

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY OF ASHEBORO PUBLIC WORKS FACILITY
CONFERENCE ROOM
THURSDAY, APRIL 10, 2008
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 in the City of Asheboro Public Works Facility Conference Room located at 1312 North Fayetteville Street, Asheboro, North Carolina with the following officials and members present:

David H. Jarrell) – Mayor Presiding

Talmadge S. Baker)
Edward J. Burks)
Linda H. Carter)
J. Keith Crisco) – Council Members Present
Walker B. Moffitt)
Archie B. Priest, Sr.)
David H. Smith)

John N. Ogburn, III, City Manager
Edsel L. Brown, Code Enforcement Officer
Dumont Bunker, P.E., City Engineer
Richard L. Cox, Jr., Community Planning and Development Department Intern
Holly H. Doerr, City Clerk/Senior Legal Assistant
John L. Evans, Planner
R. Wendell Holland, Jr., Zoning Administrator
R. Foster Hughes, Recreation Director
T. Myers Johnson, Human Resources Director
Deborah P. Juberg, Finance Director
Gary L. Mason, Chief of Police
R. Reynolds Neely, Jr., Planning Director
Ralph W. Norton, Police Captain
O. Lynn Priest, Community Development Director
A. Todd Stout, Information Technologist
Jeffrey C. Sugg, City Attorney
Rickey D. Wilson, Assistant Chief of Police
Anthony C. York, Assistant Chief of Police (Retired)

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, after which Major Rickey Wilson of the Asheboro Police Department gave the invocation.

3. Recognition of Major Anthony C. York for his service to the City of Asheboro.

(a) Consideration of a resolution awarding Major York his service side arm.

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

13 RES 04-08

**RESOLUTION AWARDING A SERVICE SIDE ARM TO A RETIRING OFFICER
OF THE ASHEBORO POLICE DEPARTMENT**

WHEREAS, Section 20-187.2 of the North Carolina General Statutes authorizes the City Council of the City of Asheboro to award to a retiring sworn law enforcement officer of the Asheboro Police Department his service side arm at a price to be determined by the governing board; and

WHEREAS, effective March 31, 2008, Police Major Anthony C. York retired from employment with the City of Asheboro after rendering honorable and invaluable service to the City of Asheboro and its citizens over the course of a career with the Asheboro Police Department that began on September 1, 1977; and

WHEREAS, the City Council wishes to honor and thank Mr. York for his service to the city as a law enforcement officer by awarding to him the service side arm assigned to him at the time of his retirement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that, in consideration of his dedicated service to the City of Asheboro and upon securing a permit as required by Section 14-402 of the North Carolina General Statutes, Anthony C. York is to be awarded, at no additional cost to him, the service side arm assigned to him at the time of his retirement.

Adopted by the Asheboro City Council in regular session on the 10th day of April, 2008.

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

ATTEST:

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

(b) Presentation of service side arm and service awards to Major York.

Mayor Jarrell presented Major York with a plaque and thanked him for more than thirty (30) years of valuable service to the City of Asheboro and the Asheboro Police Department. Additionally, Chief Mason commented that Major York's honesty and integrity made him a blessing to the people in the community and a positive role model as a police officer. Chief Mason presented Major York with the service weapon that he carried at the time of his retirement.

Additionally, Mayor Jarrell presented Major York with the "Order of the Long Leaf Pine" from Governor Michael F. Easley. Major York thanked everyone for allowing him to be a part of the Asheboro Police Department.

4. Appearance and recognition of guests and citizens.

Mayor Jarrell welcomed everyone in attendance.

5. Consent Agenda:

Upon motion by Mr. Crisco and seconded by Mr. Baker, Council voted unanimously to approve the following consent agenda items:

- (a) The minutes of the regular meeting of the City Council held on March 6, 2008.**
- (b) Findings of fact, conclusions of law, and order in the matter of CUP-08-06.**

**CUP-08-06
City Council
City of Asheboro**

IN THE MATTER OF THE APPLICATION OF SHERWOOD PLACE, LLC FOR A CONDITIONAL USE PERMIT ALLOWING A MUTLI-FAMILY DEVELOPMENT

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

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during a regular meeting of the Council that was held on February 7, 2008. 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. Sherwood Place, LLC (hereinafter referred to as the "Applicant") has applied for a Conditional Use Permit that would essentially authorize a modification of the driveway location and

dumpster location for a land use previously approved by the Council with the issuance of a Conditional Use Permit under Asheboro Planning Department file number CUP-05-05. The new Conditional Use Permit sought by the Applicant would authorize the same use, a multi-family development for persons 55 years of age and older, as was authorized by the existing permit.

2. The parcel of land for which a Conditional Use Permit is sought encompasses approximately 4.59 acres and is located in the Northeast quadrant of the intersection of Mack Road and Sherwood Avenue. Randolph County Parcel Identification Number 7750143605 more specifically describes this parcel of land (hereinafter referred to as the "Zoning Lot").

3. The Zoning Lot is located in a CU-RA6 zoning district and is currently under development as a multi-family development for persons 55 years of age and older.

4. The Zoning Lot is located in an area designated on the Growth Strategy Map as a "Primary Growth" area, and this same area is identified as "Commercial" on the Proposed Land Development Plan Map.

5. The surrounding area includes commercial, office, and moderate intensity residential land uses.

6. The Zoning Lot is within the corporate limits of Asheboro and is served by all city services.

7. Mack Road is a major thoroughfare, and Sherwood Avenue is a local residential street.

8. The proposed development, which has already been undertaken in accordance with the existing Conditional Use Permit issued under file no. CUP-05-05, includes forty (40) residential units.

9. The Applicant has submitted a proper application, including a site plan and building elevations, for the requested Conditional Use Permit.

10. With the exception of the flipping of the location of a driveway and the resulting need to move the location of a dumpster, the revised site plan is substantially similar to the site plan approved by the Council under file no. CUP-05-05.

11. The location of the driveway was changed in order to comply with requests received by the Applicant from the North Carolina Department of Transportation during the driveway permit application process. A copy of a driveway permit issued to the Applicant by the North Carolina Department of Transportation has been presented to staff members in the city's planning department.

12. The city planning department's staff has reviewed the revised site plan, as well as the submitted building elevations, and found the submittals to be in compliance with the technical requirements of the Asheboro Zoning Ordinance.

13. During his testimony, the Applicant's attorney did not indicate that the Applicant wished to obtain relief from any of the conditions imposed under file no. CUP-05-05.

14. As found by the Council when considering the existing Conditional Use Permit, the Applicant's development is a higher intensity residential use that will serve as a transitional area buffering the lower intensity residential land uses to the south from the purely commercial land uses situated to the north of the Zoning Lot.

15. The available evidence, including without limitation the findings made by the Council under file no. CUP-05-05, indicates that the proposed land use is a restricted residential land use that does not involve any manufacturing or similar processes that utilize hazardous materials or create noxious fumes.

16. The landscaping, buffering, and overall design of the proposed development, as reflected on the revised site plan, appear to be sufficient for the purpose of limiting or minimizing any negative impacts on surrounding properties.

17. The available evidence indicates that, during the course of developing this land use, proper soil erosion and sedimentation control permits have been obtained and maintained.

18. During the hearing of this matter, no testimony was offered in opposition to the application.

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

CONCLUSIONS OF LAW

1. The Council has concluded that the proposed use, as revised, will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.
2. The evidence received during the public hearing established that the proposed use, as revised, continues to meet all of the required conditions and specifications of the Asheboro Zoning Ordinance.
3. The evidence presented during the course of the hearing of this matter established that the proposed use will not substantially injure the value of the adjoining or abutting property.
4. The location and character of the Applicant's proposed use, as revised and 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

Sherwood Place, LLC is hereby issued a Conditional Use Permit authorizing a multi-family development. This Conditional Use Permit shall be valid so long as, and only so long as, the Applicant, and its successors and assigns, conduct the approved land use in compliance with the approved revised site plan and building elevations, the provisions of the Asheboro Zoning Ordinance, and the following conditions:

- a. This multi-family development shall consist of a maximum of forty (40) residential units.
- b. The development shall not exceed the maximum permitted Floor Area Ratio of 17%.
- c. All front yard landscaping and buffering or screening shall be installed and maintained in accordance with the approved revised site plan and the Asheboro Zoning Ordinance.
- d. Recreational amenities shown on the revised site plan must be constructed, and these amenities must provide the minimum recreational ratio prescribed by the Asheboro Zoning Ordinance. Open space areas must be reserved, landscaped, and equal or exceed 52% of the Zoning Lot.
- e. The long-term parking of recreational vehicles and boats in the development's parking area(s) is prohibited.

Adopted by the Asheboro City Council in regular session on the 10th day of April, 2008.

