

**REGULAR MEETING
ASHEBORO CITY COUNCIL
COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, SEPTEMBER 4, 2008
7:00 p.m.**

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

David H. Jarrell) – Mayor Presiding

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

J. Keith Crisco) – Council Member Absent

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
Deborah P. Reaves, Finance Director
R. Reynolds Neely, Jr., Planning Director
O. Lynn Priest, Community Development Director
Jeffrey C. Sugg, City Attorney
Sanford A. Vuncannon, Jr., Police Captain

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. Invocation and Pledge of Allegiance.

Mayor Jarrell asked everyone to stand and repeat the Pledge of Allegiance, after which Mayor Jarrell asked everyone to observe a moment of silence.

3. Appearance and recognition of guests and citizens.

Mayor Jarrell welcomed everyone in attendance.

4. Presentation by the Randolph Rotary Club on anti-graffiti efforts.

Mr. Andy Huffine of the Randolph Rotary Club reported on the club's community service project that is designed to facilitate the removal of graffiti from structures within the community. The model used by the rotary club pairs the impacted businesses with the Randolph County Sheriff's Office, which utilizes jail trustees to provide the labor to clean up graffiti. Mr. Huffine reported that the project has been very successful so far, and the rotary club looks forward to continuing this success with a collaborative effort between business leaders, property owners, and Sheriff Reid.

5. Presentation of inter-local agreement designating a joint historic landmark preservation commission.

Mr. Hal Johnson, Planning Director for Randolph County, presented a proposed inter-local agreement between the County of Randolph and the City of Asheboro that would designate the Randolph County Historic Landmark Preservation Commission as a joint historic landmark commission to be governed by the Randolph County Historic Landmark Preservation Ordinance that has already been adopted by the Randolph County Board of Commissioners.

Upon motion by Mr. Smith and seconded by Mr. Baker, Council voted unanimously to approve an inter-local agreement with the Randolph County Board of Commissioners designating a joint historic landmark preservation commission.

[A copy of the approved inter-local agreement is on file in the city clerk's office.]

6. Mayor Jarrell announced that the City of Asheboro received a grant from the North Carolina Division of Forest Resources' Urban and Community Forestry Grant Program for year two of the city's Trees 2020 program.

7. **Consent Agenda: [Agenda Item Number 6]**

At the request of city staff, Mayor Jarrell announced that Consent Agenda Item (k) had been withdrawn from consideration.

Upon motion by Mr. Priest and seconded by Ms. Carter, Council voted unanimously to approve the following consent agenda items.

- (a) **The minutes of the city council's regular meeting that was held on August 7, 2008.**
- (b) **The minutes of the city council's special meeting that was held on August 12, 2008.**
- (c) **The findings of fact, conclusions of law, and order in the matter of SUP-08-03.**

**Case No. SUP-08-03
City Council
City of Asheboro**

**IN THE MATTER OF THE APPLICATION OF KENNAN HILL FOR A SPECIAL USE PERMIT
ALLOWING THE ABOVE-GROUND STORAGE OF LESS THAN 100,000 GALLONS OF
COMBUSTIBLE & FLAMMABLE LIQUIDS**

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

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during a regular meeting of the Council that was held on August 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. Kennan Hill (hereinafter referred to as the "Applicant") properly filed with the City of Asheboro Planning Department an application for a Special Use Permit authorizing the storage of combustible and flammable liquids on certain real property (hereinafter referred to as the "Zoning Lot") that is owned by Kennan Hill and Harold W. Campbell. The land use for which the application was submitted is specifically identified in the Asheboro Zoning Ordinance as the aboveground storage of combustible and flammable liquid in an amount greater than 2,000 gallons and less than 100,000 gallons aggregate.
2. The Zoning Lot is located on the south side of Oakhurst Road and is more specifically identified by Randolph County Parcel Identification Number 7659666105.
3. Oakhurst Road is a private road at this location. Oakhurst Road provides access to industrially zoned properties from U.S. Highway 220 Business South.
4. The Zoning Lot is located in an I-2 zoning district.
5. The site plan that was submitted to the Council in a timely manner for review indicates that the storage of 90,000 gallons of propane is proposed for the Zoning Lot. The aboveground storage of combustible and flammable liquid in an amount greater than 2,000 gallons and less than 100,000 gallons aggregate is permitted in an I-2 zoning district by special use permit only.
6. The Zoning Lot encompasses approximately 13,470 square feet of land.
7. The Growth Strategy Map designates the area in which the Zoning Lot is located as "Secondary Growth," and the Proposed Land Development Plan Map indicates that the Zoning Lot is located in an area designated as "Industrial."
8. The area immediately surrounding the Zoning Lot is characterized by industrial land uses and zoning to the north, south, and east. There is some residential land use farther to the west.

9. The adjoining properties are in industrial zoning districts. Consequently, buffering is not required by the zoning ordinance. However, front yard landscaping is required.

10. The proposed land use basically consists of three (3) storage tanks, pumps, and assorted equipment. In addition to this equipment, there is a large buffer area and driveway to serve the proposed business.

11. The Applicant has properly submitted a site plan and building elevations that have been reviewed by staff members in the city's planning department. According to the testimony provided by the city's planning director, the submitted plans do comply with the regulations of the Asheboro Zoning Ordinance.

12. Mr. Kenneth Beason, who is working in combination with the Applicant to bring the proposed land use to fruition, offered uncontroverted testimony that, as of the time of the hearing of this matter, the Applicant had taken all of the actions necessary to comply with the applicable National Fire Protection Association (NFPA) standards.

