

**REGULAR MEETING
ASHEBORO CITY COUNCIL
COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, OCTOBER 8, 2009
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)
Stuart B. Fountain) – 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
Casandra M. Fletcher, Marketing Specialist
Justin T. Luck, Community Planning and Development Department Intern
R. Reynolds Neely, Jr., Planning Director
Ralph W. Norton, Assistant Chief of Police
Michael D. Rhoney, Water Resources Director
Deborah P. Reaves, Finance Director
Jonathan M. Sermon, Recreation Services Superintendent
James W. Smith, II, Fire Chief
Jeffrey C. Sugg, City Attorney

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 Captain Wayne Tolar of the Salvation Army gave the invocation.

3. Appearance and recognition of guests and citizens.

Mayor Jarrell welcomed everyone in attendance.

4. Presentation by Howard Marlowe of Marlowe and Company.

Mr. Howard Marlowe, Mr. Daniel Sheehan, and Mr. James Alfano, all of Marlowe and Company, gave an overview of their ongoing lobbying efforts in Washington, D.C. on behalf of the City of Asheboro in order to obtain grant money that would assist the city with certain projects like the Sunset Theatre renovation project and the Zoo City Park project.

5. Presentation by David Winslow on fundraising for Sunset Theatre and consideration of approval of contract.

Mr. David Winslow of The Winslow Group, Inc. presented a step by step fundraising campaign that would raise approximately \$1,200,000.00 in gifts and pledges for the Sunset Theatre renovation project. The fundraising campaign is expected to be concluded by June 2010. Mr. Winslow hopes that approximately \$450,000.00 would come from sources outside Randolph County.

Additionally, Mr. Winslow presented a contract between the city and The Winslow Group for campaign management services for the Sunset Theatre renovation project. The consulting fee for this campaign project is approximately \$95,000.00 for a period of approximately ten (10) months with expenses for a brochure, a video production, pledge forms, and travel at

approximately \$35,000.00. The consulting fee is payable in ten (10) monthly installments, and the contract can be cancelled upon a thirty (30) day written notice by either party.

Upon motion by Ms. Carter and seconded by Mr. Priest, Council voted unanimously to approve the above-referenced contract with The Winslow Group, Inc. for campaign management services for the Sunset Theatre. A copy of this contract is on file in the City Clerk's office.

6. Consent Agenda:

At the request of Councilmember Smith, Mayor Jarrell pulled consent agenda item 6(h) from the Consent Agenda for further discussion. Prior to discussing this item, the City Council considered approving the remaining Consent Agenda items.

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

- (a) The minutes of the regular meeting of the City Council that was held on September 10, 2009.**
- (b) The findings of fact, conclusions of law, and order in the matter of SUP-09-03.**

Case No. SUP-09-03
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF THE ASHEBORO CITY SCHOOL SYSTEM FOR A
SPECIAL USE PERMIT FOR A PUBLIC USE FACILITY

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 6, 2009. Having considered all competent evidence and argument, the Council, on the basis of competent, material, and substantial evidence, does hereby make the following:

FINDINGS OF FACT

1. The Asheboro City School System (hereinafter referred to as the "Applicant") has properly filed an application for a Special Use Permit that would allow a Public Use Facility to be located at 400 Country Club Drive. The structure for which a Special Use Permit has been requested is located on a parcel of land that is approximately 4.48 acres in size and is owned by the Applicant. This parcel of land (hereinafter referred to as the "Zoning Lot") is more specifically identified by Randolph County Parcel Identification Number 7750667006.

2. The Zoning Lot is already in use as a Public Use Facility that includes recreation fields and a bus parking area. The Applicant is seeking a Special Use Permit in order to replace an existing concession stand with a larger concession stand.

3. The designation of the proposed concession stand as a Public Use Facility under the rules and regulations of the Asheboro Zoning Ordinance was not challenged by any of the parties that provided testimony during the hearing of this matter.

4. The Zoning Lot is located in B-2 zoning district.

5. A Public Use Facility is permitted in all zoning districts with the issuance by the Council of a Special Use Permit.

6. Section 602.2(b) of the Asheboro Zoning Ordinance provides as follows:

In cases where there is a deficiency in the ability of a Public Use Facility to meet all regulatory requirements of the Zoning Ordinance, City Council shall review the application for a Public Use Facility and evaluate whether or not a Special Use Permit shall be issued for the proposed public use facility solely on the basis of the general standards prescribed by Section 602.1 of this Ordinance. For the limited purpose of evaluating public use facilities under General Standard No. 2 of Section 602.1, a public use facility shall be deemed to have satisfied this standard if a site plan has been submitted in accordance with Section 1005 of this Ordinance.

