesting contiguous annexation of 2.765 acres along the west side of Browers Chapel Road.**

Mayor Jarrell opened the public hearing on the request for contiguous annexation of 2.765 acres of land located along the west side of Browers Chapel 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 of the City of Asheboro.

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

**Ordinance Number** 13 ORD 4-07

**ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEBORO, NORTH CAROLINA  
(2.765 Acres of Land Located along the West Side of Browers Chapel Road)**

**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 25<sup>th</sup> day of March, 2007 in *The Courier Tribune*, a newspaper having general circulation in the City of Asheboro, setting forth that a public hearing would be held during the City Council's regular meeting at 7:00 o'clock p.m. on the 5<sup>th</sup> day of April, 2007, 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 5<sup>th</sup> day of April, 2007; 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 pipe set in the existing primary corporate limits line of the City of Asheboro and at the southwest corner of the Matthew R. Salyer and Lisa A. Salyer property described in Deed Book 1870, Page 471, Randolph County Public Registry, said point is located by means of the North Carolina Coordinate System at the coordinates of North 707,506.368 feet and East 1,763,675.005 feet (NAD 83); thence from said Beginning point along the existing primary corporate limits line of the City of Asheboro the following courses and distances: North 01 degree 18 minutes 37 seconds East 45.90 feet to an existing iron pipe; thence North 01 degree 41 minutes 33 seconds East 67.75 feet to an existing iron pipe; thence North 02 degrees 23 minutes 11 seconds East 55.44 feet to an existing iron pipe set in the southern margin of the 50-foot right-of-way for Mackie Avenue; thence North 01 degree 53 minutes 38 seconds East 50.77 feet to an existing iron pipe set in the northern margin of the right-of-way for Mackie Avenue; thence continuing along the existing primary corporate limits line of the City of Asheboro the following courses and distances: North 01 degree 59 minutes 44 seconds East 194.07 feet to an existing iron pipe that can be located by means of the North Carolina Coordinate System at the coordinates of North 707,920.068 feet and East 1,763,688.800 feet (NAD 83); thence North 83 degrees 23 minutes 59 seconds East 137.03 feet to a new iron pipe set in the western margin of the 60-foot right-of-way for Browers Chapel Road (North Carolina Secondary Road 2826); thence North 83 degrees 23 minutes 59 seconds East 59.54 feet to a computed point within the right-of-way for Browers Chapel Road and on the existing primary corporate limits line of the City of Asheboro; thence along the existing primary corporate limits line of the City of Asheboro the following course and distance: South 20 degrees 04 minutes 01 second East 299.39 feet to an existing iron pipe; thence following the eastern margin of the right-of-way for Browers Chapel Road in a southeasterly direction along an arc having a radius of 756.75 feet and an arc distance of 165.42 feet (Chord Bearing and Distance = South 07 degrees 59 minutes 36 seconds East 165.09 feet) to a computed point; thence South 88 degrees 28 minutes 42 seconds West 60.00 feet across the right-of-way for Browers Chapel Road to a new iron pipe set at the southeast corner of the Matthew R. Salyer and Lisa A. Salyer property described in Deed Book 1870, Page 471, Randolph County Public Registry; thence along the Alvah and Louise Skeen property described in Deed Book 1067, Page 953, Randolph County Public Registry the following course and distance: North 87 degrees 54 minutes 57 seconds West 274.95 feet to the point and place of the BEGINNING, and containing 2.765 acres of land, more or less, to be annexed.

This description is in accordance with a plat of survey entitled "ANNEXATION PLAT PREPARED FOR CITY OF ASHEBORO BROWERS CHAPEL ROAD AREA" that was drawn under the supervision of Glenn L. Brown, Professional Land Surveyor with Registration No. L-3663. The said plat of survey was dated February 26, 2007 and was identified as Job No. G07013AX.

**Section 2.** Upon and after April 5, 2007, 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 5<sup>th</sup> day of April, 2007.

Adopted by the Asheboro City Council in regular session on the 5<sup>th</sup> day of April, 2007.

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

ATTEST:

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

Approved as to form:

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

**9. Consideration of a petition received from the County of Randolph in combination with a petition received from Larry McKenzie and William Tyler requesting contiguous annexation of 49.982 acres along New Century Drive and Veterans Loop Road.**

Mayor Jarrell opened the public hearing on the request for contiguous annexation of 49.982 acres of land located along New Century Drive and Veterans Loop 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 of the City of Asheboro.