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

ATTEST:

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

- (c) **A resolution per G.S. 143-64.32 exempting the City of Asheboro from the advertisement/qualification based selection procedure to contract with Andrew Engineering, Inc. of Greensboro, North Carolina for engineering services required for a structural evaluation of the roof framing on the Sunset Theatre and two (2) adjacent buildings, for the lump sum of \$1,250.**

14 RES 04-08

RESOLUTION EXEMPTING A PROJECT FROM THE PROVISIONS OF ARTICLE 3D OF CHAPTER 143 OF THE NORTH CAROLINA GENERAL STATUTES
(Structural Evaluation of the Roof Framing on the Sunset Theatre)

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

It is the public policy of this State and all public subdivisions and Local Governmental Units thereof . . . to announce all requirements for architectural, engineering, surveying, and construction management at risk services, to select firms qualified to provide such services on the basis of

demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm; and

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

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

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

WHEREAS, the City of Asheboro is in the process of renovating the city-owned Sunset Theatre and two (2) adjacent buildings that are also owned by the city; and

WHEREAS, in order to preserve these structures and protect the city's investment in this renovation project, the city has to repair the roofs for these existing structures; and

WHEREAS, Andrew Engineering, Inc. is qualified and willing to provide the structural evaluation of the roof framing for the Sunset Theatre and the two adjacent city-owned buildings that is needed in order undertake and successfully complete the needed roof repairs; and

WHEREAS, Andrew Engineering, Inc. has proposed to provide the engineering services needed to render this structural evaluation in consideration of an estimated professional fee of One Thousand Two Hundred Fifty and No/100 dollars (\$1,250.00); and

WHEREAS, on the basis of the firm's qualifications and the estimated professional fee for this project, the City Manager and the City Engineer have concluded that Andrew Engineering, Inc. should be utilized to provide the required structural evaluation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the roof repair project at the Sunset Theatre and the two (2) adjacent city-owned buildings, specifically including the structural evaluation of the structures' roof framing, is hereby exempted from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes on the basis of the fact that the estimated professional fee for the needed engineering services is less than Thirty Thousand and No/100 dollars (\$30,000.00); and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute, in accordance with the applicable laws and the city's standard contracting policies, a contract with Andrew Engineering, Inc. for the provision of the engineering services described above.

Adopted by the Asheboro City Council in regular session on the 10th day of April, 2008.

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

ATTEST:

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

- (d) **A resolution per G.S. 143-64.32 exempting the City of Asheboro from the advertisement/qualification based selection procedure to contract with ECS Carolinas, LLP of Greensboro, North Carolina for engineering services required for geotechnical quality control services on the Malt-O-Meal Railroad Spur construction project.**

15 RES 04-08

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

(Geotechnical Services for Malt-O-Meal Railroad Spur Construction Project)

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

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

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

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

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

WHEREAS, the City of Asheboro is preparing to undertake an economic development project with Community Development Block Grant funding and funds from the Rail Division of the North Carolina Department of Transportation in order to construct a railroad spur that will meet the industrial rail service needs of Malt-O-Meal as it develops its Asheboro Mill with the accompanying job creation and investment in Asheboro and Randolph County; and

WHEREAS, in order to successfully implement and complete this project, the city will have to procure geotechnical engineering services; and

WHEREAS, ECS Carolinas, LLP of Greensboro, North Carolina has the capability to provide the engineering services needed to conduct geotechnical quality control testing for the city during the course of the Malt-O-Meal Railroad Spur construction project; and

WHEREAS, ECS Carolinas, LLP has proposed to provide the needed geotechnical engineering services for the Malt-O-Meal Railroad Spur construction project in consideration of an estimated professional fee of Seven Thousand Four Hundred Thirty-Seven and 50/100 dollars (\$7,437.50); and

WHEREAS, on the basis of the firm's qualifications, the city's past experience with the firm, and the estimated professional fee for this project, the City Manager and the City Engineer have concluded that ECS Carolinas, LLP should be utilized to provide the geotechnical engineering services needed to successfully implement and complete this construction project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the Malt-O-Meal Railroad Spur construction project is hereby exempted from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes on the basis of the fact that the estimated professional fee for the needed geotechnical engineering services is less than Thirty Thousand and No/100 dollars (\$30,000.00); and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute, in accordance with the applicable laws and the city's standard contracting policies, a contract with ECS Carolinas, LLP for the provision of the engineering services described above.

Adopted by the Asheboro City Council in regular session on the 10th day of April, 2008.

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

ATTEST:

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

- (e) **A resolution per G.S. 143-64.32 exempting the City of Asheboro from the advertisement/qualification based selection procedure to contract with David Ward Surveying of Asheboro, North Carolina for surveying services to provide an annexation boundary map for the proposed Tot Hill Farm annexation.**

RESOLUTION EXEMPTING A SURVEY PROJECT FROM ARTICLE 3D OF CHAPTER 143 OF THE NORTH CAROLINA GENERAL STATUTES

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

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

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

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

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

WHEREAS, the City Council of the City of Asheboro has received a request from legal entities representing the property owners in the Tot Hill Farm development requesting that the city pursue annexation of specified portions of that development into the City of Asheboro by means of a local act of the North Carolina General Assembly; and

WHEREAS, in order to successfully complete the requested annexation, the city needs to procure a boundary survey of the territory proposed for annexation; and

WHEREAS, David Ward Surveying of Asheboro has estimated that the requisite surveying work can be completed for a professional fee of approximately One Thousand Two Hundred Sixty-Nine and No/100 dollars (\$1,269.00); and

WHEREAS, on the basis of the estimated amount of the professional fee and past surveys by Mr. Ward of a majority of the territory under consideration for annexation, the city's staff has concluded that David Ward Surveying should be utilized to provide the surveying services required to proceed with the Tot Hill Farm annexation project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the Tot Hill Farm annexation project is hereby exempted on the basis of the above-cited factors from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute, in accordance with the applicable laws and the city's standard contracting policies, a contract with David Ward Surveying for the provision of the surveying services described above.

Adopted by the Asheboro City Council in regular session on the 10th day of April, 2008.

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

ATTEST:

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

- (f) **Request by Steve Cain, Enrichment Services Coordinator for Volunteer Services at Randolph Hospital, to temporarily close a portion of North Street from Trade Street to Sunset Avenue on Sunday, May 4, 2008, from 3:00 p.m. to 5:00 p.m. for a sidewalk art showing for the Arts in Healthcare program.**
- (g) **Request by Acme-McCrary Corporation for an ordinance to change the parking restrictions on the east side of North Street from "2 Hour Limit 7:00 a.m. to 7:00 p.m." to "4 Hour Limit 7:00 a.m. to 7:00 p.m."**

**ORDINANCE AMENDING THE PARKING RESTRICTIONS APPLICABLE TO
A PORTION OF THE EAST SIDE OF NORTH STREET**

WHEREAS, Section 160A-296 of the North Carolina General Statutes provides that a city shall have general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits; and

WHEREAS, during the course of reviewing certain parking zones in the city's central business district, city staff members concluded that certain provisions in the city's traffic code should be updated in order to change the parking restrictions applicable to a portion of the east side of North Street from a two hour parking limit to a four hour parking limit; and

WHEREAS, the city council agrees with this recommendation.

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

Section 1. Section 71.01 of Chapter 71 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 71.01 DETERMINATION AND MARKING OF AREAS IN WHICH PARKING PROHIBITED OR REGULATED.

(A) Pursuant to instructions given to him by the City Council from time to time and entered in the council minute book, the City Manager shall:

(1) Cause all streets and parts of streets where parking shall be prohibited during prescribed time periods or at all times to be posted accordingly, or cause the curbs thereof to be painted yellow. He shall then notify the City Clerk, who shall enter the description of such streets or parts of streets in Schedule 1 of § 72.02.

(2) Cause all streets and parts of streets where parking shall be limited to one hour during prescribed time periods or at all times to be posted accordingly. He shall then notify the City Clerk, who shall enter the description of such streets or parts of streets in Schedule 2 of § 72.02.

(3) Cause all streets and parts of streets where parking shall be limited to two hours during prescribed time periods or at all times to be posted accordingly. He shall then notify the City Clerk, who shall enter the description of such streets or parts of streets in Schedule 3 of § 72.02.

(4) Cause all streets and parts of streets where parking shall be limited to 15 minutes during prescribed time periods or at any time to be posted accordingly. He shall then notify the City Clerk, who shall enter the description of such streets and parts of streets in Schedule 4 of § 72.02.

(5) Cause all areas designated as taxicab stands, bus stops, loading zones, reserved parking spaces and similar limited-purpose parking areas to be posted or marked accordingly. He shall then notify the City Clerk, who shall enter the description and limitation of such areas in Schedule 5 of § 72.02.