7. The current concession stand is deemed to be a legal non-conforming use. The proposed concession stand, which is to be larger than the existing concession stand, cannot be

constructed on the Zoning Lot without a Special Use Permit because the larger proposed structure would expand the existing legal non-conforming situation. Such an expansion of a legal non-conforming situation is not an approved practice under the rules and regulations of the Asheboro Zoning Ordinance. Additionally, the proposed concession stand will be located in a different location than the existing structure, and the proposed structure does not conform to the setbacks prescribed by the zoning ordinance. More specifically, the front yard setback for the proposed structure would be sixty feet (60') due to front yard averaging requirements, and the new concession stand is to be constructed approximately twenty feet (20') from the property line.

8. The submitted site plan for the proposed Public Use Facility does comply with Section 1005 of the Asheboro Zoning Ordinance.

9. The land uses surrounding the Zoning Lot consist of schools to the north, the city golf course and offices to the south, a North Carolina Department of Transportation facility to the east, and commercial land uses to the west. The Growth Strategy Map identifies the area in which the Zoning Lot is located as a primary growth area, and the proposed land development plan map designates the Zoning Lot's location as a park area.

10. The Zoning Lot is located at the intersection of West Dixie Drive (United States Highway 64) and South Park Street/Country Club Drive. West Dixie Drive is a state-maintained major thoroughfare at this location. Park Street and Country Club Drive are state maintained roads at this location. Park Street becomes state-maintained major thoroughfare on the opposite (north) side of West Dixie Drive.

11. The Zoning Lot is located within the city's corporate limits, and all city services are available to the lot.

12. The proposed concession stand is to be approximately seven hundred twenty (720) square feet in size and will also have storage space as well as permanent restroom facilities rather than the portable toilet facilities that are currently utilized.

13. The existing, outdated structure will be removed from the Zoning Lot.

14. The proposed concession stand will be able to be accessed without creating a new curb cut and without cutting an excessive number of trees.

15. The Applicant has already gone through the design process in preparation for awarding a contract to construct the proposed concession stand. As part of the preparation for the public bid process, alternative designs were utilized. Uncontroverted testimony during the hearing of this matter established that the alternative designs for the proposed structure comply with the zoning ordinance's design criteria.

16. The Applicant's attorney, Mr. Ben Morgan, Esq., offered uncontroverted testimony that the proposed structure will not have a grill, but the concession stand will be built in a manner that can accommodate items such as a popcorn machine in a manner that complies with all of the applicable health codes.

17. No testimony was offered in opposition to the granting of the requested Special Use Permit.

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

CONCLUSIONS OF LAW

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

2. The evidence received during the public hearing established that the proposed use meets the required conditions and specifications of the Asheboro Zoning Ordinance.

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

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

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

ORDER

The Applicant is hereby issued a Special Use Permit authorizing the construction and operation on the Zoning Lot of a Public Use Facility that is described as a concession stand. This permit shall be valid so long as, and only so long as, the Applicant, and its successors and assigns, conducts the approved land use in compliance with the approved site plan, the provisions of the Asheboro Zoning Ordinance, and the following conditions:

1. Both the primary and optional building elevation materials submitted to the city's planning department for review in preparation for the hearing of this matter are deemed to be acceptable under the terms of this Special Use Permit.

2. The site plan reviewed by the Council on August 6, 2009, shall be revised to reflect the aspects of the existing and proposed use of the Zoning Lot that prevented the proposed land use from conforming to the entirety of the rules and regulations of the Asheboro Zoning Ordinance and thereby triggered the need for this Special Use Permit. While these deficiencies do not impair the lawful ability of the Council to issue this Special Use Permit, these non-conformities must be noted on the revised site plan in order to ensure effective and informed long-term enforcement of the city's land use regulations on the Zoning Lot. This revised site plan shall be subject to ministerial review by the city's planning department staff. If the planning department staff determines that the revised site plan complies with this condition of the approved Special Use Permit, the planning department staff may approve the revised site plan without bringing the matter before the Council for a hearing.

The above-stated findings, conclusions of law, and order were adopted by the Asheboro City Council in open session during a regular meeting held on the 8th day of October, 2009.

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

ATTEST:

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

(c) The findings of fact, conclusions of law, and order in the matter of CUP-09-07.

Case No. CUP-09-07
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF JOSEPH SHUPING FOR A CONDITIONAL USE PERMIT
AUTHORIZING THE RENTAL OF DOMESTIC VEHICLES AS AN ACCESSORY USE TO A MOTOR
VEHICLE REPAIR - MAJOR LAND USE

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 September 10, 2009. 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. Joseph Shuping (hereinafter referred to as the "Applicant") has properly submitted an application for a Conditional Use Permit authorizing a second land use on his parcel of land located at 1339 East Salisbury Street.