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

**Ordinance Number** 14 ORD 4-07

**ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEBORO, NORTH CAROLINA  
(49.982 Acres of Land Located along New Century Drive and Veterans Loop Road)**

**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 25<sup>th</sup> day of March, 2007 in *The Courier Tribune*, a newspaper having general circulation in the City of Asheboro, setting forth that a public hearing would be held during the City Council's regular meeting at 7:00 o'clock p.m. on the 5<sup>th</sup> day of April, 2007, 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 5<sup>th</sup> day of April, 2007; 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:

Cedar Grove Township, Randolph County, North Carolina:

BEGINNING at an existing iron rod control corner set in the eastern margin of the right-of-way for United States Highway 220 By-Pass (I-73/74), this control corner is located North 62 degrees 49 minutes 00 seconds East 92.07 feet from North Carolina Geodetic Survey Monument "GUARD" which is itself located by means of the North Carolina Coordinate System at the coordinates of North 697,724.5455 feet and East 1,751,909.593 feet (NAD 83); thence from the said Beginning point along the eastern margin of the right-of-way for United States Highway 220 By-Pass the following courses and distances: North 22 degrees 57 minutes 50 seconds East 446.56 feet to a concrete monument control corner; thence North 23 degrees 11 minutes 57 seconds East 499.23 feet to an existing iron pipe that is located by means of the North Carolina Coordinate System at the coordinates of North 698,636.6450 feet and East 1,752,362.3859 feet (NAD 83); thence along the existing primary corporate limits line of the City of Asheboro, which at this point follows the eastern margin of the right-of-way for United States Highway 220 By-Pass, the following courses and distances: North 23 degrees 14 minutes 41 seconds East 301.25 feet to a concrete monument; thence North 24 degrees 18 minutes 58 seconds East 195.39 feet to a concrete monument; thence in a northeasterly direction along an arc having a radius of 1,823.86 feet and an arc distance of 413.19 feet (Chord Bearing and Distance = North 32 degrees 42 minutes 44 seconds East 412.30 feet, Delta Angle = 12 degrees 58 minutes 48 seconds, Tangent = 207.48 feet) to a concrete right-of-way monument; thence North 41 degrees 14 minutes 03 seconds East 125.88 feet to an existing iron pipe; thence North 41 degrees 15 minutes 31 seconds East 69.69 feet to an existing iron pipe; thence North 42 degrees 07 minutes 33 seconds East 314.92 feet to an existing iron pipe; thence North 74 degrees 24 minutes 40 seconds East 82.69 feet to an existing iron pipe set in the southern margin of the right-of-way for McDowell Road (North Carolina Secondary Road No. 1150); thence along the southern margin of the right-of-way for McDowell Road the following courses and distances: South 73 degrees 19 minutes 04 seconds East 159.73 feet to an existing iron rod; thence South 74 degrees 11 minutes 53 seconds East 50.01 feet across the 50-foot right-of-way for New Century Drive (North Carolina Secondary Road No. 1244) to a new iron rod; thence along the eastern margin of the right-of-way for New Century Drive in a southwesterly direction along an arc having a radius of 265.20 feet and an arc distance of 117.68 feet (Chord Bearing and Distance = South 04 degrees 08 minutes 37 seconds West 116.72 feet, Delta Angle = 25 degrees 25 minutes 32 seconds, Tangent = 59.83 feet) to an existing iron pipe; thence continuing along the eastern margin of the right-of-way for New Century Drive in a southeasterly direction along an arc having a radius of 327.42 feet and an arc distance of 91.27 feet (Chord Bearing and Distance = South 00 degrees 35 minutes 21 seconds East 90.97 feet, Delta Angle = 15 degrees 58 minutes 14 seconds, Tangent = 45.93 feet) to an existing iron pipe; thence South 73 degrees 13 minutes 07 seconds East 282.69 feet along the Pugh Oil Company property described in Deed Book 1198, Page 1791, Randolph County Public Registry to an existing iron pipe; thence along the Pugh Oil Company property described in Deed Book 1212, Page 1419, Randolph County Public Registry the following courses and distances: South 14 degrees 46 minutes 23 seconds West 960.83 feet to an existing iron pipe; thence South 15 degrees 05 minutes 14 seconds West 40.52 feet to a tall existing iron pipe; thence along the Wilton Craven property described in Deed Book 1403, Page 396, Randolph County Public Registry the following courses and distances: South 01 degree 01 minute 03 seconds West 571.55 feet to an existing iron pipe; thence South 01 degree 30 minutes 20 seconds West 137.61 feet to a new iron rod set in the northern margin of the 50-foot right-of-way for Veterans Loop Road (North Carolina Secondary Road No. 1149); thence along the northern margin of the right-of-way for Veterans Loop Road in a northwesterly direction along an arc having a radius of 597.96 feet and an arc distance of 166.09 feet (Chord Bearing and Distance = North 80 degrees 54 minutes 33 seconds West 165.56 feet, Delta Angle = 15 degrees 54 minutes 52 seconds, Tangent = 83.58 feet) to a point not set; thence continuing along the northern margin of the right-of-way for Veterans Loop Road the following courses and distances: North 88 degrees 51 minutes 58 seconds West 68.98 feet to a point not set; thence in a southwesterly direction along an arc having a radius of 597.96 feet and an arc distance of 235.92 feet (Chord Bearing and Distance = South 79 degrees 49 minutes 51 seconds West 234.39 feet, Delta Angle = 22 degrees 36 minutes 19 seconds, Tangent = 119.51 feet) to a point not set; thence South 65 degrees 54 minutes 48 seconds West 204.32 feet to a point not set; thence in a southwesterly direction along an arc having a radius of 979.93