(6) Cause all streets and parts of streets where angle parking shall be required to be marked or posted so as to indicate where and at what angles vehicles shall be parked. He shall then notify the City Clerk, who shall enter the description of such streets and parts of streets, and the angle-parking requirements thereof, in Schedule 13 of § of 72.02.

(7) Cause all streets and parts of streets where parking shall be limited to 30 minutes during prescribed time periods or at any time to be posted accordingly. He shall then notify the City Clerk, who shall enter the description of such streets and parts of streets in Schedule 18 of § 72.02.

(8) Cause all streets and parts of streets where parking shall be limited to four hours during prescribed time periods or at any time to be posted accordingly. He shall then notify the City Clerk, who shall enter the description of such streets and parts of streets in Schedule 20 of § 72.02.

(B) The City Manager, and the Chief of Police through the City Manager, shall from time to time recommend to the City Council such proposed amendments to Schedules 1 ~~to 5~~ and ~~Schedule 13~~ through 20 of § 72.02 as they shall deem necessary for the benefit of the city.

Section 2. Section 72.02 of Chapter 72 of the Code of Asheboro is hereby rewritten as follows:

§ 72.02 ENUMERATED BY SUBJECT MATTER.

- Schedule 1. Where parking prohibited.
- Schedule 2. Where parking limited to one hour.
- Schedule 3. Where parking limited to two hours.
- Schedule 4. Where parking limited to 15 minutes.
- Schedule 5. Places reserved for stands for specific purposes.
- Schedule 6. Through streets.
- Schedule 7. Stop intersections.
- Schedule 8. One-way streets.
- Schedule 9. Where left turns to be made at left of center of intersection.
- Schedule 10. Intersections at which left turns prohibited.
- Schedule 11. Intersections at which right turns prohibited.
- Schedule 12. Intersections at which U turns prohibited.
- Schedule 13. Places where angle parking required.
- Schedule 14. Places where "children playing" signs erected.
- Schedule 15. Places where "yield right of way" signs erected.
- Schedule 16. Speed restrictions.
- Schedule 17. Parking prohibited on privately owned property.
- Schedule 18. Parking limited to 30 minutes.
- Schedule 19. Restrictions on use of play vehicles on private property.
- Schedule 20. Where parking limited to four hours.

Section 3. Between the hours of 7:00 a.m. and 7:00 p.m., no vehicle shall be parked for longer than four hours upon the following sections of the east side of North Street:

- a. From a point located approximately two hundred seven feet (207') from the centerline of Sunset Avenue to a point located approximately two hundred eighty-four feet (284') from the centerline of Sunset Avenue; and
- b. From a point located approximately three hundred feet (300') from the centerline of Sunset Avenue to a point located approximately four hundred one feet (401') from the centerline of Sunset Avenue.

Section 4. The City Manager is hereby authorized and directed to cause the sections of North Street described in Section 3 of this ordinance to be posted in accordance with the provisions of Section 71.01(A)(8) of the Code of Asheboro and in accordance with the provisions of Section 3 of this ordinance.

Section 5. The City Manager and the City Clerk are hereby directed to revise Schedule 20 of Section 72.02 of the Code of Asheboro to reflect the on-street parking regulations prescribed by this ordinance.

Section 6. All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 7. This ordinance shall take effect and be in force from and after the date of its adoption.

Adopted by the Asheboro City Council in regular session on the 10th day of April, 2008.

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

ATTEST:

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

- (h) **An ordinance to amend the revenues and expenditures in the General Fund in order to reflect the receipt of a contribution from Randolph County in the amount of \$70,000.00 as reimbursement to the City of Asheboro's fund balance for the purchase of additional land for the library from the heirs of Nettie B. White.**

21 ORD 04-08

**ORDINANCE TO AMEND THE GENERAL FUND
FY 2007-2008**

WHEREAS, The City of Asheboro passed a resolution approving an offer to purchase additional land for the Library at the regularly scheduled council meeting on February 7, 2008 and;

WHEREAS, the offer to purchase contract between the City of Asheboro and the heirs of Nettie B. White is in the amount of \$140,000, and;

WHEREAS, Randolph County has made a contribution in the amount of \$70,000 to be available for this purchase, and;

WHEREAS, the City of Asheboro allocated funds for the entire amount of \$140,000 at the March 6th council meeting, and;

WHEREAS, revenues and expenditures in the General Fund need to be adjusted to reflect receipt of these funds from Randolph County and reimbursement to the City of Asheboro fund balance, and;

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

THEREFORE, BE IT ORDAINED by the City Council of the City of Asheboro, North Carolina:

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

| <u>Line Item Amount</u> | <u>Description</u> | <u>Increase / Decrease</u> |
|-----------------------------|-----------------------------------|----------------------------|
| 10-399-0000 | Fund Balance Allocation | (\$70,000) |
| 10-397-2001 | Contribution from Randolph County | \$70,000 |

Adopted this the 10th day of April 2008.

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

ATTEST:

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

- (i) **An ordinance to amend the revenues and expenditures in the General Fund in order to appropriate funding for the consulting and lobbying services to be provided by Marlowe and Company in Washington, D.C.**

22 ORD 04-08

**ORDINANCE TO AMEND THE GENERAL FUND
FY 2007-2008**

WHEREAS, The City of Asheboro City Council approved contracting with Marlow & Company at the regularly scheduled council meeting on March 6, 2008 and;

WHEREAS, Marlow & Company will provide representation to the City of Asheboro in the form of consulting and lobbying services in Washington at a cost of \$40,000, and;

WHEREAS, the representation period extends 14 months, from March 1, 2008 through December 31, 2008, and;

WHEREAS, revenues and expenditures in the General Fund need to be adjusted to appropriate funding for these services;

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

THEREFORE, BE IT ORDAINED by the City Council of the City of Asheboro, North Carolina:

Section 1. That the following revenue line items be increased:

| <u>Line Item</u> | <u>Description</u> | <u>Increase Amount</u> |
|------------------|-------------------------|------------------------|
| 10-399-0000 | Fund Balance Allocation | \$40,000 |

Section 2. That the following expense line items be increased:

| <u>Line Item</u> | <u>Description</u> | <u>Increase Amount</u> |
|------------------|-----------------------|------------------------|
| 10-410-0400 | Professional Services | \$40,000 |

Adopted this the 10th day of April 2008.

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

ATTEST:

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

- (j) **A resolution adopting a job description for the portion of Golf Cart Attendant in the Parks and Recreation Department.**

17 RES 04-08

RESOLUTION APPROVING THE JOB DESCRIPTION FOR GOLF CART ATTENDANT IN THE PARKS AND RECREATION DEPARTMENT

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

WHEREAS, such a position classification plan has been duly adopted; and

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

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

WHEREAS, the Parks and Recreation Director has concluded that a formal job description for the position of Golf Cart Attendant in the Parks and Recreation Department should be developed in order to enhance the operations of the department; and

WHEREAS, the Parks and Recreation Director has properly submitted a comprehensive job description for this part-time position; and

WHEREAS, this job description is attached to this resolution as Exhibit 1 and is hereby incorporated into this resolution by reference as if copied fully herein; and

WHEREAS, the Director of Human Resources and the City Manager have approved the job description submitted by the Parks and Recreation Director.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the job description attached hereto as Exhibit 1 is hereby approved with an effective date of April 11, 2008.

Adopted by the Asheboro City Council in regular session on the 10th day of April, 2008.

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

ATTEST:

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

EXHIBIT 1
GOLF CART ATTENDANT
Golf Course
Parks and Recreation Department

F.L.S.A.
NON-EXEMPT

General Statement of Duties

Responsible for issuing and cleaning golf carts, picking up trash and cleaning Pro Shop as specified.

Distinguishing Features of the Class

An employee in this class is responsible for issuing and cleaning golf carts, assisting with the opening or closing of the Pro Shop and general cleaning around the facility. Incumbent is expected to work on weekends and holidays. Incumbent will be employed in a part-time capacity and only during the time period of heavy public utilization of the golf course, March 1 through September 30 of each year. Specific amount of time worked during this time frame will be at the discretion of the Parks and Recreation Director. The work is performed under the general supervision of the Golf Professional.

Illustrative Examples of Work

- Issues golf carts;
- Cleans golf carts;
- Cleans Pro Shop as specified;
- Cleans Cart Shed as specified;
- General Trash pick up around facility;
- Performs related work as required.

Knowledge, Skills and Abilities

Knowledge of golf guidelines pertaining to cart usage;
Ability to work on weekends and holidays;
Valid NC driver's license and good driving record;
Ability to establish and maintain effective working relationships with golfers and co-workers;
Ability to maintain golf carts as specified and store carts properly.