2. This parcel of land (hereinafter referred to as the "Zoning Lot") encompasses approximately 1.521 acres of land and is more specifically described by Randolph County Parcel Identification Number 7761429387.

3. An existing auto body shop is located on the Zoning Lot, and this land use is classified under the Asheboro Zoning Ordinance as Motor Vehicle Repair – Major.

4. The Applicant is requesting this Conditional Use Permit in order to obtain authorization to engage in the Rental of Domestic Vehicles as an accessory use to the body shop.

5. The Zoning Lot is located in a Conditional Use I-2 zoning district, and the lot is already subject to a valid Conditional Use Permit, which was issued under planning department file number CUP-07-09, that authorized the construction and operation of the existing body shop as a Motor Vehicle Repair – Major land use.

6. The Applicant's proposed additional use for the Zoning Lot is permissible as either a Customary Accessory Use or the Rental of Domestic Vehicles. A Customary Accessory Use is identified by the zoning ordinance as permitted as an accessory use in all zoning districts, and the Rental of Domestic Vehicles is permitted by right in the underlying I-2 zoning district.

7. The Zoning Lot is located in an area that is designated on the Growth Strategy Map as an Economic Development area, and this area is identified on the Proposed Land Development Plan Map as Urban Residential.

8. The land uses immediately surrounding the Zoning Lot are undeveloped and residential uses to the north; undeveloped, office, and residential uses are located to the south; single-family residential use is located to the east; and institutional use is located to the west.

9. The Zoning Lot is located within the corporate limits of the City of Asheboro, and city services are available to the lot.

10. East Salisbury Street is a major thoroughfare with a 100-foot right-of-way.

11. The Applicant is not proposing to increase the size of the existing building or parking area. The Applicant intends to utilize existing parking spaces for the parking of domestic motor vehicles for rental. As indicated on the site plan submitted as part of the current application, there are enough existing parking spaces to meet the requirements of the Asheboro Zoning Ordinance for both the body shop and the rental of domestic vehicles.

12. The Applicant testified that he will not have to hire any additional employees if his request is approved, and he is able to rent domestic vehicles as proposed. Hertz will provide the cars that are to be rented.

13. With the exception of the addition of a small number of domestic vehicles for rental purposes, the evidence supporting the Applicant's current Conditional Use Permit (CUP-07-09) that authorized the existing Motor Vehicle Repair - Major land use remains valid and unaltered. Consequently, the on-going conditions that were attached to the existing permit were read into the record by the planning department for inclusion with any new permit that may be issued by the Council.

14. The site plan submitted during the hearing of this matter complies with the provisions of the Asheboro Zoning Ordinance.

15. No testimony was offered in opposition to the Applicant's request for a new Conditional Use Permit.

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

CONCLUSIONS OF LAW

1. The Council has concluded that the requested Conditional Use Permit will not materially endanger the public health or safety if the proposed land uses are located where proposed and developed according to the plan as submitted and approved under file number CUP-09-07.

2. The evidence received during the public hearing established that the proposed land uses do 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 land uses would not substantially injure the value of the adjoining or abutting property.

4. The location and character of the Applicant's proposed land uses if developed according to the plan as submitted and approved will be in harmony with the area in which they are 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

Joseph Shuping is hereby issued a Conditional Use Permit for the following land uses on the Zoning Lot: Motor Vehicle Repair – Major (automobile body shop) and, as an accessory use, the Rental

of Domestic Vehicles. The site plan submitted and approved during the hearing of this matter on September 10, 2009, is hereby approved and adopted as part of this permit. The issuance of this permit and its continuing validity is hereby made expressly contingent upon the Applicant, and his heirs, successors, and assigns, complying at all times with the applicable provisions of the Asheboro Zoning Ordinance, including without limitation the site plan approved by this Order, and accepting and remaining in strict compliance with the following supplementary conditions:

1. Up to ten (10) rental domestic motor vehicles may be located in the area indicated on the site plan. Rental vehicles shall not be stored in required parking spaces or vehicle access or maneuvering areas.

2. Outside storage of materials or vehicles associated with the business shall be limited to the storage area identified on the submitted site plan. No outdoor storage of materials, parts, or debris of any kind shall be permitted outside of this area. Junked automobiles shall not be stored more than the customary and usual time for disposition, not to exceed ninety (90) days.

3. Both heating and air condition systems are required for the building so as to ensure that all bodywork is performed in the structure with the bay doors closed.

4. A six (6) foot high chain link fence with visual screen surrounding the gravel automobile storage area located behind the building is required.