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

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

CONCLUSIONS OF LAW

1. The proposed use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.

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

3. The Applicant's proposed use will not substantially injure the value of adjoining or abutting property.

4. The location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Asheboro and its environs.

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

ORDER

Kennan Hill, and his heirs, successors, and assigns, is hereby issued a Special Use Permit allowing the Zoning Lot to be utilized for the aboveground storage of combustible and flammable liquid in an amount greater than 2,000 gallons and less than 100,000 gallons aggregate so long as the approved land use is conducted in compliance with the approved site plan, the provisions of the Asheboro Zoning Ordinance, and the following conditions:

1. The front yard landscaping area shall contain a minimum of twenty-eight (28) Bufford Holly shrubs as shown on the site plan.

2. Prior to the issuance of a zoning compliance permit, written evidence establishing that the approved land use has been developed in compliance with the applicable NFPA standards shall be submitted to the Zoning Administrator for review and evaluation.

Adopted by the Asheboro City Council in regular session on the 4th day of September, 2008.

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

ATTEST:

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

(d) Approval of closing portions of Church Street, Sunset Avenue, Fayetteville Street, Lanier Avenue, and Academy Street for the tractor parade on October 11, 2008, at 11:00 a.m.

[A copy of the approved parade permit, including a map of the parade route, is on file in the City Clerk's office.]

- (e) A resolution approving the job description for the school crossing guard position in the police department.

41 RES 09-08

RESOLUTION APPROVING THE JOB DESCRIPTION FOR SCHOOL CROSSING GUARD IN THE POLICE DEPARTMENT

WHEREAS, the Police Chief has concluded that a formal job description for the position of School Crossing Guard in the Police Department should be developed in order to enhance the operations of the department; and

WHEREAS, the Police Chief 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 Police Chief.

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 September 4, 2008.

Adopted by the Asheboro City Council in regular session on the 4th day of September, 2008.

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

ATTEST:

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

EXHIBIT 1

SCHOOL CROSSING GUARD

**F.L.S.A.
NON-EXEMPT**

General Statement of Duties

Work entails responsibility for the safety of school children going to and returning from school. The work involves traffic control, supervising the children in crossing streets and roads, and maintaining control of children while waiting at school bus stops, all with the emphasis on safety.

Distinguishing Features of the Class

This is a responsible position which requires an individual who possesses the ability to amicably interact with children and have the ability to use good judgment in overseeing their safety. The individual must have a good understanding of traffic signals and traffic patterns. Works approximately two hours per day, Monday through Friday, during the school year. Specific hours to be worked will be set by police department management and may vary according to demand and workload.

Illustrative Examples of Work

- Oversees the safe conduct of children while waiting for the school bus.
- Oversees the safe conduct of children while crossing streets and roads;
- Oversees children's conduct when exiting school bus and dispersing;
- Controls traffic for the children's safe crossing of streets and roads;
- Accompanies children while crossing streets and roads;
- Watches for gaps in traffic and walks children across the roadway or intersection while holding a "stop" sign in such a manner as to be visible to approaching vehicles.

Knowledge, Skills and Abilities

Knowledge of how traffic signals function;
Knowledge of basic safety practices;
Good ability to interact with children;
Ability to use good judgment in overseeing the conduct of children;
Must have the ability to follow oral and written instructions;
Must have the ability to deal effectively and courteously with associates and the general public.

Minimum Experience and Training

Graduation from an accredited high school or have attained a G.E.D.
Experience working with the public or an equivalent combination of experience and training.

Physical Requirements

All work is performed outdoors in all types of weather conditions and requires the individual to be in good physical condition, with good mobility.

(f) **The following budget ordinance amendments:**

(i) **Ordinance to amend the Airport Runway Extension Phase III Fund**

48 ORD 09-08

**ORDINANCE TO AMEND THE AIRPORT RUNWAY EXTENSION PHASE III FUND
FY 2008-2009**

WHEREAS, the City of Asheboro Regional Airport has been approved to receive additional federal funds under the Federal Aviation Century of Flight Authorization Act of 2003 (Vision 100) in conjunction with the State Aid to Airports Program. These funds have been awarded for the purpose of sewer improvements and site preparation for additional hangars and taxiway, and;

WHEREAS, expenditure allocation currently budgeted in the Airport Runway Extension Phase III fund relating to the federal funding award for FY 2007-2008 (State Project NO 36237.23.8.1) have changed from original estimates, and;

WHEREAS, due to the award of these new funds and changes in existing appropriations, revenues and expenditures have changed from the amounts currently shown in the Airport Runway Extension Phase III project fund, 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 item be increased:

66-349-1400	Federal Grant (08-09) #36237.23.9.1	\$150,000
66-367-1017	General Fund Contrib. (08-09) #36237.23.9.1	<u>\$ 16,667</u>
		\$166,667

Section 2: That the following expense line items be (decreased) / increased:

66-970-0400	Engineering Services	\$ 4,463
66-970-0500	Administration	(\$ 300)
66-970-4500	Construction & Project Improvement	\$ 5,537
66-970-4600	Inspection, Quality Assurance, Testing	(\$9,700)
66-980-0400	Engineering Services	\$ 57,356
66-980-4500	Construction & Project Improvement	<u>\$109,311</u>
		\$166,667

Adopted this the 4th day of September 2008.

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

ATTEST:

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

(ii) Ordinance to amend the Water and Sewer Fund

49 ORD 09-08

**ORDINANCE TO AMEND THE WATER & SEWER FUND
FY 2008-2009**

WHEREAS, the City Council approved contracting with W.K. Dickson & Company, Inc. of Charlotte, NC for engineering services for design, bid documents and construction contract administration for a sewer collection system for the Asheboro Regional Airport, and for a sewer pump station and force main to handle the airport and Tot Hill Farm sewer flow at the City of Asheboro Council Meeting on August 7, 2008, and;

WHEREAS, the contract amount is not to exceed \$211,300 with \$179,605 funding from the City of Asheboro, \$21,130 from Airport Grant 8.1 and \$10,565.00 from Airport Grant 9.1, and;

WHEREAS, the \$164,305 of the City funded part is expected to be spent in the current fiscal year, and;

WHEREAS, the adopted Water and Sewer Fund Budget for the City of Asheboro currently has budgeted \$100,000 for this project, and;

WHEREAS, expenditures in the Water & Sewer Fund need to be adjusted to reflect an additional appropriation of \$64,305, 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 item be increased:

30-399-0000	Fund Balance Allocation	\$64,305
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Section 2: That the following expense line items be increased:

30-830-0400	Professional Services	\$64,305
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Adopted this the 4th day of September 2008.