feet and an arc distance of 89.61 feet (Chord Bearing and Distance = South 63 degrees 05 minutes 27 seconds West 89.58 feet, Delta Angle = 05 degrees 14 minutes 22 seconds, Tangent = 44.84 feet) to a point not set; thence South 60 degrees 28 minutes 15 seconds West 358.46 feet to a point not set; thence in a southwesterly direction along an arc having a radius of 929.93 feet and an arc distance of 86.12 feet (Chord Bearing and Distance = South 63 degrees 06 minutes 59 seconds West 86.09 feet, Delta Angle = 05 degrees 18 minutes 22 seconds, Tangent = 43.09 feet) to a point not set; thence South 65 degrees 46 minutes 50 seconds West 61.43 feet to a new iron rod; thence along the Larry Tupper property described in Deed Book 1950, Page 1365, Randolph County Public Registry the following course and distance: North 35 degrees 18 minutes 59 seconds West 403.81 feet to the point and place of the BEGINNING, and containing 49.982 acres of land, more or less, to be annexed.

This description is in accordance with a plat of survey entitled "ANNEXATION SURVEY FOR THE CITY OF ASHEBORO" that was drawn under the supervision of Jerry A. King, Professional Land Surveyor with Registration No. L-3373. The said plat of survey was dated January 30, 2007 and was identified as Job # 4981 M 10.

**Section 2.** Upon and after April 5, 2007, 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 5<sup>th</sup> day of April, 2007.

Adopted by the Asheboro City Council in regular session on the 5<sup>th</sup> day of April, 2007.

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

ATTEST:

\_\_\_\_\_  
s/ Holly J. Hartman  
Holly J. Hartman, City Clerk

Approved as to form:

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

**10. Consideration of a resolution fixing the date of a public hearing on the question of the annexation of 64.94 acres of City owned property on the east side of Zoo Parkway (Proposed Zoo City Park).**

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

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

**20 RES 4-07**

**RESOLUTION STATING THE INTENT OF THE CITY OF ASHEBORO TO ANNEX PROPERTY OWNED BY THE CITY THAT IS NOT CONTIGUOUS TO THE EXISTING PRIMARY CORPORATE LIMITS OF THE CITY OF ASHEBORO**

**BE IT RESOLVED** by the City Council of the City of Asheboro as follows:

**Section 1.** It is the intent of the City Council, pursuant to Section 160A-58.7 of the North Carolina General Statutes, to annex the property described in Section 2 of this resolution that is owned by the City of Asheboro.

**Section 2.** The legal description of the city-owned property referenced in Section 1 of this resolution is as follows:

Grant Township, Randolph County, North Carolina:

BEGINNING at a new iron pin that is located the following courses and distances from the point of intersection between the existing centerline of Zoo Parkway (North Carolina Highway 159) and the centerline of Old Cox Road (North Carolina Secondary Road 2834) (this point of intersection is not set, but it is located by means of the North Carolina Coordinate System at the coordinates of North 697,126.36 feet and East 1,764,540.32 feet (NAD 27): A chord bearing and distance of North 21 degrees 27 minutes 11 seconds West 389.77 from the intersection and along the existing centerline of Zoo Parkway following the arc of a curve with a radius of 952.54 feet to a point not set in the centerline of the road; thence North 55 degrees 19 minutes 25 seconds East 31.18 feet to an existing iron pin or pipe; thence North 55 degrees 19 minutes 25 seconds East 28.82 feet to the new iron pin that is the beginning point for this legal description; thence from the said Beginning point along the existing satellite corporate limits of the City of Asheboro the following courses and distances: North 55 degrees 19 minutes 25 seconds East 220.84 feet to an existing iron pin or pipe; thence North 55 degrees 18 minutes 28 seconds East 130.30 feet to an existing iron pin or pipe; thence North 34 degrees 41 minutes 19 seconds West 662.39 feet to an existing iron pin or pipe; thence along the Minnie Yates and Others property described in Deed Book 1085, Page 557, Randolph County Public Registry the following courses and distances: North 80 degrees 24 minutes 49 seconds East 981.48 feet to a new iron pin; thence North 03 degrees 42 minutes 09 seconds East 1529.97 feet to an existing iron pin or pipe; thence along the Pine Lake Partners, L.L.C. property described in Deed Book 1850, Page 1733, Randolph County Public Registry the following courses and distances: North 01 degree 23 minutes 25 seconds East 198.67 feet to an existing iron pin or pipe; thence North 01 degree 23 minutes 25 seconds East 33.58 feet to a point not set in the centerline of Richland Creek; thence along the centerline of Richland Creek the following courses and distances: South 16 degrees 41 minutes 28 seconds East 25.49 feet to a point not set; thence South 49 degrees 38 minutes 51 seconds East 76.49 feet to a point not set; thence South 37 degrees 43 minutes 46 seconds East 87.68 feet to a point not set; thence South 44 degrees 55 minutes 16 seconds East 55.24 feet to a point not set; thence South 86 degrees 40 minutes 06 seconds East 95.35 feet to a point not set; thence South 67 degrees 38 minutes 17 seconds East 101.67 feet to a point not set; thence South 43 degrees 05 minutes 36 seconds East 31.94 feet to a point not set; thence South 37 degrees 31 minutes 57 seconds East 118.81 feet to a point not set; thence South 30 degrees 38 minutes 19 seconds East 54.01 feet to a point not set; thence South 50 degrees 37 minutes 15 seconds East 32.42 feet to a point not set; thence South 87 degrees 13 minutes 31 seconds East 70.66 feet to a point not set; thence South 67 degrees 34 minutes 03 seconds East 56.80 feet to a point not set; thence South 50 degrees 27 minutes 39 seconds East 95.79 feet to a point not set; thence South 53 degrees 05 minutes 25 seconds East 128.97 feet to a point not set; thence South 55 degrees 13 minutes 13 seconds East 132.81 feet to a point not set; thence South 58 degrees 19 minutes 50 seconds East 163.69 feet to a point not set; thence South 52 degrees 21 minutes 30 seconds East 67.46 feet to a point not set; thence South 43 degrees 55 minutes 42 seconds East 98.70 feet to a point not set; thence South 47 degrees 57 minutes 02 seconds East 118.76 feet to a point not set; thence South 53 degrees 13 minutes 48 seconds East 67.63 feet to a point not set; thence South 12 degrees 54 minutes 12 seconds East 49.75 feet to a point not set; thence South 05 degrees 42 minutes 04 seconds West 82.40 feet to a point not set; thence South 48 degrees 57 minutes 58 seconds East 79.65 feet to a point not set; thence North 59 degrees 31 minutes 16 seconds East 48.03 feet to a point not set; thence departing from the centerline of Richland Creek South 38 degrees 21 minutes 30 seconds West 46.79 feet to an existing iron pin or pipe; thence along the Samuel Grantham property described in Deed Book 1875, Page 297, Randolph County Public Registry and in Plat Book 68, Page 10, Randolph County Public Registry the following course and distance: South 36 degrees 33 minutes 37 seconds West 1600.22 feet to an existing iron pin or pipe in a branch; thence South 12 degrees 41 minutes 47 seconds West 64.21 feet along Lot 8 of the Walden Subdivision described in Plat Book 10, Page 50, Randolph County Public Registry to an existing iron pin or pipe; thence South 11 degrees 19 minutes 02 seconds West 91.03 feet along Lot 7 of the Walden Subdivision described in Plat Book 10, Page 50, Randolph County Public Registry to an existing iron pin or pipe; thence along the Pine Lake Partners, LLC property described in the Randolph County Public Registry in Deed Book 1840, Page 2590; Deed Book 1840, Page 2588; Plat Book 108, Page 8; Plat Book 68, Page 10; and in Plat Book 84, Page 80 the following courses and distances: North 83 degrees 00 minutes 20 seconds West 1010.39 feet to a new iron pin; thence South 55 degrees 18 minutes 28 seconds West 197.68 feet to a new iron pin; thence South 55 degrees 19 minutes 25 seconds West 95.36 feet to a new iron pin; thence South 46 degrees 47 minutes 34 seconds West 101.12 feet to a new iron pin; thence South 55 degrees 19 minutes 25 seconds West 30.00 feet to a new iron pin; thence North 31 degrees 13 minutes 46 seconds West 75.14 feet along the eastern margin of the right-of-way for Zoo Parkway to the point and place of the BEGINNING, and containing 64.94 acres of land, more or less, to be annexed.