5. No wrecked or junked vehicles may be stored on any portion of the Zoning Lot except for that area located behind the building within the "gravel storage area" identified on the site plan. Vehicles towed to the site overnight or on weekends will be allowed to be left in front of building until the next business day when such vehicle(s) must be moved inside the structure or into the storage lot.

6. The permitted hours of operation for the business established on the Zoning Lot shall be from 8:00 o'clock a.m. until 6:00 o'clock p.m., Monday through Saturday. Operation of a business on the Zoning Lot on Sundays or at any other time or times other than those days and times listed in the immediately preceding sentence is expressly prohibited.

7. Any scrap metal or debris from bodywork is to be placed in the dumpster located in the automobile storage area behind the building. This scrap metal or debris is to be lawfully removed from the site for disposal when the dumpster is full.

These findings of fact, conclusions of law, and order were adopted by the Asheboro City Council in open session during a regular meeting held on the 8th day of October, 2009.

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

ATTEST:

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

- (d) **The closing of the following streets for a horse parade on November 1, 2009, from 3:00 p.m. to 5:00 p.m.: Park Street between Sunset Avenue and West Taft Avenue, West Taft Avenue between South Park Street and South Church Street, South Church Street between West Taft Avenue and Sunset Avenue, and Sunset Avenue between Church Street and Park Street.**

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

- (e) **A resolution awarding a service side arm to a retiring officer of the Asheboro Police Department.**

45 RES 10-09

**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 December 31, 2009, Master Police Sergeant Marcus E. Tolbert will retire 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 June 22, 1987; and

WHEREAS, the city council wishes to honor and thank Mr. Tolbert for his service to the city by awarding to him the service side arm that he carried 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, Marcus E. Tolbert is to be awarded the service side arm that he carried at the time of his retirement.

The Asheboro City Council adopted this resolution in open session during a regular meeting of the council that was held on the 8th day of October, 2009.

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

ATTEST:

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

(f) The 2009-2010 Canada goose and duck hunting dates at Lake Reese.

The dates for the 2009-2010 dark geese (Canada and White-Fronted Geese) and duck hunting season at Lake Reese are as follows:

November 19th, 28th
December 19th, 29th
January 7th, 14th, 23rd

(g) A resolution authorizing the public auction of surplus city-owned personal property (Auction scheduled for 10:00 a.m., Saturday, November 21, 2009).

46 RES 10-09

RESOLUTION AUTHORIZING THE PUBLIC AUCTION OF SURPLUS PERSONAL PROPERTY

WHEREAS, the city staff members have identified items of city-owned personal property, specifically including vehicles and other types of personal property, that are no longer suitable for use by city forces; and

WHEREAS, the above-referenced items of personal property have been identified on the attached Schedule A, which is hereby incorporated into this resolution by reference as if copied fully herein, and the City Manager has recommended that the items listed on Schedule A be declared surplus property and sold at a public auction in accordance with Section 160A-270(b) of the North Carolina General Statutes; and

WHEREAS, the City Council concurs with the City Manager's recommendation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the City Manager is hereby authorized to dispose of the aforesaid surplus property at a public auction to be advertised in accordance with Section 160A-270(b) of the North Carolina General Statutes and conducted on the following date at the time and place listed below and subject to the following terms of sale:

Date	Saturday, November 21, 2009
Time:	10:00 A. M.
Place:	Round Building behind Municipal Building, 146 North Church Street, Asheboro, North Carolina
Terms of Sale:	All property will be sold as is to the highest bidder at the sale upon receipt of cash or good check. Any property not removed within ten (10) days of date of sale will revert back to the City of Asheboro for immediate disposal without notice to any party. All sales are final.

Adopted by the Asheboro City Council in regular session on the 8th day of October, 2009.

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

ATTEST:

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

[Schedule A that is referred to in the above resolution is attached to the original resolution that is on file in the City Clerk's office.]

- (h) **A request by Eric Branson for authorization to connect his property located on the east side of Pine Hill Road to the City maintained water line along Old Cox Road.**

[This item was pulled from the Consent Agenda for further discussion by council.]

- (i) **Changer Order #2 on the wastewater treatment plant standby generator project (Bar Construction Company, Inc.) increasing the contract amount by \$13, 761.00 to \$423,611.00 for the addition of a 2000 amp disconnect switch at the Progress Energy power supply line.**

[A copy of the above-referenced change order that was presented to the council is on file in the City Clerk's office.]