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

ATTEST:

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

(iii) Ordinance to amend the Economic Development Fund

50 ORD 09-08

- (g) An ordinance establishing two (2) hour 30 degree angle parking 7:00 a.m. – 7:00 p.m. on Sunset Avenue (between Church Street and Davis Street) and on Worth Street (between North Fayetteville Street and Cox Street).

51 ORD 09-08

**ORDINANCE REGULATING PARKING ON CERTAIN PORTIONS OF
SUNSET AVENUE AND WORTH STREET**

WHEREAS, Section 160A-301(a) of the North Carolina General Statutes provides that the “city may by ordinance regulate, restrict, and prohibit the parking of vehicles on the public streets, alleys, and bridges within the city;” and

WHEREAS, the city council has concluded that angle parking should be established on the north side of Sunset Avenue between North Church Street and Davis Street; and

WHEREAS, the city council has also concluded that angle parking should be established on the north side of Worth Street between North Fayetteville Street and North Cox Street.

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

Section 1. An angle parking zone is hereby established on the north side of Sunset Avenue between North Church Street and Davis Street. This angle parking zone is more specifically described as a zone extending westward from a point located on the curb line approximately one hundred fifteen feet (115') west of the centerline of North Church Street to a point located on the curb line approximately four hundred two feet (402') west of the centerline of North Church Street. Within this angle parking zone,

vehicles shall be parked within the marked spaces at the indicated angle with the curb of approximately 30°.

Section 2. Parking is hereby prohibited at all times in the following zones on the north side of Sunset Avenue between North Church Street and Davis Street:

- a. Westward from the intersection of the northern margin of the right-of-way for Sunset Avenue with the western margin of the right-of-way for North Church Street to a point located on the curb line approximately sixty-five feet (65') west of the centerline of North Church Street;
- b. Westward from a point located on the curb line approximately eighty-five feet (85') west of the centerline of North Church Street to a point located on the curb line approximately one hundred fifteen feet (115') west of the centerline of North Church Street; and
- c. Westward from a point located on the curb line approximately four hundred two feet (402') west of the centerline of North Church Street to a point located on the curb line approximately four hundred seven feet (407') west of the centerline of North Church Street.

Section 3. Angle parking zones are hereby established on the north side of Worth Street between North Fayetteville Street and North Cox Street. This angle parking zone is more specifically described as a zone extending eastward from a point located on the curb line approximately one hundred three feet (103') east from the centerline of North Fayetteville Street to a point located on the curb line approximately five hundred three feet (503') east from the centerline of North Fayetteville Street. Within this angle parking zone, vehicles shall be parked within the marked spaces at the indicated angle with the curb of approximately 30°. Furthermore, within this angle parking zone, handicapped parking spaces shall be established and enforced in accordance with all applicable laws and regulations eastward from a point located on the curb line approximately three hundred thirteen feet (313') east of the centerline of North Fayetteville Street to a point located on the curb line approximately four hundred twelve feet (412') east of the centerline of North Fayetteville Street.

Section 4. Parking is hereby prohibited at all times in the following zones on the north side of Worth Street between North Fayetteville Street and North Cox Street:

- a. Eastward from the intersection of the northern margin of the right-of-way for Worth Street with the eastern margin of the right-of-way for North Fayetteville Street to a point located on the curb line approximately fifty-seven feet (57') east of the centerline of North Fayetteville Street;
- b. Eastward from a point located on the curb line approximately ninety-seven feet (97') east of the centerline of North Fayetteville Street to a point located on the curb line approximately one hundred three feet (103') east of the centerline of North Fayetteville Street;
- c. Eastward from a point located on the curb line approximately five hundred three feet (503') east of the centerline of North Fayetteville Street to a point located on the curb line approximately five hundred ninety-three feet (593') east of the centerline of North Fayetteville Street; and
- d. Eastward from a point located on the curb line approximately six hundred twenty-one feet (621') east of the centerline of North Fayetteville Street to the intersection of the northern margin of the right-of-way for Worth Street with the western margin of the right-of-way for North Cox Street.

Section 5. The city manager is hereby authorized and directed to cause the above-described sections of Sunset Avenue and Worth Street to be posted and/or painted in accordance with the Code of Asheboro and Sections 1 through 4 of this ordinance.

Section 6. The city clerk is hereby directed to revise Schedules 1 and 13 of Section 72.02 of the Code of Asheboro to reflect the on-street parking regulations prescribed by this ordinance.

Section 7. All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 8. 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 4th day of September, 2008.

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

ATTEST:

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

- (h) **An ordinance establishing “No Parking Any Time” on both sides of North Fayetteville Street (U.S. 220 Business) between Salisbury Street and East Pritchard Street (Requested by the North Carolina Department of Transportation to mark wider travel lanes after resurfacing is complete).**

52 ORD 09-08

ORDINANCE PROHIBITING PARKING ON A SECTION OF NORTH FAYETTEVILLE STREET (US 220 BUSINESS)

WHEREAS, Section 160A-301(a) of the North Carolina General Statutes provides that the “city may by ordinance regulate, restrict, and prohibit the parking of vehicles on the public streets, alleys, and bridges within the city;” and

WHEREAS, the North Carolina Department of Transportation has requested that on-street parking be prohibited on both sides of North Fayetteville Street (US 220 Business) between Salisbury Street and East Pritchard Street in order to allow the marking of wider travel lanes after the resurfacing of the street is completed; and

WHEREAS, on-street parking is already prohibited on the east side of North Fayetteville Street between Salisbury Street and East Pritchard Street.