This description is in accordance with a plat of survey entitled "Annexation Survey For City of Asheboro" and drawn under the supervision of Rodney G. Maness, Professional Land Surveyor with Registration No. L-4594. This plat of survey is dated January 29, 2007 and is identified as Job # 06047.

**Section 3.** The property described in Section 2 of this resolution is not contiguous with the existing primary corporate limits of the City of Asheboro, but this property, which is the area proposed for satellite annexation, does meet the requirements of Section 160A-58.1(b) of the North Carolina General Statutes.

**Section 4.** A public hearing on the question of annexation will be held during a regular meeting of the City Council that is to be held in the Council Chamber of the Asheboro Municipal Building at 7:00 o'clock p.m. on Thursday, May 10, 2007.

**Section 5.** Notice of the aforementioned public hearing shall be published once in *The Courier-Tribune*, a newspaper having general circulation in the City of Asheboro, at least ten (10) days prior to the date of the public hearing.

Adopted by the Asheboro City Council in regular session on the 5<sup>th</sup> day of April, 2007.

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

ATTEST:

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

11. **Consideration of a resolution of intent to close a portion of West Kivett Street between South Fayetteville Street and the railroad, to reduce the right-of-way width from 60 feet to 50 feet.**

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

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

**21 RES 4-07**

**RESOLUTION OF INTENT TO PERMANENTLY CLOSE A PORTION OF WEST KIVETT STREET**

**WHEREAS**, Section 160A-299 of the North Carolina General Statutes prescribes the procedure to be followed by a city in order to permanently close a street or alley; and

**WHEREAS**, the City Council of the City of Asheboro has determined that it is advisable to consider reducing the width of the right-of-way claimed by the city for West Kivett Street between South Fayetteville Street and the railroad right-of-way by invoking the procedures prescribed by Section 160A-299 of the North Carolina General Statutes; and

**WHEREAS**, in order for a municipality to lawfully permanently close a street or any portion thereof, Section 160A-299 of the North Carolina General Statutes requires that a city council first adopt a resolution declaring its intent to permanently close the street in question and then call a public hearing on the question.

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

**Section 1.** It is the intent of the City Council of the City of Asheboro to permanently close a certain portion of West Kivett Street that is located within the corporate limits of the City of Asheboro. The portion of West Kivett Street to be permanently closed is approximately ten feet (10') of the width of the 60-foot right-of-way currently claimed by the city for West Kivett Street between South Fayetteville Street and the railroad right-of-way. Approximately five feet (5') of the right-of-way to be closed is located along the southern margin of the 60-foot right-of-way currently claimed for West Kivett Street and the remaining five feet (5') of right-of-way to be closed is located along the northern margin of the said right-of-way. It is the intent of the City Council to claim, upon the recordation of the appropriate street closure order, a 50-foot right-of-way for West Kivett Street between South Fayetteville Street and the railroad right-of-way. The portion of West Kivett Street to be permanently closed is more particularly described as follows:

**Southern Portion of the Existing 60-Foot Right-of-Way Claimed by the City of Asheboro That Is to Be Closed**

Asheboro Township, Randolph County, North Carolina:

BEGINNING at an existing iron pipe set at the intersection of the western margin of the right-of-way for South Fayetteville Street (United States Highway 220 Business) and the southern margin of the 60-foot right-of-way currently claimed by the City of Asheboro for West Kivett Street; thence from the said Beginning point along the southern margin of the 60-foot right-of-way claimed by the City of Asheboro for West Kivett Street the following courses and distances: North 88 degrees 12 minutes 08 seconds West 149.97 feet to a railroad spike; thence North 88 degrees 06 minutes 44 seconds West 60.01 feet to a point not set; thence North 88 degrees 06 minutes

44 seconds West 68.40 feet to a point not set; thence North 88 degrees 06 minutes 44 seconds West 141.87 feet to a point not set; thence North 06 degrees 12 minutes 57 seconds East 5.00 feet along the eastern margin of the Norfolk Southern Railroad right-of-way to a point not set; thence along the southern margin of the proposed 50-foot right-of-way for West Kivett Street the following courses and distances: South 88 degrees 07 minutes 54 seconds East 141.66 feet to a point not set; thence South 88 degrees 07 minutes 54 seconds East 68.44 feet to a point not set; thence South 88 degrees 07 minutes 54 seconds East 209.77 feet to a point not set; thence South 01 degree 52 minutes 06 seconds West 4.91 feet along the western margin of the right-of-way for South Fayetteville Street to the point and place of the BEGINNING, and being all of that certain 2,112 square feet (0.05 of an acre) of land, more or less, encompassed by the preceding metes and bounds description.