- (j) **A resolution authorizing the City Clerk to schedule and advertise a public hearing during the regular November 2009 City Council meeting on the question of the renewal of Red Bird Cab, LLC's taxicab franchise.**

47 RES 10-09

RESOLUTION AUTHORIZING A PUBLIC HEARING ON THE QUESTION OF RENEWING THE TAXICAB FRANCHISE GRANTED TO RED BIRD CAB, LLC

WHEREAS, Red Bird Cab, LLC, which has its principal office located at 210 West Ward Avenue in High Point, North Carolina, operates a taxicab service within the corporate limits of the City of Asheboro pursuant to a Certificate of Convenience and Necessity issued to Red Bird Cab, LLC by the Asheboro City Council in December 2008; and

WHEREAS, Red Bird Cab, LLC's franchise expires on December 8, 2009, and the taxicab service must properly renew its Certificate of Convenience and Necessity from the City of Asheboro in order to lawfully continue to operate, without an interruption in service, Red Bird taxicabs within the jurisdiction of the City of Asheboro; and

WHEREAS, Section 114.17 of the Code of Asheboro provides that applications to renew a taxicab franchise shall be filed annually and a public hearing on the renewal application may be conducted in the same manner as provided for the original application for a certificate of convenience and necessity; and

WHEREAS, the Asheboro City Council has concluded that a properly noticed public hearing is the best means to acquire information as to whether Red Bird Cab, LLC provides taxicab service within the City of Asheboro in a manner that furthers the public's convenience and satisfactorily addresses the public necessity for the operation of quality taxicab services within the city.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that, prior to the second and final vote on the franchise ordinance for Red Bird Cab, LLC, a public hearing shall be held on November 5, 2009, on the question of the requested renewal of a certificate of convenience and necessity; and

BE IT FURTHER RESOLVED that the city clerk is hereby instructed to give notice of the said public hearing in accordance with Section 114.12 of the Code of Asheboro.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 8th day of October, 2009.

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

ATTEST:

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

- (k) **Approval of the first reading of an ordinance granting a Certificate of Convenience and Necessity to Red Bird Cab, LLC in order to allow the taxicab company to continue to operate eight (8) taxicabs.**

AN ORDINANCE GRANTING A RENEWAL OF A CERTIFICATE OF CONVENIENCE AND NECESSITY TO RED BIRD CAB, LLC

WHEREAS, Red Bird Cab, LLC, which has its principal office located at 210 West Ward Avenue in High Point, North Carolina, operates a taxicab service within the corporate limits of the City of Asheboro pursuant to a Certificate of Convenience and Necessity issued to Red Bird Cab, LLC by the Asheboro City Council in December 2008; and

WHEREAS, Red Bird Cab, LLC's franchise expires on December 8, 2009, and the taxicab service must properly renew its Certificate of Convenience and Necessity from the City of Asheboro in order to lawfully continue to operate, without an interruption in service, Red Bird taxicabs within the jurisdiction of the City of Asheboro; and

WHEREAS, no negative comments were received during a properly noticed public hearing that was held by the Asheboro City Council on November 5, 2009 on the question of renewing the non-exclusive franchise held by Red Bird Cab, LLC; and

WHEREAS, the available evidence indicates that Red Bird Cab, LLC is providing taxicab service within the City of Asheboro in a manner that furthers the public's convenience and addresses the public necessity for the operation of adequate taxicab services within the city.

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

Section 1. A renewed certificate of convenience and necessity to operate eight (8) taxicabs upon and over the streets of the City of Asheboro is hereby granted to Red Bird Cab, LLC (hereinafter referred to as the "Grantee").

Section 2. This franchise is granted for a term of one (1) year from and after the 8th day of December 2009. Thereafter, applications for renewals shall be filed annually in accordance with the Code of Asheboro.

Section 3. This franchise is granted upon the following specific conditions and requirements:

- (a) Prior to the effective date of this ordinance, the Grantee shall furnish to the city clerk of the City of Asheboro a list showing the make, model, and vehicle identification number of each taxicab to be operated pursuant to this franchise.
- (b) Prior to the effective date of this ordinance, the Grantee shall furnish to the city clerk of the City of Asheboro a certificate of insurance from an insurance carrier duly authorized to do business in the State of North Carolina evidencing that insurance coverage is in effect for the taxicabs referenced in subsection (a) in an amount that complies with Section 114.14 of the Code of Asheboro.
- (c) The Grantee shall otherwise comply with all applicable laws and regulations pertaining to the operation of taxicabs in the City of Asheboro, specifically including without limitation Chapter 114 of the Code of Asheboro.

Section 4. If a conflict is discovered between the provisions of this ordinance granting a certificate of convenience and necessity to Red Bird Cab, LLC and Chapter 114 of the Code of Asheboro, the provisions found in Chapter 114 of the Code of Asheboro shall control.