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

Section 1. On-street parking is hereby prohibited at all times along the west side of North Fayetteville Street between Salisbury Street and East Pritchard Street.

Section 2. The city manager is hereby authorized and directed to cause the above-described section of North Fayetteville Street to be posted and/or painted in accordance with the Code of Asheboro and Section 1 of this ordinance.

Section 3. The city clerk is hereby directed to revise Schedule 1 of Section 72.02 of the Code of Asheboro to reflect the on-street parking regulation prescribed by this ordinance.

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

Section 5. 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 4th day of September, 2008.

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

ATTEST:

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

- (i) **A resolution per G.S. 143-64.32 exempting the City of Asheboro from the advertisement/qualification based selection procedure to contract with Withers & Ravenel, Inc. of Cary, North Carolina for engineering services to establish water meter routes on the geographic information system (GIS), for a contract amount of \$6,000.00.**

42 RES 09-08

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

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

It is the public policy of this State and all public subdivisions and Local Governmental Units thereof . . . to announce all requirements for architectural, 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 has undertaken projects to develop a geographic information system for the city's water system utility and sewer system utility; and

WHEREAS, in the course of implementing these projects, the city has obtained global positioning system ("GPS") location services and geographic information system ("GIS") services from Withers & Ravenel, Inc.; and

WHEREAS, the engineering services provided by Withers & Ravenel, Inc. have been performed in a very satisfactory manner; and

WHEREAS, the city has decided to merge residential and commercial water meters into a routing cycle that will allow the meters to be read on a monthly basis; and

WHEREAS, the city wants to develop an optimum routing scenario by means of using the GIS; and

WHEREAS, Withers & Ravenel, Inc. has proposed to provide the engineering services needed to establish water meter routes on the GIS in consideration of a professional fee of Six Thousand and No/100 Dollars (\$6,000.00).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that, on the basis of the amount of the estimated professional fee to be charged by Withers & Ravenel, Inc. and the demonstrated competence of the firm in providing GIS related engineering services to the city, the project to establish water meter routes on the GIS is hereby exempted 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 Withers & Ravenel, Inc. for the provision of the engineering services described above.

Adopted by the Asheboro City Council in regular session on the 4th day of September, 2008.

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

ATTEST:

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

(j) An ordinance prohibiting public urination and defecation.

53 ORD 09-08

AN ORDINANCE AMENDING CHAPTER 130 OF THE CODE OF ASHEBORO

WHEREAS, Section 160A-174(a) of the North Carolina General Statutes provides that cities may "define, prohibit, regulate, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the city . . .;" and

WHEREAS, on the basis of incidents of public urination that have been reported to the city police department, the Asheboro City Council has concluded that public urination and defecation must be prohibited by ordinance in order to promote the health, safety, and welfare of the citizens and preserve the peace and dignity of the city.

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

Section 1. Section 130.08 of the Code of Asheboro is hereby enacted to provide as follows:

§ 130.08 PUBLIC URINATION AND DEFECATION PROHIBITED

Except in designated water closets or toilet facilities, it shall be unlawful for any person to urinate or defecate on any public place, sidewalk, street, alleyway or right-of-way, or in any public building, or on private property. Having the permission of the owner or person in lawful possession of the real property shall constitute an affirmative defense to the charge of urinating or defecating on private property. Any person who violates this ordinance shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00).

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 its adoption.

Adopted by the Asheboro City Council in regular session on this the 4th day of September, 2008.

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

ATTEST:

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

(k) An ordinance authorizing the code enforcement officer as well as the building inspectors to enforce the minimum housing code.

[This item was previously withdrawn by staff.]

(l) An ordinance amending Section 70.60 and Section 130.05 of the Code of Asheboro to comply with the recently enacted legislation prohibiting local governments from restricting the distribution of newspapers on the non-traveled portions of streets or highways.

54 ORD 09-08

AN ORDINANCE AMENDING SECTION 70.60 AND SECTION 130.05 OF THE CODE OF ASHEBORO

WHEREAS, Session Law 2008-223 rewrote Section 20-175(d) of the North Carolina General Statutes to provide as follows:

Local governments may enact ordinances restricting or prohibiting a person from standing on any street, highway, or right-of-way excluding sidewalks while soliciting, or attempting to solicit, any employment, business, or contributions from the driver or occupants of any vehicle. No local government may enact or enforce any ordinance that prohibits engaging in the distribution of newspapers on the non-traveled portion of any street or highway except when those distribution activities impede the normal movement of traffic on the street or highway. This subsection does not permit additional restrictions or prohibitions on the activities of licensees, employees, or contractors of the Department of Transportation or of any municipality engaged in construction or maintenance or in making traffic or engineering surveys except as provided in subsection (e) of this section; and

WHEREAS, the Asheboro City Council has concluded that Section 70.60 and Section 130.05 of the Code of Asheboro must be amended in order to conform with Session Law 2008-223; and

WHEREAS, the Asheboro City Council has further concluded that Section 70.60 and Section 130.05 of the Code of Asheboro should be amended for the additional purpose of consolidating the code's provisions pertaining to the solicitation or attempted solicitation of employment, business, or contributions from drivers and/or occupants of motor vehicles.

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

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

§ 70.60 PROHIBITION OF THE SOLICITATION OF CONTRIBUTIONS, EMPLOYMENT, AND BUSINESS, OR CONTRIBUTIONS UPON HIGHWAYS OR STREETS

(A) Except as provided in subsection (B) of this section, no person shall stand on any street, highway, or right-of-way excluding sidewalks while soliciting, or attempting to solicit, any employment, business, or contributions from the driver or occupants of any vehicle.