**Northern Portion of the Existing 60-Foot Right-of-Way Claimed by the City of Asheboro That Is to Be Closed**

Asheboro Township, Randolph County, North Carolina:

BEGINNING at the intersection of the western margin of the right-of-way for South Fayetteville Street (United States Highway 220 Business) and the northern margin of the 60-foot right-of-way claimed by the City of Asheboro for West Kivett Street; thence from the said Beginning point along the northern margin of the 60-foot right-of-way currently claimed by the City of Asheboro for West Kivett Street the following courses and distances: North 88 degrees 03 minutes 17 seconds West 236.76 feet to a point not set; thence North 88 degrees 03 minutes 17 seconds West 87.82 feet to a railroad spike; thence North 88 degrees 17 minutes 20 seconds West 92.92 feet to a railroad spike; thence South 01 degree 52 minutes 06 seconds West 5.17 feet along the eastern margin of the right-of-way for Norfolk Southern Railroad to a point not set; thence along the northern margin of the proposed 50-foot right-of-way for West Kivett Street the following courses and distances: South 88 degrees 07 minutes 54 seconds East 92.70 feet to a point not set; thence South 88 degrees 07 minutes 54 seconds East 87.99 feet to a point not set; thence South 88 degrees 07 minutes 54 seconds East 236.69 feet to a point not set; thence North 04 degrees 59 minutes 21 seconds East 5.00 feet along the western margin of the right-of-way for South Fayetteville Street to the point and place of the BEGINNING, and being all of that certain 2,182 square feet (0.05 of an acre) of land, more or less, encompassed by the preceding metes and bounds description.

The two preceding (2) legal descriptions are in accordance with a plat of survey entitled "Survey Plat For Proposed Closing Of A Portion Of Right Of Way On West Kivett Street To Reduce The Right Of Way Width From 60 Feet To 50 Feet" that was drawn under the supervision of Rodney G. Maness, a professional land surveyor with registration number L-4594. The said plat of survey is dated April 2, 2007, identified as Job No. 07004, and is hereby incorporated into this resolution by reference as if copied fully herein.

**Section 2.** A public hearing on the matter of the proposed permanent closure of the above-described portion of West Kivett Street is hereby called and is to be held during a regular meeting of the City Council of the City of Asheboro that is to be held on May 10, 2007, at 7:00 p.m. in the Council Chamber of the City of Asheboro Municipal Building located at 146 North Church Street in Asheboro. At this public hearing, any person may be heard on the question of whether or not the intended closing of the above-described portion of West Kivett Street would be detrimental to the public interest or the property rights of any individual.

**Section 3.** The City Clerk is hereby directed to cause the publication of this Resolution of Intent once a week for four (4) successive weeks prior to the above-referenced public hearing in *The Courier Tribune*, a newspaper of general circulation in the City of Asheboro.

**Section 4.** The City Clerk is further directed to transmit a copy of this Resolution of Intent by registered or certified mail to each owner of property adjoining the portion of West Kivett Street described in Section 1 of this resolution. The identity of said property owners is to be determined on the basis of the Randolph County Tax Department's records.

**Section 5.** The City Clerk is further directed to cause the prominent posting of this Resolution of Intent in a minimum of two (2) locations along the portion of West Kivett Street described in Section 1 of this resolution.

Adopted by the Asheboro City Council in regular session on the 5<sup>th</sup> day of April, 2007.

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

ATTEST:

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

**12. Public comment period.**

Mayor Jarrell opened the public comment period and invited members of the public to address the Council.

Mr. Neely announced that Mr. Trevor Nuttall, Planner will be leaving the City of Asheboro on April 18, 2007. Mr. Nuttall will be taking a new position with the Guilford County Planning Department. Staff members along with Mayor Jarrell and members of the Council expressed their regret at Mr. Nuttall's departure, thanked him for his service, and wished him well.

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

**13. Consideration of a resolution authorizing the submission of an application to the North Carolina Department of Commerce for approval of a North Carolina Urban Progress Zone.**

Mr. Lynn Priest, Community Development Director, presented 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.

**22 RES 4-07**

**RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION ON BEHALF OF THE CITY OF ASHEBORO TO THE NORTH CAROLINA DEPARTMENT OF COMMERCE FOR APPROVAL OF AN URBAN DEVELOPMENT ZONE**

**WHEREAS**, the City Council of the City of Asheboro has determined that certain areas within the City of Asheboro may require economic incentives to assist in economic development efforts; and

**WHEREAS**, the City Council of the City of Asheboro has determined that incentives provided by the State of North Carolina are desirable; and

**WHEREAS**, the City Council of the City of Asheboro wishes the City of Asheboro to pursue a formal application for designation of such areas as a North Carolina Urban Progress Zone.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the City of Asheboro is authorized to submit, by and through its elected and appointed officials and employees, a formal application to the North Carolina Department of Commerce for approval of a North Carolina Urban Progress Zone.