Section 5. This ordinance shall be deemed to have been finally adopted by the Asheboro City Council after receiving approval at two (2) regular meetings of the council.

This ordinance was approved by the Asheboro City Council for the first time in open session during a regular meeting held on the 8th day of October, 2009.

This ordinance was approved by the Asheboro City Council for the second time in open session during a regular meeting held on the 5th day of November, 2009.

David H. Jarrell, Mayor

ATTEST:

Holly H. Doerr, City Clerk

- (I) An ordinance amending Section 92.19 of the Code of Asheboro, which addresses ingress, egress, and the walking on walls or graves in the city cemeteries.

45 ORD 10-09

AN ORDINANCE AMENDING CHAPTER 92 OF THE CODE OF ASHEBORO

WHEREAS, Chapter 92 of the Code of Asheboro prescribes regulations governing the cemeteries owned and operated by the City of Asheboro; and

WHEREAS, Section 92.19 prohibits individuals from walking across graves within the cemeteries owned and operated by the city; and

WHEREAS, the City Council of the City of Asheboro has determined that Section 92.19 of the Code of Asheboro has to be amended in order to acknowledge that individuals, including by way of illustration and without limitation city mowing crews, funeral home personnel and contractors, and individuals attending graveside services, may cross an existing grave without any intent to disturb the good order and dignity of the cemetery in general or the grave upon which the individual stepped; and

WHEREAS, even though the Asheboro City Council desires to amend Section 92.19 of the Code of Asheboro so as to accommodate the fact that a cemetery experiencing active use will encounter occasional foot traffic over burial space areas, the city council is also determined to establish regulations that will advance the good order of the city cemeteries by minimizing the opportunity for pedestrian foot traffic to significantly disturb the city cemeteries' ground cover, create ruts, or create unstabilized pathways.

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

Section 1. Section 92.19 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 92.19 INGRESS AND EGRESS; WALKING ON WALLS OR GRAVES.

(A) No person shall enter or leave a cemetery enclosure or grounds except by the gates or other places provided for ingress and egress, nor shall anyone mount or walk, climb or run upon the walls or fence surrounding a cemetery, nor across the graves therein.

(B) Notwithstanding the provisions of the immediately preceding Division (A), the persons listed below may traverse city cemetery grounds, irrespective of the location of graves, so long as, and only so long as, such movement is conducted in a manner that is quiet, consistent with the good order of the cemetery, and utilizes marked or designated pathways until the person's reason for traversing the grounds of the city cemetery makes it strictly necessary to cross burial space areas. The persons who may lawfully cross burial space areas, specifically including graves, within a city owned and operated cemetery are as follows:

(1) Individuals and any equipment in their care and control that are traversing the cemetery grounds in order to discharge work related duties as an employee or contractor engaged in providing services that are customary and necessary for the continued maintenance and operation of the city cemetery. This exemption from the prohibition of walking across graves only applies to work duties performed within and for the exclusive benefit of the city owned and operated cemetery.

(2) Individuals who have previously entered the city cemetery through locations provided for ingress and egress and are walking through the city cemetery grounds as pedestrians in order to attend a funeral service within the city cemetery or at another cemetery that is not city-owned, is contiguous with the boundary of the city cemetery, and is readily accessible from the city cemetery.

(3) Individuals who have previously entered the city cemetery through locations provided for ingress and egress and are walking through the city cemetery grounds as pedestrians in order to visit a particular final resting place of a deceased person interred within the city cemetery or at another cemetery that is not city-owned, is contiguous with the boundary of the city cemetery, and is readily accessible from the city cemetery.

(C) As used within this section, unless otherwise stated or unless the context or subject matter clearly indicates otherwise, the term "cemetery" means any one or a combination of more than one of the following in a place used for cemetery purposes:

(1) A burial park for earth interment.

(2) A mausoleum.

(3) A columbarium.

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

Section 3. This ordinance shall be in full force and effect upon and after the 8th day of October, 2009.

This ordinance was adopted by the City Council of the City of Asheboro in open session during a regular meeting held on the 8th day of October, 2009.

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

ATTEST:

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

7. Discussion of a request by Eric Branson for authorization to connect his property located on the east side of Pine Hill Road to the city maintained water line along Old Cox Road.

Councilmember Smith asked for clarification of how the above-referenced request relates to the city's policy of water and sewer connection. Mr. Bunker and Mr. Sugg discussed that the city's current policy for water and sewer connection as prescribed in the Code of Asheboro.

After some discussion, Mayor Jarrell, with the general consent of the council members, referred this matter to the Public Works Committee for further study.