(B) Notwithstanding the prohibition found in subsection (A) of this section, a person may engage in the distribution of newspapers on the non-traveled portion of any street or highway so long as the distribution activities do not impede the normal movement of traffic on the street or highway. It shall be unlawful for any person to impede the normal movement of traffic on the street or highway. ~~The provisions of this section are not applicable to licensees, employees, or contractors of the State of North Carolina or any of its political subdivisions engaged in construction or maintenance or in making traffic or engineering surveys. Furthermore, the provisions of this section are not applicable to employees or contractors of the State of North Carolina or any of its political subdivisions that are performing a public safety related function.~~

(C) The provisions of this section shall not apply to licensees, employees, or contractors of the North Carolina Department of Transportation or the City of Asheboro that are engaged in construction, maintenance, or in making traffic or engineering surveys.

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

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

Section 2. Section 130.05 of the Code of Asheboro is hereby amended to provide as follows:

§ 130.05 AGGRESSIVE SOLICITATION PROHIBITED.

(A) *Definitions.* For purposes of this section:

(1) **AGGRESSIVE MANNER.** Includes:

(a) Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;

(b) Following the person being solicited, if that conduct is: intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

(c) Continuing to solicit within five feet of the person being solicited after the person has made a negative response, if continuing the solicitation is: intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or, is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

(d) Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's Constitutional right to picket or legally protest, and acts authorized by a permit issued pursuant to Chapter 97 of the Code of Asheboro shall not constitute obstruction of pedestrian or vehicular traffic;

(e) Intentionally or recklessly using obscene or abusive language or gestures: intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or, words intended to or reasonably likely to intimidate the person into responding affirmatively to the solicitation; or

(f) Approaching the person being solicited in a manner that: is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or, is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

(2) **AUTOMATED TELLER MACHINE.** A device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

(3) **AUTOMATED TELLER MACHINE FACILITY.** The area comprised of one or more automatic teller machines, and any adjacent space which is made available to banking customers after regular banking hours.

(4) **PUBLIC AREA.** An area to which the public or a substantial group of persons has access and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks, and streets open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing them.

(5) **SOLICIT.** To request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written, or printed word, or by other means of communication.

(B) *Prohibited Acts.* It shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services:

(1) In an aggressive manner in a public area;

(2) Within 15 feet of any entrance or exit of any bank or within 15 feet of any automated teller machine during the hours of operation of such bank or automated teller machine without the consent of the owner or other person legally in possession of such facilities. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;

(3) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property; or

~~(4) From any operator of a motor vehicle that is in traffic on a public street, whether in exchange for cleaning the vehicle's windows, or for blocking, occupying, or reserving a public parking space, or directing the occupant to a public parking space; provided, however, that this division shall not apply to services rendered in connection with emergency repairs requested by the operator or passengers of such vehicle.~~

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

(D) *Construction and Severability.*

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

(2) This section is not intended to prescribe any demand for payment for services rendered or goods delivered.

(3) This section is not intended to create a result through enforcement that is absurd, impossible or unreasonable. The section should be held inapplicable in any such cases where its application would be unconstitutional under the Constitution of the State of North Carolina or the Constitution of the United States of America.

Section 3. All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 4. 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 this the 4th day of September, 2008.

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

ATTEST:

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

8. Land Use Issues: [Agenda Item Number 7]

Mayor Jarrell opened the public hearing on the following request.

- (a) RZ-08-31: Request to rezone from CUR10 to B2. The property of Pine Lake Partners, LLC is located near the intersection of Zoo Parkway (NC 159) and Old Cox Road (SR 2834), along the east side of Zoo Parkway and the north side of Old Cox Road. The parcel consists of approximately 17.07 acres of land and is more specifically identified by Randolph County Parcel Identification Number 7669572328.

Mr. Neely presented a written request from the Applicant to continue the above-referenced item to the Council's regular October meeting.

Upon motion by Mr. Smith and seconded by Mr. Burks, Council voted unanimously to continue the above-referenced item to the Council's regular October meeting.

Mayor Jarrell opened the public hearing on the following request.

- (b) RZ-08-32: Technical Amendments to the Zoning Ordinance. An application filed by Guardian Leasing, LLC to amend Note 24(e) of Table 200-2 and Table 400-1 of the Asheboro Zoning Ordinance.

Mr. Neely presented the staff's analysis of the request by Guardian Leasing, LLC to amend Table 400-1 (Parking Requirements for Mini-Warehouses) regarding the number of required off-street parking spaces for mini warehouses and to amend Article 200, Table 200-2 Note 24 (e) changing the height of fencing required around the perimeter of mini-warehouse facilities from eight (8) feet in height to six (6) feet in height. The Applicant is requesting that the parking requirements be reduced from one (1) space per employee and one (1) space for every 10 storage units to one (1) customer parking space per 20,000 square feet of gross floor area.

The Planning Department Staff recommended approval of a modified version of the request based on the following:

"The Zoning Ordinance requires fences to be a least six (6) feet in height when utilized as a screening method for land uses other than mini-warehouses, including uses that require more screening and buffering from adjoining properties (such as vehicle towing yard, junkyards, etc.). Therefore, staff believes this portion of the request is reasonable.

In regard to the parking requirement, staff has reviewed language from other jurisdictions and based on this review, the parking requirements for mini-warehouses may be revised so long as adequate off-street parking is available to accommodate employees and customers. Based on review, staff believes that a parking requirement of three parking spaces per 1,000 square feet of gross floor area and one parking space per 100 storage units would be a reasonable requirement.

In addition, discussion during the August Planning Board meeting highlighted the need to specify the fence materials to be utilized for the perimeter fence. Based on this analysis and discussion, staff recommends a modified version of the request."

The Planning Board concurred with the staff's reasoning. Additionally, the Planning Board transmitted the following comments to the Council:

"During the September 2, 2008 Planning Board meeting, the Planning Board emphasized the importance of design standards specifying fence materials for any required fence, including any fence that is not located on a street front. The Planning Board recommended that staff investigate this at a later date."

Mr. Ben Morgan, Esq. presented comments in support of the request.