Physical Requirements

Requires ability to climb, stoop, kneel, crouch, crawl, reach with the hands and arms, stand, walk, push, pull, grasp with the fingers and palms, feel objects for size, shapes and temperature, talking and hearing, lifting up to 50 pounds occasionally, and up to 10 pounds frequently, ability to perform repetitive motions of the hands, wrists and fingers. Works in all types of weather.

OLD BUSINESS

6. **RZ-08-12: Request to rezone from B-2 (General Business), R-10 (Medium-Density Residential), and R-15 (Low-Density Residential) to CU-RA-6 (Conditional Use High-Density Residential).** The property of Debi B. Setzer and Randall Burrows is located at the terminus of Oak Leaf Road, approximately 600 feet south of N.C. Highway 49 and consists of approximately 24.3 acres of land. Randolph County Parcel Identification Number 7740936604 more specifically identifies the property.

Mayor Jarrell opened the public hearing on the following request, which had been continued from the Council's regular meeting in March 2008.

Due to a conflict of interest, Mr. Moffitt asked that he be excused from any discussion and action regarding the above-referenced item. A motion was made by Mr. Baker and seconded by Mr. Burks to excuse Mr. Moffitt from any discussion and voting. Council Members Baker, Burks, Carter, Crisco, Priest, and Smith unanimously adopted this motion.

Mr. Neely presented the staff's analysis of the request by West Pointe Luxury Apartments, LLC to rezone the above-described property from B-2 General Business, R-10 Medium-Density, and R-15 Low-Density Residential to CU-RA-6 Conditional Use High Density Residential. The Applicant has requested a change in the zoning district, but it has not requested the issuance of a Conditional Use Permit. Consequently, no site plan was reviewed by the Council. The Planning Department Staff recommended approval of the request based on the following:

"The land development plan designates this parcel as two different uses. The northern portion of the parcel, adjacent to the existing commercial shopping center, is designated as commercial and currently zoned B-2. The use of high-density residential development as a transition between the existing commercial development to the north and single-family residential development to the south has merit as a compatible transitional land use. The land development plan recommends that the southern portion of the property (currently zoned R-10 Medium-Density Residential and R-15 Low-Density Residential) be developed as neighborhood residential, which is to primarily accommodate single-family residential development similar to that south of the property. The conditional use permit process, if the rezoning is approved, should give consideration to harmony between any proposed multi-family development and existing single-family residential uses and should be incorporated into any site-specific development plan to ensure compatibility with the contiguous existing single-family residential land uses. Considering the ability of the conditional use zoning district to set reasonable conditions to ensure the compatibility with adjoining properties, staff believes the rezoning is generally within the public interest and supports a reasonable use of the property."

The Planning Board recommended denial of the request. This denial was based on the Planning Board's concurrence with concerns raised by the neighbors.

On behalf of the Applicant, Mr. Jon Megerian, Esq., presented comments in support of the requested rezoning. Mr. Megerian summarized that the Applicants are requesting a conditional use district only without a conditional use permit. If the rezoning is approved by Council, then a site plan depicting specific development would be submitted to Council at a later date. Additionally, Mr. Megerian presented examples of multi-family dwelling units similar to those that might, in the future, be proposed for development on the above-described property.

Ms. Debi Setzer, current owner of the above-described property, presented comments in support of the requested rezoning. Additionally, Mr. Larry McKenzie, developer, presented comments in support of the requested rezoning and emphasized that if the property were developed, then the proper buffers would be installed in accordance with the requirements of the Asheboro Zoning Ordinance.

Mr. Ben Ramsey, a North Carolina certified real estate appraiser, stated that, in comparison with other neighborhoods of similar capacity and similar surrounding development, the property values of the surrounding properties would increase during the development of the property in question.

Mr. Hal Winslow of Monroe Avenue, a neighboring property owner, presented comments and concerns in opposition to the requested rezoning. Mr. Winslow believed that the current zoning district was the correct zoning district for the property. Mr. Boyd Thomas of Monroe Avenue presented a petition of fifty-five (55) signatures opposing the rezoning and requested that the Council follow the recommendation of the Planning Board and deny the request.

Mr. Dale Kennedy of Monroe Avenue questioned the need for additional multi-family housing within the area. Additionally, Mr. Kennedy was concerned with the possible increase of traffic in an already congested area such as the intersection of Mack Road and North Carolina Highway 49. Mr. Kennedy had other concerns that the rezoning and possible construction of multi-family housing would negatively impact the wildlife within the area.

Additionally, Mr. Dick Renigar and Mr. John McKinney, neighboring property owners, opposed the requested rezoning.

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

Throughout discussion, Council Members posed certain questions for the Applicant and the developers. After initially closing the public hearing, Mayor Jarrell re-opened the public hearing to allow the Applicant and other citizens to fully respond to these questions. Council Member Burks asked Mr. Megerian to address the questions and concerns posed by Mr. Dale Kennedy. Mr.

Megerian stated that no statistical study or survey was taken in order to evaluate the need for multi-family development in the area. However, Mr. Larry McKenzie, developer, explained that there was a growing need and desire for higher end apartment rentals.

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. Crisco, Council followed the reasoning of the Planning Department Staff's analysis and voted unanimously to approve the requested rezoning and placed the above-described property in a CU-RA6 Conditional Use High Density Residential zoning district.

NEW BUSINESS

7. Land Use Issues:

- (a) RZ-08-16: Request to rezone from R-40 (Low Density Residential District) to B-2 (General Business). The property of Joseph C. Delk Heirs is located on the north side of United States Highway 64 East, approximately 100 feet west of Northview Drive and consists of approximately 1.33 acres of land. Randolph County Parcel Identification Number 7771059104 more specifically identifies the property.

Mayor Jarrell opened the public hearing on the following request.

Mr. Neely presented the staff's analysis of the request by Ms. Debra Moore Milliner, Agent for Joseph C. Delk Heirs, to rezone the above-described property from R-40 Low Density Residential to B-2 General Business. The Planning Department Staff and the Planning Board recommended approval of the request based on the following:

"The rezoning request complies with the goals, policies, and map of the Land Development Plan. The area has been transitioning into commercial land uses and is located along a major thoroughfare, which decreases the likelihood of the property being utilized as low density residential land uses. Therefore, considering that the request is generally supported by the Land Development Plan text and map, staff believes 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."

Mr. Joe Delk presented comments in support of the requested rezoning.

Mr. Bob Ward of Crescent Drive presented comments and concerns in opposition to the request and submitted a petition signed by neighboring property owners opposing the rezoning.

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

Upon motion by Mr. Baker and seconded by Mr. Burks, Council, by a 5-2 vote, followed the recommendation of the Planning Board and placed the above-described property in a B-2 General Business zoning district. Mr. Baker, Mr. Burks, Mr. Crisco, Mr. Moffitt, and Mr. Priest voted in favor of the motion. Ms. Carter and Mr. Smith voted no.

- (b) RZ-08-17: Request to rezone from a combination of B2 (General Business) and CU-B2 (Conditional Use General Business) to B2 (General Business). The properties of Walter and Earlene Ward are located at 1634 and 1636 East Dixie Drive and consist of approximately 16.98 acres of land. Randolph County Parcel Identification Numbers 7761813516, 7761810451, and 7761811483 more specifically identify the property.

Mayor Jarrell opened the public hearing on the following request.

Mr. Neely presented the staff's analysis of the request by Earlene Ward (Mid State Toyota) to rezone the above-described property from B2/CU-B2 zoning to a B2 zoning district. The Planning Department Staff and the Planning Board recommended approval of the request based on the following:

"The current use of the property is commercial and the surrounding area is generally commercial in nature. The rezoning request generally complies with the text, policies and map of the Land Development Plan. Therefore, staff believes the rezoning request is generally within the public interest in promoting a reasonable use of the property."

Mr. Mack Summey of Summey Engineering presented comments in support of the requested rezoning.

Mr. Bill Applewhite, a neighboring property owner, presented comments and concerns in opposition to the request. Mr. Applewhite requested that the zoning of the property in question remain CU-B2. Currently, the only portions of the properties zoned CU-B2 are those portions located closest to East Dixie Drive. The balance of the properties, including the area located closest to the residentially zoned properties to the south, is zoned B2.

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

Upon motion by Ms. Carter and seconded by Mr. Crisco, Council voted unanimously to follow the recommendation of the Planning Board and placed the above-described property in a B-2 General Business zoning district.

- (c) SUP-08-01: Request for a Special Use Permit for a School (Private) in a Residential Zoning District. The property of William Barker is located at 1627 Browers Chapel Road and consists of approximately 22.21 acres of land. Randolph County Parcel Identification Numbers 7760853495, 7760950701, and 7760858651 more specifically identify the property.

Mayor Jarrell opened the public hearing on the following request.

Due to a conflict of interest, Mr. Crisco asked that he be excused from any discussion and action regarding the above-referenced item. A motion was made by Mr. Smith and seconded by Mr. Burks to excuse Mr. Crisco from any discussion and voting. Council Members Baker, Burks, Carter, Moffitt, Priest, and Smith unanimously adopted this motion.