Old Business:

8. Resumption of public hearing on the question of the adoption of proposed Land Development Plan updates. [Agenda Item Number 7]

The public hearing on the question of the adoption of the proposed updates to the Land Development Plan was resumed.

Mr. Justin Luck was available to answer questions in regards to the proposed updates of the plan, while Mr. Neely presented written comments that were received from the public since the council's regular September meeting. The Planning Department Staff and the Planning Board recommended approval of the updates of the Land Development Plan.

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

Upon motion by Mr. Baker and seconded by Mr. Moffitt, council voted unanimously to adopt the recommendation of the Planning Board and approved the proposed updates of the Land Development Plan as presented by the planning department staff. Copies of the approved updates are on file in the City Clerk's office and in the City of Asheboro Community Planning and Development Department.

New Business:

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

(a) RZ-09-08: General Technical Amendments to the Zoning Ordinance. An application filed by the City of Asheboro to amend Article 100, Article 200, Article 300, Article 300A, Article 400, Article 600, Article 1000, and Article 1100.

Mayor Jarrell opened the public hearing on the following request.

Mr. Neely presented an overview of the Planning Department Staff's proposed amendments to the Asheboro Zoning Ordinance. These amendments include the results of the Planning Department staff's review of hotel parking issues as requested by the Planning Board. With the exception of this recommended area of study, the Planning Board recommended approval of the proposed amendments.

The Planning Department Staff recommended approval of these amendments based on the following:

Staff believes the proposed Technical Amendments will assist both staff and the public in clarifying references to non-residential zoning regulations and uses. Staff also believes the parking for hotel accessory uses in (sic) reasonable and in

the public interest in encouraging amenities for the convenience of the traveling public and reducing traffic congestion by encouraging hotels to offer onsite amenities. Considering all these factors, staff believes the Technical Amendments are generally within the public interest and promote a reasonable use of property.

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

Upon motion by Mr. Moffitt and seconded by Mr. Burks, council voted unanimously to adopt the staff's analysis of the proposed amendments and approved the amendments to the Asheboro Zoning Ordinance.

[Copies of the adopted amendments are on file in the City Clerk's office and in the City of Asheboro Community and Planning Department.]

- (b) **RZ-09-09: Request to rezone from Randolph County to City of Asheboro TH (Tourism-Hospitality) Zoning District.** The property of the North Carolina Zoological Society is located primarily at the southern corner of Old Cox Road and Lions Rest Road. Additionally, a portion of the property is located at the northern corner of the intersection of Old Cox Road and Lions Rest Road. The property extends south to Ross Harris Road and along the south side of Ross Harris Road. Randolph County Parcel Identification Number 7678212748 more specifically identifies this parcel that contains approximately 268.18 acres of land.

Mayor Jarrell opened the public hearing on the following request.

Mr. Neely presented the Planning Department's request to place the above-described property into a city zoning district, more specifically the TH (Tourism-Hospitality) zoning district. The Planning Department Staff and the Planning Board recommended approval of the request based on the following staff analysis:

The property was annexed into the city, effective on July 24, 2009, (sic) North Carolina General Statutes require that the city assign a zoning designation in order to have zoning jurisdiction on this property.

The Land Development Plan encourages tourism development throughout the City of Asheboro and its . . . (extraterritorial planning) jurisdiction, and particularly emphasizes supporting tourism development of and relating to the N.C. Zoological Park. Staff believes that since the property is adjacent to the N.C. Zoological Park, the Tourism-Hospitality zoning designation is the most appropriate zoning designation of the property. Therefore, staff believes this zoning designation is generally within the public interest and supports a reasonable use of the property.

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. Moffitt, council unanimously adopted the recommendation of the Planning Board and approved the requested rezoning on the basis of the planning department staff's analysis of the issue.

- (c) **RZ-09-10: Request to rezone from RA6 and R10 to M (Mercantile).** The property of Carolina Bank is located on the east side of North Carolina Highway 42 North at the eastern corner of Thomas Street and on a separate parcel of land located approximately 600 feet south of Thomas Street. These parcels consist of approximately 2.16 acres of land. Randolph County Parcel Identification Numbers 7761414104 and 7761412301 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 Carolina Bank to rezone the above-described property from R10 Medium Density Residential and RA 6 High Density Residential to M Mercantile. The Planning Department Staff and the Planning Board recommended approval of the rezoning of the two parcels based on the following:

1. In considering the request for the eastern portion of the property (zoned R10-Parcel Identification Number 7761414104) (this area) is designated for commercial use by the Land Development Plan. The request on this parcel complies with the goals, policies, and map of the Land

Development Plan and staff recommends approval of the rezoning on this parcel.