Upon motion by Mr. Baker and seconded by Mr. Smith, Council voted unanimously to accept the recommendation of the Planning Board and approved the modified version of the proposed amendments to the Asheboro Zoning Ordinance. A copy of the approved text of the amendments is on file in the City Clerk's office. Planning Department Staff is to investigate specifying the materials that can be used for a required fence.

Subdivisions

(c) SUB-06-04: Town Homes on Main. Final Plat Certification.

Mr. Neely presented the staff's analysis of the request by Mr. Larry McKenzie for final flat certification for Town Homes on Main. This subdivision is located on the east side of South Main Street and contains approximately 3.22 acres of land, consisting of approximately fourteen (14) lots.

All departments have reviewed the plat. The Planning Department Staff and the Planning Board recommended approval of the request.

Upon motion by Mr. Smith and seconded by Mr. Priest, Council voted unanimously to accept the recommendation of the Planning Board and approved the final plat.

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

(d) SUB-08-01: Zoo Parkway Commercial Subdivision. Sketch Design.

Mr. Neely presented the sketch design for the proposed Zoo Parkway Commercial Subdivision. JBBC Properties, LLC requested the approval of a sketch design plat for a subdivision to be located along Zoo Parkway. The proposed subdivision contains approximately 4.93 acres of land, consisting of approximately five (5) lots.

All departments have reviewed the sketch design plat. The Planning Department Staff and the Planning Board recommended approval.

Upon motion by Mr. Smith and seconded by Mr. Burks, Council voted unanimously to accept the recommendation of the Planning Board and approved the sketch design plat for Zoo Parkway Commercial Subdivision.

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

9. Public Comment Period. [Agenda Item Number 8]

Mr. Ronald Powell expressed concerns in regards to the recent alcoholic beverage election and asked the Council to reconsider regulating alcoholic beverage sales on Sunday. Mr. Powell felt that the sale of alcoholic beverages should be restricted all day on Sundays in Asheboro.

Additionally, Mr. Powell expressed his concerns for traffic safety on U.S. Highway 64, specifically the driveway connections for the proposed site of the Cracker Barrel Restaurant. With the site in close proximity to Center Pointe Plaza, a highly congested area already, Mr. Powell felt that allowing left turns into the proposed site would only increase the number of traffic accidents within the area.

Ms. Valenda Norton expressed her concerns for traffic safety on U.S. Highway 64 and asked that the city work with the North Carolina Department of Transportation in order to get the speed limit reduced to 35 miles per hour.

10. Consideration of a petition received from Vernon Poole & Company, Inc. requesting contiguous annexation of 2.312 acres at 1140 U.S. Highway 64 West (Econo Oil Company) [Agenda Item Number 9]

(a) Mr. Bunker presented and recommended adoption, by reference, of a resolution directing the city clerk to investigate a petition requesting contiguous annexation of 2.312 acres of land located at 1140 U.S. Highway 64 West.

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

43 RES 09-08

**RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE AN ANNEXATION PETITION
RECEIVED PURSUANT TO SECTION 160A-31 OF THE NORTH CAROLINA GENERAL STATUTES**

(2.312 Acres of Land Located at 1140 U.S. Highway 64 West)

WHEREAS, a petition requesting the annexation of approximately 2.312 acres of land located at 1140 U.S. Highway 64 West has been received by the Asheboro City Council from Vernon Poole & Company, Inc., which is the owner of the parcel of land for which annexation is requested; and

WHEREAS, Section 160A-31 of the North Carolina General Statutes provides that the sufficiency of the petition shall be investigated by the city clerk before further annexation proceedings may take place; and

WHEREAS, in response to this petition, the city council has decided to proceed with the statutorily prescribed voluntary annexation proceedings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the city clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify as soon as possible to the city council the results of her investigation.

Adopted by the Asheboro City Council in regular session on the 4th day of September, 2008.

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

ATTEST:

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

CERTIFICATE OF SUFFICIENCY

(2.312 Acres of Land Located at 1140 U.S. Highway 64 West)

TO: The City Council of the City of Asheboro, North Carolina

I, Holly H. Doerr, City Clerk for the City of Asheboro, North Carolina, do hereby certify that I have investigated the petition attached hereto. As a consequence of that investigation, I have found as a fact that all owners of real property lying in the area described therein have signed the said petition, and the petition appears to be sufficient to satisfy the provisions of Section 160A-31 of the North Carolina General Statutes.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Asheboro, North Carolina in order to make this certification effective as of the 4th day of September, 2008.

(SEAL)

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

(b) As a consequence of the receipt of written certification from the City Clerk as to the sufficiency of said annexation petition, Mr. Bunker presented and recommended adoption, by reference, of a resolution fixing the date for a public hearing on the question of annexation.

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

44 RES 09-08

**RESOLUTION SETTING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT
TO SECTION 160A-31 OF THE
NORTH CAROLINA GENERAL STATUTES**

(2.312 Acres of Land Located at 1140 U.S. Highway 64 West)

WHEREAS, a petition requesting annexation of the area described herein has been received;
and

WHEREAS, the City Council of the City of Asheboro, North Carolina has by resolution directed the city clerk to investigate the sufficiency of this petition; and

WHEREAS, on the basis of her review of information gathered by city staff members during an investigation of the submitted petition, the city clerk has certified to the city council the sufficiency of this petition to proceed with setting a date for a public hearing on the question of annexation pursuant to Section 160A-31 of the North Carolina General Statutes.

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

Section 1. A public hearing on the question of annexation of the area described herein will be held in the Council Chamber of the City of Asheboro Municipal Building, which is located at 146 North Church Street in the City of Asheboro, North Carolina, during the city council's regular meeting that is to be held at 7:00 o'clock p.m. on the 9th day of October, 2008.

Section 2. The area proposed for annexation is described on the attached sheet that is identified as EXHIBIT 1 and is hereby incorporated into this resolution by reference as if copied fully herein.