Mr. Neely was sworn in and presented the staff's analysis of the Applicant's request including the submitted site plan. The Applicant, Agape Christian Academy requested a Special Use Permit for a private elementary school in a Residential (R-10 Medium Density, R-15 Low-Density) zoning district. The Applicant proposes a school for grades Kindergarten through Eighth Grade (K-8) with an enrollment of approximately 60 students. As indicated on the submitted site plan, only 20.579 acres of the total acreage is subject to the requested Special Use Permit.

Mr. Alan Pugh, Esq. affirmed his testimony and addressed the four standard tests. Additionally, Ms. Burt Garris, Ms. Joyce Davis, and Ms. Karen Burman affirmed their testimony and presented comments in support of the request.

Mr. Michael Loomis of 1158 Lazelle Avenue, a neighboring property owner, affirmed his testimony and was concerned with the possible increase in traffic patterns within the area. Additionally, Mr. David Lova of 1507 Browers Chapel Road, affirmed his testimony and was concerned with the disturbing of the wildlife within the area.

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

Upon motion by Ms. Carter and seconded by Mr. Moffitt, Council voted unanimously to approve the requested Special Use Permit. The issuance of this Special Use Permit was based on the four standard tests being met.

The formal findings of fact, conclusions of law, and order granting the Special Use Permit will be entered by the Council during regular session on May 8, 2008. This order will reflect certain conditions imposed upon this permit as a consequence of the testimony presented during the hearing of this matter.

- (d) SUP-08-02: Special Use Permit for an addition to an existing church in a residential zoning district. The property of First Apostolic Church is located at 1424 North Carolina Highway 42 South and consists of approximately 8.387 acres of land. Randolph County Parcel Identification Number 7770144380 more specifically identifies the property.

Mayor Jarrell opened the public hearing of the following request.

Mr. Neely was sworn in and presented the staff's analysis of the Applicant's request including the submitted site plan. The Applicant, First Apostolic Church requested a Special Use Permit that would allow additions to be made to a church located within a residential zoning district. The Applicant plans to build more classrooms as an addition to the church's educational building.

Mr. James Ellis, Senior Pastor of First Apostolic Church, affirmed his testimony and addressed the four standard tests.

There being no further comments and no opposition from the public, Mayor Jarrell closed the public hearing. An audiotape of the testimony presented during this hearing is on file in the City Clerk's office.

Upon motion by Ms. Carter and seconded by Mr. Moffitt, Council voted unanimously to approve the requested Special Use Permit. The issuance of this Special Use Permit was based on the four standard tests being met.

The formal findings of fact, conclusions of law, and order granting the Special Use Permit will be entered by the Council during regular session on May 8, 2008. This order will reflect certain conditions imposed upon this permit as a consequence of the testimony presented during the hearing of this matter.

8. Consideration of an ordinance amending Section 50.096 (Septic Tanks in Lieu of Sewer Connections) of the Code of Asheboro.

Mr. Sugg presented and recommended adoption, by reference, of the aforementioned ordinance.

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

23 ORD 04-08

AN ORDINANCE AMENDING CHAPTER 50 OF THE CODE OF ASHEBORO

WHEREAS, Chapter 50 of the Code of Asheboro prescribes general water and sewer provisions for the City of Asheboro; and

WHEREAS, the city council has concluded that certain provisions within Chapter 50 should be updated.

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

Section 1. Section 50.096 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 50.096 SEPTIC TANKS IN LIEU OF SEWER CONNECTIONS.

Septic tanks will be permitted for a period of ten years after a public sewer becomes available, or when a city sewer line, as measured from the margin of the public street right-of-way or permanent sanitary sewer easement within which the city sewer line is located, is not accessible within 200 feet of the improvements to be served by the sanitary sewer system ~~a property~~, or it is not practical to install a gravity sewer service line. If at anytime the health officer shall certify that, in his opinion, such septic tank facilities create a hazard to the health and welfare of any of the citizens of the city, the owner of such property shall, within a period of 120 days after notice from the city, discontinue the use of such septic tank facilities and shall connect the wastewater lines from the improvements on such properties to the sanitary sewer system of the city.

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 date of adoption.

Adopted by the Asheboro City Council in regular session on the 10th day of April, 2008.

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

ATTEST:

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

9. Consideration of moving the location of the regular council meeting that is to be held on May 8, 2008, from the Council Chamber to the Conference Room at the City of Asheboro Public Works Facility, 1312 North Fayetteville Street.

Upon motion by Mr. Baker and seconded by Mr. Burks, Council voted unanimously to move the location of its regular meeting on May 8, 2008 from the Council Chamber to the Conference Room at the City of Asheboro Public Works Facility located at 1312 North Fayetteville Street in Asheboro.

10. Public hearing on the proposed annexation of the Dave's Mountain area.

Mayor Jarrell opened the public hearing on the proposed annexation of the Dave's Mountain area.

Mr. Neely presented an explanation of the entirety of the annexation report, as well as the suggested revisions that were drawn from the discussions and questions that occurred during the public informational meeting held on Thursday, March 27, 2008.

Mr. Richard Garkalns of 1506 Old Lexington Road supported the proposed annexation of the Dave's Mountain area in that the community and population base must grow. Mr. Garkalns further highlighted that he preferred to have the city's services that would be provided once the area was annexed, including the opportunity to vote for or against members of the City Council.

Mr. Michael Houpe of 2331 Northmont Drive was concerned about the city's plan to run a sewer line through his property. Mr. Houpe further expressed that he was concerned that the blasting associated with sewer line installation would damage his home.

Mr. Danny Storie of 727 Viewmont Drive stated that he opposed the proposed annexation, and that he did not wish to be a part of the City of Asheboro.

Ms. Gloria McClanahan of 1847 Back Creek Court expressed her concerns in regards to the possible major destruction and invasion of the Dave's Mountain neighborhood during the installation of city sewer infrastructure. She further expressed that she is concerned with the potential structural damage to the homes that would result from the blasting associated with the extension of the municipal sanitary sewer system.

Dr. Prithvi Hanspal of 2242 Berkley Lane felt that the Council should reconsider the annexation. He expressed his concerns with the high cost for property owners to connect to city sewer.

Mr. Steve Schmidly of 1867 Berkley Lane presented comments in support of the proposed annexation. Mr. Schmidly believes that the Dave's Mountain area is already connected to the city, and that the city should be able to extend its services to said area. The City of Asheboro must grow.

Dr. Mary Johnson of 1073 Woodside Place presented comments and concerns in opposition to the proposed annexation. Dr. Johnson expressed concerns about the motivating factors behind the city's decision to undertake the annexation process. Additionally, she is concerned that the construction involving the installation of city sewer would destroy the wildlife's natural habitat within the Dave's Mountain area.

Mr. Ed Hyder of 918 Greenmont Drive felt that the city should consider annexing other parts of the city, that he believes, actually need city services, including water and sewer. Additionally, Mr. Hyder expressed that the city should use the money to be spent on the proposed annexation to benefit the taxpayers who actually pay the city taxes. Furthermore, Mr. Hyder felt that the actual cost of the annexation, in terms of the installation of sewer, would be a greater expense than expected.

Mr. Steve Francis of 2125 Berkley Lane had no problems with paying taxes for city services, but he did not understand the logic of the high costs for the citizens to hook on to city sewer.

Mr. Frankie Perkins of 1088 Greenmont Drive expressed his feelings about the proposed Dave's Mountain annexation that he described as a "forced" annexation.

Mr. John Revell of 1733 Harper Road expressed that he was in favor of the proposed annexation, but he felt that better communication at the beginning of the entire process would have helped to iron out any miscommunication and confusion that has taken place regarding the annexation.

Ms. Suzanne Lininger of 2429 Northmont Drive agreed that there was a lot of miscommunication and confusion about the annexation process, and that she was unclear of the benefits that would be provided. She expressed that she chose to live outside the city, and that she already had the services that the city proposes to provide with the annexation.

Ms. Katrina Palmer of 1127 Greenmont Drive opposed the annexation and the city's conducting a sewer survey within the Dave's Mountain neighborhood.

Dr. Lance Sisco of 1088 Mountain Valley Drive had questions in regards to the possible location of a pump station on his property near Mountain Lake. Dr. Sisco wanted to know how much of his property would be taken by the city in order to install a pump station. Additionally, Dr. Sisco posed certain questions pertaining to the possible contamination of the city water reservoir at Lake Lucas in the event of an overflow at the proposed pump station. In response to this inquiry, the City Manager indicated that Dr. Sisco would be contacted when the city had a more detailed proposal to share with him.

Mr. Jeff Cox of 1086 Wilson Drive opposed the annexation and felt that the city should not follow through with the proposed annexation.