Adopted by the Asheboro City Council in regular session on the 5<sup>th</sup> day of April, 2007 in Asheboro, North Carolina.

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

ATTEST:

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

**14. Consideration of granting permission to the Parks and Recreation Department to broaden the scope of the types of skates allowed at the Asheboro Skate Park.**

**(a) Consideration of an ordinance amending Section 98.02 of the Code of Asheboro.**

Mr. Hughes presented and recommended adoption, by reference, of an ordinance amending Section 98.02 of the Code of Asheboro.

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

Ordinance Number 15 ORD 4-07  
**AN ORDINANCE AMENDING CHAPTER 98 OF THE CODE OF ASHEBORO**

**WHEREAS**, Section 98.02 of the Code of Asheboro provides as follows:

- (A) It shall be unlawful for any person to ride, operate, or utilize in any manner a skateboard or inline skates on the premises of the Asheboro Skate Park unless such a person is wearing a helmet, elbow pads, and kneepads in strict compliance with the instructions provided by the manufacturer of the safety equipment.
- (B) The city manager, in consultation with the city police department and the city parks and recreation department, shall cause signage to be erected on the premises of the Asheboro Skate Park in order to provide notice of the safety equipment requirements imposed by this Section; and

**WHEREAS**, the city's director of parks and recreation has determined that individuals who utilize sneakers with one or more wheels embedded in each sole of the shoe are engaging in skating with a type of equipment that is similar to inline skates; and

**WHEREAS**, the city's director of parks and recreation has concluded that, so long as the existing safety rules at the skate park are uniformly applied to all skaters, individuals utilizing this type of equipment should be able to utilize the Asheboro Skate Park to the same degree as individuals utilizing traditional inline skates; and

**WHEREAS**, the City Council of the City of Asheboro concurs with the above-stated determinations and conclusions of the parks and recreation director.

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

**Section 1.** Section 98.02 of the Code of Asheboro, which is entitled "**REQUIRED SAFETY EQUIPMENT AT ASHEBORO SKATE PARK,**" is hereby amended to provide as follows:

- (A) It shall be unlawful for any person to ride, operate, or utilize in any manner a skateboard or inline skates, specifically including sneakers or other types of shoes with one or more wheels embedded in each shoe's sole, on the premises of the Asheboro Skate Park unless such a person is wearing a helmet, elbow pads, and kneepads in strict compliance with the instructions provided by the manufacturer of the safety equipment.
- (B) The city manager, in consultation with the city police department and the city parks and recreation department, shall cause signage to be erected on the premises of the Asheboro Skate Park in order to provide notice of the safety equipment requirements imposed by this Section.

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

**Section 3.** This ordinance shall take effect and be in force from and after the 1<sup>st</sup> day of May, 2007.

Adopted by the Asheboro City Council in regular session on the 5<sup>th</sup> day of April, 2007.

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

ATTEST:

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

**(b) Consideration of an ordinance amending Article XIII of the Asheboro Parks and Recreation Policy Manual.**

Mr. Hughes presented and recommended adoption, by reference, of an ordinance amending Article XIII of the Asheboro Parks and Recreation Policy Manual.

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



**SUNDAY**  
**1pm - 8pm**

*(Non-School Hours)*  
**MONDAY - SATURDAY**  
**10am - 10pm**  
**SUNDAY**  
**1pm - 8pm**