Section 3. Notice of the public hearing shall be published in *The Courier-Tribune*, a newspaper having general circulation in the City of Asheboro, at least ten (10) days prior to the date of the public hearing.

Adopted by the Asheboro City Council in regular session on the 4th day of September, 2008.

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

ATTEST:

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

EXHIBIT 1

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a point that is located at the intersection of the northern margin of the right-of-way for U.S. Highway 64 West with the eastern margin of the right-of-way for Fisher Circle, the said point is located at the southwest corner of the Vernon Poole & Company, Inc. property described in Deed Book 1900, Page 2244, Randolph County Public Registry; thence from the said beginning point North 25 degrees 00 minutes 37 seconds East 200.00 feet to an existing PK nail set at the northwest corner of the said Vernon Poole & Company, Inc. property; thence South 72 degrees 23 minutes 12 seconds East 205.82 feet along the Stephen R. Brueilly and Jayne A. Brueilly property described in Deed Book 1927, Page 1527, Randolph County Public Registry to an existing iron pin or pipe in concrete; thence along the Dorothy M. Frye property described in Deed Book 1396, Page 1057, Randolph County Public Registry the following course and distance: South 23 degrees 39 minutes 19 seconds East 227.58 feet to a nail set at a bent existing iron pin or pipe that is located on the existing primary corporate limits line for the City of Asheboro; thence along the existing primary corporate limits line for the City of Asheboro the following courses and distances: South 66 degrees 22 minutes 41 seconds West 42.32 feet to a new iron pin set in the northern margin of the right-of-way for U.S. Highway 64 West; thence South 67 degrees 01 minute 17 seconds West 229.00 feet across U.S. Highway 64 West to a point in the southern margin of the right-of-way for U.S. Highway 64 West; thence along the southern margin of the right-of-way for U.S. Highway 64 West as well as continuing along the existing primary corporate limits for the City of Asheboro the following courses and distances: North 72 degrees 19 minutes 44 seconds West 138.34 feet to a point; thence North 72 degrees 26 minutes 06 seconds West 57.03 feet to a point located by means of the North Carolina Coordinate System at the coordinates of North 705,706.55 feet and East 1,750,776.89 feet (NAD 27); thence North 25 degrees 00 minutes 37 seconds East 150.78 feet to the point and place of BEGINNING, and containing 2.312 acres of land, more or less, to be annexed.

The above-listed description is in accordance with a plat of survey entitled "Annexation Plat Prepared For City Of Asheboro." This plat of survey was drawn under the supervision of Steven D. Brown, Professional Land Surveyor with Registration Number L-1435, from an actual survey made under his supervision. The said plat of survey is dated August 13, 2008, and the job number for the plat of survey is 2008-013.

11. Consideration of a resolution authorizing the conveyance to The Randolph Arts Guild of real property currently leased to the non-profit corporation. [Agenda Item Number 10]

Mr. Sugg presented and recommended adoption, by reference, of the aforementioned resolution. Upon motion by Mr. Baker and seconded by Ms. Carter, Council voted unanimously to adopt the following resolution by reference.

RESOLUTION AUTHORIZING THE MAYOR TO CONVEY TO THE RANDOLPH ARTS GUILD BY PRIVATE SALE THE CITY-OWNED PROPERTY CURRENTLY LEASED TO THE NON-PROFIT CORPORATION

WHEREAS, the City of Asheboro owns a parcel of land that is located at 121 Sunset Avenue and is more specifically identified by Randolph County Parcel Identification Number 7751820630; and

WHEREAS, this parcel of land was leased to The Randolph Arts Guild, a North Carolina non-profit corporation, on March 20, 1987 for a term of thirty (30) years at a rental rate of one dollar (\$1.00) for the term of the lease; and

WHEREAS, The Randolph Arts Guild (hereinafter referred to as the "Arts Guild") has complied with the terms of the lease, specifically including without limitation the obligation to renovate the premises in a manner that would enable the Arts Guild to use the premises for the Arts Guild's projects and programs; and

WHEREAS, due to the Arts Guild's capacity and willingness to carry out a public purpose as a multi-action, multicultural non-profit corporation dedicated to providing the citizens of Asheboro and Randolph County with the means to express themselves through the visual, literary, and performing arts, the city has appropriated in the current and previous budget ordinances funds to support the Arts Guild; and

WHEREAS, Section 160A-279 of the North Carolina General Statutes provides in pertinent part that the city may, in addition to the appropriation of funds, convey by private sale to a non-profit corporation that carries out a public purpose real or personal property owned by the city so long as the city attaches to the conveyance covenants or conditions to assure that the property will be put to a public use by the recipient entity; and

WHEREAS, the city council deems it advisable to convey the city-owned real property currently used by the Arts Guild to the non-profit corporation in order to support the public purpose carried out by the Arts Guild and simultaneously eliminate potential premises liability issues that the city is not currently in a good position to monitor and manage.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the city-owned parcel of land identified by Randolph County Parcel Identification Number 7751820630 is hereby declared to be surplus property that is no longer needed by the city; and

BE IT FURTHER RESOLVED that the mayor is hereby authorized to convey the above-described parcel of land to the Arts Guild by private sale in compliance with Section 160A-279 of the North Carolina General Statutes.

Adopted by the Asheboro City Council in regular session on this 4th day of September, 2008.

s/ David H. Jarrell

David H. Jarrell, Mayor

ATTEST:

s/ Holly H. Doerr

Holly H. Doerr, City Clerk

12. Consideration of a request by West Point Luxury Apartments, LLC for the City of Asheboro to participate in the cost and accept maintenance of a proposed sewer pump station at Monroe Avenue. [Agenda Number 11]

Due to a financial conflict of interest, Mr. Moffitt asked to be excused from any discussion and action regarding this item. A motion was made by Mr. Smith and seconded by Mr. Burks to excuse Mr. Moffitt from any discussion and voting on the request by West Point Luxury Apartments, LLC. Council Members Baker, Burks, Carter, Priest, and Smith adopted this motion.