Ms. Betty Moscoso of 2318 Mountain Lake Road was concerned that the construction blasting would destroy the beautiful neighborhood.

Ms. Holly Hartwig Moorhead of 1112 Viewmont Drive was concerned with the financial impact that the annexation would have on the city's residents. Ms. Moorhead felt that the \$7-\$8 million for the installation of sewer on Dave's Mountain should be used to improve the schools, city infrastructure, and enhance economic development. This money should be used to benefit the people already paying city taxes.

Ms. Betty Maness of 2026 Winter Street stated that she did not look forward to her taxes being raised in order to pay for the annexation. Additionally, Ms. Maness expressed that she works for Shaw Sanitation, and that they would lose approximately 130 customers at approximately \$2,500 per month.

Mr. Frank Pugh of 943 Viewmont Drive stated that he could not afford to pay extra for city taxes, nor could he pay \$15,000 to connect to city sewer. Mr. Pugh totally opposed the annexation.

There being no further comments from the public, Mayor Jarrell closed the public hearing on the proposed annexation of the Dave's Mountain area.

Mayor Jarrell thanked everyone who participated in all the meetings in regards to the proposed annexation of Dave's Mountain.

An audio tape of the public hearing is on file in the City Clerk's office.

11. Public Comment Period.

Ms. Mary Dunn asked for clarification as to why Section 50.096 (Septic Tanks in Lieu of Sewer Connections) of the Code of Asheboro was amended. Mr. Sugg explained that the amendment was to bring the text of the ordinance in line with the policy preferences expressed by Council members in response to questions raised during the public informational meeting held on March the 27th.

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

12. Consideration of a request by the Asheboro Copperheads, LLC for permission to operate a hospitality tent, including the provision of alcoholic beverage(s), on property leased by the City of Asheboro.

Mr. Ronnie Pugh, Managing Member of Asheboro Copperheads, LLC presented a request to allow the provision of alcoholic beverages in a hospitality tent located on the premises of McCrary Park during the Coastal Plain League All Star activities from Monday, July 21, 2008 to Tuesday, July 22, 2008. Mr. Pugh explained that the tent would be manned by the Copperheads staff and admission would be by pass only.

Mr. Crisco moved to amend Section 130.03 of the Code of Asheboro in order to allow the operation of a hospitality tent in which alcoholic beverages will be served during the Coastal Plain League All Star activities from Monday, July 21, 2008 through Wednesday, July 23, 2008. Mr. Baker seconded the motion. Council Members Baker, Crisco, Smith, and Moffitt voted in favor of the motion. Council Members Burks, Carter, and Priest voted no.

A formal written amendment to Section 130.03 of the Code of Asheboro will be drafted by the City Attorney for Council's consideration during its regular May meeting. A second reading of this ordinance amendment is necessary due to the fact that a simple majority, and not two-thirds of the membership, voted in favor of the ordinance on its first reading.

13. Consideration of a resolution approving proposed amendments to the City of Asheboro Personnel Policies and Procedures Manual.

Mr. T. Myers Johnson, Human Resources Director, presented and recommended adoption, by reference, of a resolution approving the proposed amendments to the City of Asheboro Personnel Policies and Procedures Manual.

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

18 RES 04-08

RESOLUTION APPROVING AMENDMENTS TO THE CITY OF ASHEBORO PERSONNEL POLICIES AND PROCEDURES MANUAL

WHEREAS, the City of Asheboro Personnel Policies and Procedures Manual was originally promulgated by the city manager and approved by resolution of the Asheboro City Council on March 4, 2004; and

WHEREAS, the city manager periodically receives suggestions from the director of human resources and the personnel committee as to improvements that can be made to the city's uniform system of personnel administration; and

WHEREAS, the director of human resources and the personnel committee have recommended to the city manager that certain improvements be made to the sections of the manual addressing the following topics: (i) Leaves of absence as they relate to the Family Medical Leave Act and the North Carolina Workers' Compensation Act; (ii) The review of disciplinary actions placed in personnel jackets; (iii) The city's grievance procedure for employees; and (iv) The employment of related individuals in the Parks and Recreation Department; and

WHEREAS, the city manager has agreed with these recommendation and has promulgated corresponding amendments to the City of Asheboro Personnel Policies and Procedures Manual; and

WHEREAS, these amendments are attached to this resolution as Exhibits 1, 2, 3, 4, and 5, and these exhibits are hereby incorporated into this resolution by reference as if copied fully herein; and

WHEREAS, this governing board concurs with the city manager's decision to adopt the above-stated amendments as part of the City of Asheboro Personnel Policies and Procedures Manual.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the city manager's amendment of the City of Asheboro Personnel Policies and Procedures Manual as reflected by the attached exhibits is hereby approved.

Adopted by the Asheboro City Council in regular session on the 10th day of April, 2008.

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

ATTEST:

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

EXHIBIT 1

Article VII. Leaves of Absence

Section 18. Family and Medical Leave Act

The Family and Medical Leave Act (FMLA) allows eligible employees to take unpaid leave for up to twelve (12) weeks during each twelve (12) – month FMLA leave year, for the following reasons:

- (1) the birth of a child of the employee and in order to care for the child;
- (2) the placement of a child with the employee for adoption or foster care;
- (3) taking care of the employee's spouse, child, or parent who has a serious health condition; or
- (4) a serious health condition of the employee that makes the employee unable to perform the functions of the employee's position.

An employee is eligible for FMLA leave if both of the following conditions are met:

- (1) the employee has worked for the City of Asheboro for at least twelve (12) months, which need to be consecutive; and
- (2) the employee has worked at least 1,250 hours for the City of Asheboro during the twelve (12) month period immediately preceding the beginning of the FMLA leave.

The City of Asheboro must maintain any employer-paid health benefits while the employee is on FMLA leave.

The FMLA leave year shall be a rolling twelve (12) – month period measured forward from the date the employee first takes FMLA leave after completion of any previous FMLA year.

~~The employee may or may not elect to use all accrued, unused vacation and sick days during the leave period. Once such benefits are exhausted, the balance of the leave will be without pay. The City Council may, on the recommendation of the City Manager, advance sick leave to an employee with five or more years of service who has exhausted his/her sick leave. Time counted toward Worker's Compensation Leave will run concurrent with the time counted toward the twelve (12) weeks of Family Medical Leave.~~

With the exception of accrued compensatory time, accrued paid leave (e.g. vacation, sick, and holiday leave) shall be substituted for unpaid FMLA leave. Section 8 of Article VI of this manual describes the interaction of FMLA leave with absences connected to a workers' compensation claim.

Permanent employees approved for leave of absence retain their permanent status upon return from the authorized leave.

Benefits under the Family and Medical Leave Act are available to eligible employees requesting Family Medical Leave. When the need for FMLA Leave arises, the employee should complete an FMLA Form (available in Human Resources) in a timely manner. Whether or not the employee elects to use paid or unpaid leave, the time counted toward the FMLA Leave Year will begin on the date designated by the employee or the date designated by the Human Resources Department after consultation with the employee. When the need to use FMLA leave is foreseeable, the employee should provide the Human Resources Department with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave.

If at any time, it is determined that the Personnel Policy of the City of Asheboro conflicts with the regulations stated in the Family and Medical Leave Act, the FMLA will take precedence.

EXHIBIT 2

Article VI. Benefits

Section 8. Worker's Compensation

The City of Asheboro is subject to the North Carolina Workers' Compensation Act. Employees are fully covered by Worker's Compensation and are required to report in writing all injuries arising out of and in the course of their employment with the city to their immediate supervisor at the time of the injury in order that appropriate action may be taken at once.