**SECTION 13.3            RULES & REGULATIONS**

1. Skateboarding and In-line Skating, specifically including the use of sneakers and/or other types of shoes with one or more wheels embedded in each shoe's sole, are inherently hazardous recreational activities. Additionally, experienced and inexperienced skateboarders and skaters use this facility. By way of illustration and without limitation, individuals utilizing this facility may receive serious injuries as a consequence of falling, colliding, or being hit by a skateboard. **Individuals utilizing this skate park are hereby expressly warned that use of this facility may result in death, paralysis, brain damage, concussion, broken bones, or other serious injury. Individuals who participate in, assist, or observe these hazardous recreational activities assume the known and unknown inherent risks in these activities. The City of Asheboro does not assume responsibility for injuries. Use this facility at your own risk.**
2. All individuals utilizing this facility, regardless of age, must complete a liability waiver form in order to use the facility, and waivers must be updated yearly. If an individual who wishes to enter the facility is under the age of 18, he or she must have on file a waiver form signed by a parental/legal guardian in the presence of a member of the Staff or a waiver form that has the notarized signature of a parent/legal guardian.
3. Skateboarders and skaters will be required to pay a daily admission fee or present a valid pass, as well as sign in on a daily attendance sheet in the office. A wristband pass will be issued for the day.
4. Patrons leaving the facility shall be charged unreduced admission rates for re-entry to the facility.
5. Anyone using this facility must wear appropriate safety equipment. At a minimum, this mandated safety equipment must include helmet, elbow pads, and kneepads as prescribed by Section 98.02 of the Code of Asheboro.
6. Individuals without proper safety equipment are prohibited from using the Skate Park.
7. All individuals are required to wear Shirts and shoes while on the premises of the Skate Park facility.
8. Non-Skaters are not allowed on ramps. They may watch from designated viewing areas only
9. Skateboards and in-line skates, specifically including sneakers and/or other types of shoes with one or more wheels embedded in each shoe's sole, must be in proper working condition in order to be used at the Asheboro Skate Park.
10. If equipment used by a participant is deemed unsafe, admission to the facility shall be denied. The determination of whether specific equipment is unsafe shall be in the sole judgment of the Staff.
11. Only one person is permitted to ride a skateboard at any given time. By way of clarification and without limitation, tandem riding is expressly prohibited.
12. Reckless or dangerous skating, including without limitation pushing, is expressly prohibited. Any individual(s) found to be in violation of this regulation shall be immediately ejected from the Skate Park.
13. Any person found to be attempting to or is in fact destroying, defacing, or damaging the facility/ equipment or found to be engaged in criminal conduct on the premises of the facility shall be immediately ejected from the Skate Park.
14. Any person found to be attempting to or is in fact touching or holding onto rafters while skating the half pipe shall be immediately ejected from the facility.
15. Equipment is allowed in designated areas only.
16. Use of the facility is permitted only during designated hours of operation. No trespassing

is allowed on the premises of the Asheboro Skate Park.

17. In the event of inclement weather, the outside skate area will be closed.
18. Food and beverages are allowed in designated areas only.
19. No glass is permitted under any circumstances.
20. All injuries, weather major or minor, are to be reported to the Staff immediately. In the event of a serious injury, do not move the injured person until trained medical personnel take charge of the care for the injured person. All activity on that ramp shall cease immediately.
21. The City of Asheboro is not responsible for lost, stolen or damaged items.
22. No refunds or rain checks will be given.
23. No chewing gum is allowed.
24. Drugs, alcoholic beverages, and tobacco products are prohibited.
25. Smoking is not permitted.
26. Profanity, graffiti, and fighting are prohibited.
27. Staff reserves the right to deny entry to participants or spectators if there is evidence of attempts to circumvent the Skate Park's rules and regulations.
28. No pets allowed.
29. The Skate Park may be closed for certain events at the discretion of the Parks & Recreation Director.
30. Participants shall respect fellow participants and take turns on the ramps and rails.
31. Lockers are available for use. Any locks left on a locker after the facility has been cleared of non-city personnel at the conclusion of operations for the day shall be subject to immediate forcible removal by members of the Staff. Any items left in the locker shall be deemed abandoned. Staff shall post signage indicating that participants have no expectation of privacy in these lockers.
32. Only authorized personnel are allowed in the office and storage areas.
33. Waxing or altering of city-owned equipment is prohibited.
34. No personal ramps or other non-city owned devices are permitted.
35. No personal music or sound devices are allowed.
36. Violations of these regulations shall subject offenders to criminal and administrative sanctions including, without limitation, being ejected from the facility, the forfeiture of any user fees paid to the Parks & Recreation Department, and the prohibition during a defined time period of the offender's future use of the facility.

**15. Discussion of items not on the agenda.**

Upcoming Events:

- Thursday, May 3, 2007 – Mayor's Prayer Breakfast at 6:30 a.m. at AVS and 12:00 p.m. at Bicentennial Park
- Wednesday, May 9, 2007 – Town Hall Day
- Thursday, May 10, 2007 – Special Meeting at 6:00 p.m. for zoning cases. Regular Council Meeting at 7:00 p.m.
- Thursday, May 17, 2007 from 9:00 a.m. until 5:00 p.m. and Friday, May 18, 2007 from 9:00 a.m. until 12:00 p.m. – Retreat at Camp Caraway (Lunch is included.)
- Monday, May 28, 2007 – Memorial Day (City offices will be closed.)

There being no further business, the meeting was adjourned at 11:28 p.m.

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Holly J. Hartman, City Clerk

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David H. Jarrell, Mayor