Mr. Jesse Wilson, P.E. of Site and Utility Design Services, PA presented a request by West Point Luxury Apartments, LLC for the city to participate in the cost and maintenance of a proposed sewer pump station at Monroe Avenue. Mr. Wilson further presented a comparison of the construction costs associated with building a private pumping station versus a regional pumping station. A private pumping station, costing approximately \$78,990 would serve Westpoint Luxury Apartments and the Caruso Property, while a regional pumping station, costing approximately \$220,399 would serve West Point Luxury Apartments, Food Lion Plaza, the Caruso property, approximately 80 existing residents along Mack Road, Hollings Road, Charmin Drive, and Monroe Avenue, and approximately 80 future residents (remainder of the 191-acre drainage

area). The proposal for a regional pumping station includes the donation of a pumping station site to the City of Asheboro.

Upon motion by Mr. Priest and seconded by Ms. Carter, Council voted unanimously to proceed with the city developing and operating a regional pumping station as proposed by West Point Luxury Apartments, LLC. Council Members Baker, Burks, Carter, Priest, and Smith adopted this motion.

13. Progress report on the Malt-O-Meal Railroad Spur project. [Agenda Item Number 12]

Mr. Bunker reported on the progress of the Malt-O-Meal Railroad Spur project by presenting a slide show presentation. He further reported that the project would be completed in the next couple of weeks.

14. Consideration of a resolution requesting NCDOT to allow full movement use (left turns allowed) driveway connections on U.S. 64 (East Dixie Drive). [Agenda Item Number 13]

Mr. George Gusler of the Randolph Chamber of Commerce presented a resolution requesting that the North Carolina Department of Transportation allow full movement use (left turns allowed) driveway connections on U.S. Highway 64 (East Dixie Drive), specifically for the property located at 1304 East Dixie Drive, which is the proposed site for Cracker Barrel Restaurant.

Mr. Reuben E. Blakley, District Engineer for the North Carolina Department of Transportation presented comments in regards to the above-referenced resolution. According to Mr. Blakely, NCDOT has evaluated the situation at the location in question and determined, that due to the close proximity to Wal-Mart and the highly congested area, full movement use (left turns allowed) driveway connections on U.S. Highway 64 are not safe, especially for the property in question.

After discussion and upon motion by Mr. Moffitt and seconded by Mr. Burks, Council voted unanimously to adopt the following resolution.

46 RES 09-08

**RESOLUTION REQUESTING NCDOT ALLOW
FULL MOVEMENT USE (LEFT TURNS ALLOWED) DRIVEWAY CONNECTIONS ON US64
(EAST DIXIE DRIVE)**

WHEREAS, US64 (East Dixie Drive) is the major east and west corridor for traffic into and out of Asheboro; and

WHEREAS, US64 (East Dixie Drive) is one of the major retail and commercial corridors in the City; and

WHEREAS, The Cracker Barrel Restaurant wishes to locate a new facility at 1304 US64 (East Dixie Drive); and

WHEREAS, In order for this project to go forward, Cracker Barrel must be able to retain full movement use (left turns allowed) for at least one of it's driveway connections, and allow a property use change from car dealership to restaurant/mixed use development; and

WHEREAS, US 64 (East Dixie Drive) corridor is approximately ninety-five percent developed and is served by 106 full movement use (left turns allowed) driveway connections; and

WHEREAS, Our local economy is severely stressed by the continued loss of manufacturing jobs and increase in overall unemployment, and this project is extremely important to our community and it's economy; and

WHEREAS, The establishment of a full movement use (left turns allowed) driveway at the proposed Cracker Barrel is supported by Division Eight Board member G.R. Kindley;

NOW, THEREFORE, BE IT RESOLVED, by the Asheboro City Council that the North Carolina Department of Transportation allow full movement use (left turns allowed) driveway connections on US 64 (East Dixie Drive).

Adopted by the Asheboro City Council this 4th day of September 2008.

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

ATTEST:

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

In addition to adopting the foregoing resolution, the Council members expressed a consensus opinion that the city staff members should explore the process of reducing the speed limit on this section of Dixie Drive to 35 miles per hour. The city manager acknowledged this request.

15. Update on Cranford Entrepreneurship Center. [Agenda Item Number 14]

Mr. Cox presented a preview of the city's interim website as he is in the process of updating the city's current website. The new website will be more user friendly.

Additionally, Mr. Cox updated the Council on the Cranford Entrepreneurship Center. Mr. Sam Cranford is in the process of making arrangements for the long-term use of the former Asheboro hosiery mill building, including use by the proposed entrepreneurship center.

Mr. Cox asked that the Council authorize the City Attorney to assist him in matters that may arise in regards to this project, including the incorporation of the entrepreneurship center as a 501(c)(3) entity.

Upon motion by Ms. Carter and seconded by Mr. Baker, Council voted unanimously to authorize the City Attorney to assist Mr. Cox in matters that may arise concerning the Cranford Entrepreneurship Center.

Additionally, Mr. Cox updated the Council on other ongoing projects. He stated that there had been discussions with Norfolk Southern Railroad of the possibility of the city acquiring the old train depot. Norfolk Southern Railroad may donate, sale, or lease the building to the city, and the company is now requesting a list of possible uses in which the city might use the building. Mr. Cox stated that he is exploring the idea of a children's museum as one of the possible uses of the building.

16. Upcoming events: [Agenda Item Number 15]

- Elected officials picnic September 17, 2008, 6:30 p.m. until 8:00 p.m., hosted by the City of Trinity.
- North Carolina League of Municipalities Centennial Conference, October 12-14, 2008, Charlotte, North Carolina.

There being no further business, the meeting was adjourned at 9:24 p.m.

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

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