~~An employee injured on the job while employed by the City of Asheboro, which is compensable under Worker's Compensation, shall have the following options:~~

- ~~(a) Take accumulated sick or vacation leave during the seven-day (7) waiting period and then go on Worker's Compensation leave and begin drawing worker's compensation.~~
- ~~(b) After the seven-day (7) waiting period, take earned and accumulated sick or vacation leave at the rate of one third day of leave for each day absent and receive a leave benefit which will together, with compensation received under Worker's Compensation, equal approximately his/her salary.~~
- ~~(c) If employee has no accumulated sick or vacation leave or wished to reserve the sick or vacation leave, employee may receive only worker's compensation benefit for which he may be adjudged eligible.~~
- ~~(d) If other suitable employment is available, the department head, the Human Resources Director, and/or the City Manager may reassign such employee to another position in lieu of sick leave or receiving Worker's Compensation except under those circumstances where the attending physician certifies that such employee is not capable of performing the work of such other position.~~

~~Employee will not be advanced sick or vacation leave to supplement Worker's Compensation.~~

Subject to the provisions of the North Carolina Workers' Compensation Act and all applicable laws, rules, and regulations pertinent to workers' compensation claims, the following City of Asheboro guidelines shall be applicable to all claims submitted by city employees on and after April 11, 2008:

- (1) Employees may utilize accrued compensatory time and accrued paid leave during the 7-day waiting period prescribed by the North Carolina Workers' Compensation Act. If an employee elects to use accrued compensatory time or accrued paid leave during the 7-day waiting period, all of the available accrued compensatory time shall be used prior to the utilization of any accrued paid leave time. With the commencement of weekly benefits in accordance with the North Carolina Workers' Compensation Act, neither compensatory time nor accrued paid leave time may be used by an employee to supplement the statutorily prescribed weekly benefits. An employee will not be required to reimburse the city for payments made by the city during the 7-day waiting period.
- (2) On the eighth day of the authorized absence, the employee will automatically be placed on Workers' Compensation leave. Once the statutorily prescribed weekly benefits and Workers' Compensation leave have begun, qualified employees will be placed on FMLA leave. The FMLA leave and Workers' Compensation leave shall run concurrently with each other.
- (3) Timesheets must reflect **Workers' Comp** on the days in which leave is taken.
- (4) Employees will not be required to use accrued compensatory time or accrued paid leave when appointments have been properly made during scheduled work hours as part of the process to resolve a claim filed under the North Carolina Workers' Compensation Act. This use of regular work hours shall be limited in duration to the reasonable period of time needed to satisfy the purpose of the scheduled appointment, including travel time. Employees should try to schedule appointments at a time most convenient for their work unit. The employee is expected to return to work after the appointment has been concluded, unless the authorized health care provider has restricted the employee from doing so.

In compliance with Section 160A-164.1 of the North Carolina General Statutes, the provisions of Article VI. Benefits, Section 8. Workers' Compensation of the City of Asheboro Personnel Policies and Procedures Manual shall be deemed to be applicable in all respects to city employees that are absent from work due to an adverse medical reaction resulting from the employee receiving in employment vaccination against smallpox incident to the Administration of Smallpox Countermeasures by Health Professionals, section 304 of the Homeland Security Act, Pub. L. No. 107-296 (Nov. 25, 2002) (to be codified at 42 U.S.C. sec. 233(p)).

EXHIBIT 3

Article XI. Disciplinary Actions

Section 7. Administrative Guidelines

A. Unsatisfactory Performance of Duties

This category covers all types of performance-related inadequacies. This policy does not require that the progressive warnings address the same type of unsatisfactory performance, but it does require that all warnings be related to job performance. Unsatisfactory performance of duties may include, but is not limited to:

- (1) Inefficient or incompetence in performing duties;
- (2) Negligence in performance of duties;
- (3) Physical or mental incapability for performing duties;
- (4) Careless or improper use of city property;
- (5) Failure to maintain satisfactory and harmonious working relationships with fellow employees and the public;
- (6) Habitual pattern of failure to report for duty at the assigned time and place;
- (7) Absence without approved leave;
- (8) Habitual and improper use of sick leave privileges;
- (9) Failure to obtain or maintain current license or certificate required as a condition for performing the job;

- (10) Failure to wear and use appropriate safety equipment or otherwise to abide by safety rules and policies.

B. Improper Personal Conduct

If the infraction or behavior is extremely serious or injurious to the city, fellow employees, or the public, supervisors may suspend an employee without warning. However, before demotion or dismissal occurs, supervisors and managers must consult with the Human Resources Department and receive approval from the City Manager. Improper personal conduct may include, but is not limited to:

- (1) Conduct unbecoming a city employee;
- (2) Conviction of a felony;
- (3) Guilty of a criminal act;
- (4) Misusing city funds;
- (5) Falsifying job information to secure position;
- (6) Participating in any action that would in any way seriously disrupt or disturb the normal operation of the city;
- (7) Trespassing on the grounds or home of any official or employee for the purpose of harassing or forcing dialogue or discussion for the occupants;
- (8) Willful acts that would endanger the lives or property of others;
- (9) Willfully damaging city property;
- (10) Possessing unauthorized weapons, alcohol, or illegal substances while on the job;
- (11) Threats, pressure or physical actions against others;
- (12) Insubordination;
- (13) Reporting to work under the influence of alcohol or drugs, or partaking of such items on the job.
- (14) Accepting gifts for "favors" or "influence";
- (15) Betraying confidential information;
- (16) Unauthorized possession of city's or another employee's property;
- (17) Leaving the work area repeatedly for excessively long periods without
- (18) Sexual harassment;
- (19) Providing or maintaining improper records;
- (20) Sleeping during worktime;
- (21) Gambling during worktime.

C. Written Warning (s)

During the period after a written warning (s) has been made, management may choose to counsel with the employee concerning his/her employment status before a decision to demote or dismiss is made. Such counseling should involve the unsatisfactory performance. As a part of this counseling, management may request the employee to take up to one (1) day's leave with pay to consider whether or not the employee wishes to continue his/her employment with the city. It should be stressed to the employee that a decision to continue employment with the city will require a commitment to improve performance, and that a lack of improvement will lead to dismissal.

Management is expected to use its discretion to determine when this procedure would benefit the employee and the city.

D. Suspension (s)

Investigatory or disciplinary suspension may be used by management in appropriate circumstances.

- (1) An employee who has been suspended for either investigatory or disciplinary reasons may be placed on compulsory leave without pay.
- (2) Investigatory suspension with or without pay may be appropriate:
 - (a) To provide time to investigate, establish facts and reach a decision concerning an employee's status in those cases where it is determined the employee should not continue to work pending a decision; and,
 - (b) When management elects to use investigatory suspension in order to avoid undue disruption of work or to protect the safety of persons or property.
- (3) Investigatory suspension without pay shall not exceed thirty (30) calendar days. Investigatory suspension with pay will be at the request of the department head and authorized only by the City Manager, and shall not exceed thirty (30) calendar days.
- (4) An employee who has been suspended with or without pay must be furnished a letter with the specific reasons for his/her suspension and notice of right to appeal. A copy of the letter should be forwarded to the Human Resources Department in advance.
- (5) Suspension with or without pay must be fully documented.

E. ~~Removal~~ **Review** of Documentation

~~Management should periodically review any documented disciplinary letters which have been placed in an employee's permanent file. Where documentation has served its purpose and is no longer necessary, management may recommend its removal by submitting written justification to the Human Resources Department.~~

~~An employee objecting to a disciplinary letter in his/her file may seek removal of such material he/she considers misleading no earlier than one year after issuance. The employee may seek removal of such material by submitting written justification to the Human Resources Department.~~

Management shall periodically review any documented disciplinary actions which have been placed in an employee's personnel jacket. Where disciplinary actions noted in the employee's personnel jacket are deemed by the department head to have served their purpose and to be no longer necessary, the department head shall submit documentation to support this conclusion. Any such documentation shall be subject to review and approval by the Human Resources Director and the City Manager prior to inclusion in the employee's personnel jacket.

Probationary employees who have been subject to disciplinary action, and are ineligible for access to the city's Grievance Procedure, may submit to the Human Resources Director a written request for an informal name-clearing proceeding that will be conducted by the Human Resources Director. The Human Resources Director must receive such a written request within 30 business days of the date of receipt by the probationary employee of notification that the problem causing documentation had been placed in the employee's personnel jacket. In his or her request, the probationary employee must state the basis for his or her belief that the submitted documentation should be amended.

During the informal hearing of this matter, the Human Resources Director shall review all pertinent written reports and may request additional information and documentation. Also, the Human Resources Director may receive new evidence, written or oral, from the department head and/or employee, which is germane to the issue. In deciding the question presented by the probationary employee, the Human Resources Director may confirm or note the need to modify the documentation previously placed in the employee's personnel jacket.

If an individual is dissatisfied with the decision rendered by the Human Resources Director, the individual may appeal the Human Resources Director's decision by submitting a written request to the City Manager for an informal hearing before the City Manager. Such a request must be received by the City Manager within 15 business days of the date on which the individual received the Human Resource Director's written decision.

The City Manager shall review the entirety of the information previously reviewed by the Human Resources Director during his or her consideration of the matter. Additionally, the City Manager may receive new evidence, written or oral, from the department head and/or employee that is germane to the issue. When ruling on the appeal the City Manager may confirm or modify the decision of the Human Resources Director. The decision rendered by

the City Manager shall be final. The City Manager shall furnish written notice to the employee, the department head, and the Human Resources Director of his final ruling.

This name-clearing opportunity is for the limited and sole purpose of affording an employee who has no other grievance or appeal rights an opportunity to request the mitigation of potentially damaging information from a personnel file. The name-clearing process shall not afford probationary employees access to the city's grievance procedure. During the name clearing process, the dismissed probationary employee does not have the right to appeal his or her dismissal from employment and is expressly prohibited from raising such an appeal.

EXHIBIT 4

Article XII. Grievance

Section 1. Grievance Procedure

The grievance procedure is designed to insure an employee of fair, impartial and prompt consideration of a problem or dissatisfaction without fear of reprisal. The procedure also encourages employees at all levels to express themselves regarding conditions of work. The grievance procedure is intended to promote better understanding of policies, practices and procedures; to instill confidence in employees that fair and impartial treatment will be received; and develop in supervisors a continuing sense of responsibility for maintaining effective working relationships with subordinate employees.

All employees including supervisors and department heads, are expected to discuss their problems and misunderstandings with their superiors. Open two-way communication is a proven factor in reducing and resolving grievances.

When an employee feels the need to resolve a work-related problem, dissatisfaction or complaint, the following procedure should be followed:

A. Informal Discussion with Immediate Supervisor

An employee who feels he/she has a grievance shall first discuss the problem with the immediate supervisor. The employee must inform the supervisor about the grievance as soon as possible, but not later than five (5) workdays following the incident or action that caused or revealed the problem. It is supervisory responsibility to encourage the subordinate to discuss the problem with the supervisor so as to promote understanding. Most misunderstandings should be clarified and resolved during this free exchange of viewpoints. If the employee still feels the grievance is not resolved, he/she may proceed to the next step of this procedure.

B. Appeal to Department Head

An employee may request a hearing with the department head to appeal an unresolved grievance. Such a request must be received by the department head in writing from the employee no later than ten (10) workdays following the event that caused or revealed the grievance.

The department head shall promptly notify the Human Resources Department, the employee and immediate supervisor of a date and time for the hearing, which will be no later than fifteen (15) workdays after the problem causing event. The department head will open the meeting with an informal discussion of the problem and will explore possible solutions with those in attendance. Every effort will be made during this discussion to resolve the grievance to the satisfaction of all concerned. However, if the grievance cannot be resolved through this discussion, the parties will together prepare a written report of all sides of the issue, including the recommendation of the department head. This report shall be promptly submitted to the Human Resources Director for further consideration through the next step.

C. Appeal to the ~~Grievance Committee~~ Human Resources Director

~~The Grievance committee shall consist of the Director of Human Resources, who will serve as chair, and four (4) randomly selected members of the personnel committee who are not associated with the department of the employee filing the grievance. In the event the grievance is filed by an employee in the Human Resources Department five (5) members of the personnel committee will be randomly selected and the chair will be decided by a simple majority vote of the selected members. The Grievance Committee shall review all written reports and may request additional information and documentation.~~

~~The Chairman of the Grievance shall notify all concerned of a time and date to conduct an appeals hearing to take place as soon as possible, but not later than twenty five (25) workdays after the problem causing event. At the hearing the committee may receive new evidence, written or oral, from the department head and/or employee, which is germane to the issue. In deciding the issue on appeal, the committee may confirm or modify the recommendation of the department head and recommend such order as the committee may deem appropriate in the manner. If the grievance cannot be resolved at this hearing the committee will prepare a written report of all sides of the issue, including the recommendation of the department head and the recommendation of the Grievance Committee. This report shall be promptly submitted to the City Manager for further consideration through the next step.~~

The Human Resources Director shall review all written reports and may request additional information and documentation.

The Human Resources Director shall notify all concerned of a time and date to conduct an appeals hearing to take place as soon as possible, but not later than twenty-five (25) workdays after the problem causing event. The Human Resources Director shall review all written reports and may request additional information and documentation. At the hearing the Human Resources Director may receive new evidence, written or oral, from the department head and/or employee, which is germane to the issue. In deciding the issue on appeal, the Human Resources Director may confirm or modify the recommendation of the department head and recommend such order, as he or she may deem appropriate in the manner. If the grievance cannot be resolved at this hearing the Human Resources Director will prepare a written report of all sides of the issue, including the recommendation of the department head and his or her own recommendation. This report shall be promptly submitted to the City Manager for further consideration through the next step.

In the event the grievance is filed by an employee in the Human Resources Department, the employee may immediately appeal to the City Manager.

D. Appeal to the City Manager

The City Manager shall review all written reports and may request additional information and documentation.

The City Manager shall notify all concerned of a time and date to conduct an appeals hearing to take place as soon as possible, but not later than thirty (30) workdays after the problem causing event. At the hearing the City Manager may receive new evidence, written or oral, from the department head and/or employee, which is germane to the issue. In deciding the issue on appeal, the City Manager may confirm or modify the decision of the Human Resources Director and/or the department head and enter such order as the manager may deem appropriate in the matter. The decision rendered by the City Manager shall be final.

The City Manager shall furnish written notice to the employee, the department head, and the Human Resources Department of his ruling. This notice shall be made not later than thirty five (35) workdays form the original date of the event that caused or revealed the problem. Any deviation from the above policy and procedure shall be subject to approval by the City Manager.

EXHIBIT 5

Article V. Conditions of Employment

Section 3. Employment of Relatives

The City prohibits the hiring of relatives within the same department; however, related persons may work for the City in different departments.

For the purpose of this section relatives shall be deemed to include spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren, plus the various combinations of half, step, in-law and adopted relationships that can be derived from those named.

Seasonal Recreational and Part-Time employees in the Parks and Recreation Department are exempted from this requirement.

14. Consideration of bids received for construction of the Malt-O-Meal Railroad Spur Project.

Mr. Bunker presented the bid summary for the construction of the Malt-O-Meal Railroad Spur Project. Six bids were received on April 8, 2008. The low bid received by R.D. Harrison, Inc. of Lexington, North Carolina failed to meet statutory requirements, and therefore was rejected. Tar Heel Railroad Construction Co., Inc. of Winston Salem, North Carolina was the low responsive bid with construction cost of \$1,127,888.00.

Upon motion by Mr. Priest and seconded by Mr. Moffitt, Council voted unanimously to accept the bid by Tar Heel Railroad Construction Co., Inc. in the amount of \$1,127,888.00 based on the low responsive bid received.

[A copy of the above-referenced bid summary is on file in the City Clerk's office.]

15. Discussion of items not on the agenda.

Mr. Sugg presented and recommended adoption, by reference, of an ordinance amending Section 35.05 of the Code of Asheboro.

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

24 ORD 04-08

AN ORDINANCE AMENDING SECTION 35.05 OF THE CODE OF ASHEBORO

WHEREAS, the regulatory framework for the rotation wrecker service list utilized by the Asheboro Police Department is codified as Chapter 35 of the Code of Asheboro; and

WHEREAS, Section 35.05 of the Code of Asheboro prescribes certain insurance requirements that must be satisfied by permit holders who are on the rotation wrecker service list; and

WHEREAS, the City Council has concluded that Section 35.05 must be amended in order to address problems encountered by wrecker services attempting to procure the required insurance coverage and in order to simultaneously protect the interests of the municipal corporation and individuals who utilize wrecker services that fall within the scope of Chapter 35.

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

Section 1. Section 35.05 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 35.05 Insurance Requirements

As a condition for obtaining a permit and remaining on the rotation list, and in addition to complying with the financial responsibility requirements prescribed by Section 20-309 of the North Carolina General Statutes, permit holders must comply at all times with the following liability insurance requirements:

(1) Garage liability insurance providing coverage for bodily injury or property damage resulting from the use of a garage owner's vehicle must be in full force and effect. This policy shall have coverage limits of no less than Three Hundred Thousand and No/100 Dollars (\$300,000.00) per occurrence person and Nine Five Hundred Thousand and No/100 Dollars (\$500,000.00 900,000.00) aggregate. per accident. ~~Additionally, this policy shall be written with a Symbol 21 in order to establish that any of the permit holder's autos are covered for liability.~~

(2) Applicants must obtain an endorsement to either their garage liability insurance or commercial auto liability insurance for on-hook coverage that covers damage to a vehicle while it's actually being towed.

(3) Garagekeeper's legal liability policy must be maintained in full force and effect in order to provide coverage for damages to vehicles, which the garage owner does not own, that are left in his care, custody, or control and are damaged because the garage owner negligently failed to protect the vehicle(s) from loss. This policy shall have coverage limits of no less than One Hundred Thousand and No/100 Dollars (\$100,000.00) per claim.

(4) Each policy required under this section must contain an endorsement by carriers providing ten (10) days' notice to both the city and the insured in the event of any change in coverage under the policy.

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

Section 3. This ordinance shall be effective upon and after the date of adoption.

Adopted by the Asheboro City Council in regular session on the 10th day of April, 2008.

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

ATTEST:

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

Ms. Carter announced that the Mayor's Clean-up Day is scheduled for Monday, April 28, 2008 at 5:30 p.m. at the old train depot.

There being no further business, the meeting was adjourned at 12:31 a.m. on April 11, 2008.

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

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