2. In considering the request for the western portion of the property (zoned RA6- Parcel Identification Number 7761412301), although the Land Development designates the property as urban residential, several factors support the request. The property is located on a major thoroughfare and is adjacent to a mix of non-residential land uses. While a heavier commercial designation of the property would not fit the context of the area, the Mercantile (M) zoning district (created since the adoption of the LDP) serves as a transition between the B2 General Commercial uses further to the south and surrounding residential areas. Design requirements in the Mercantile district exclude large scale and incompatible commercial uses and require additional features that offer better integration with surrounding residential neighborhoods (i.e. opaque landscaped screening adjacent to residential use, restrictions concerning drive through service, etc.)

Considering all of these factors, staff believes that granting the rezoning for both parcels is generally within the public interest in allowing a reasonable use of the property.

Mr. H. R. Gallimore of ReMax Central Reality was present to answer questions.

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

Upon motion by Mr. Smith and seconded by Ms. Carter, council unanimously adopted the staff's and Planning Board's analysis of the application and approved the requested rezoning. Councilmembers Baker, Burks, Carter, Fountain, Moffitt, Priest, and Smith voted in favor of the motion.

- (d) **RZ-09-11: Request to rezone from R10 to M (Mercantile)**. The property of Carolina Bank is located along the west side of Browers Chapel Road, approximately 800 feet south of East Dixie Drive (U.S. Highway 64) and consists of approximately 0.64 acres of land. Randolph County Parcel Identification Number 7760378417 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 Carolina Bank to rezone the above-described property from R10 (Medium-Density Residential) to M (Mercantile). The staff recommended denial of the request based on the following:

Analysis of this request is complex. There are some factors that increase the validity of this request, such as the property being located on a minor thoroughfare and adjacent to a commercial area. Also, the requested Mercantile (M) zoning district is less intensive than certain other commercial zoning districts. However, the proposed land use map and text of the Land Development Plan do not support the expansion of commercial uses south along Browers Chapel Road.

Staff believes that the existing R10 zoning designation could provide a transition from the commercial corridor along Dixie Drive to the residential areas south of Dixie Drive and that the current zoning is within the public interest by allowing a reasonable use of the property.

The Planning Board disagreed with the staff's analysis and recommended approval of the requested rezoning in that "the property's proximity to commercial uses makes the Mercantile zoning district an appropriate designation of the property and that further extending commercial uses along this length of Browers Chapel Road is not an unreasonable encroachment into the residential areas further south."

Mr. H.R. Gallimore of ReMax Central Realty presented comments in support of the requested rezoning. Mr. Gallimore expressed that the Mercantile zoning district would be appropriate for the property in that it would be a smooth transition from B2 commercial zoning to residential zoning within the area.

Mr. Chris Carmac of 248 Browers Chapel Road presented comments and concerns in opposition to the request. Mr. Carmac felt that the requested rezoning would negatively impact the value of his residential property. Additionally, he was concerned that the time and effort previously spent

addressing the flooding issues within the area would be undermined if another business were to be located on the property in question.

Mr. Sam Hussey of 242 Browers Chapel Road had similar concerns. Mr. Hussey expressed that he prefers that the property remain in a residential zoning district.

Mr. Thomas Johnson of 1111 Timberlane was concerned with storm water runoff issues. Additionally, Mr. Johnson was concerned with the multiple types of land uses that are permitted within the Mercantile district. Mr. Neely gave examples of permitted uses in the M (Mercantile) zoning district.

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

Upon motion by Dr. Fountain and seconded by Mr. Priest, council voted unanimously to deny the requested rezoning on the basis of the staff's analysis and also expressed concerns about the need to control storm water runoff in the area by way of a site plan review process if the type of development contemplated by the requested zoning district were to be constructed on this property.

(e) **Technical Amendments to the Subdivision Ordinance.** An application filed by the City of Asheboro to amend Article V of the Asheboro Subdivision Ordinance.

Mr. Neely presented the Planning Department Staff's proposed amendment to Article V, I.A.4 of the city's subdivision ordinance. This technical amendment corrects a longstanding error in the subdivision ordinance by replacing "County" with "City" as the terms related to jurisdictional standards.

Upon motion by Mr. Baker and seconded by Mr. Burks, council voted unanimously to amend Article V of the city's subdivision ordinance. A copy of the amended ordinance is on file in the City Clerk's office and in the City of Asheboro Community Planning and Development Department.

10. Consideration of a petition received from Ronald Keith and Teresa Ellis Pugh requesting contiguous annexation of 10.118 acres at 411 Hillview Street. [Agenda Item Number 9]

Mayor Jarrell opened the public hearing on the proposed contiguous annexation of 10.118 acres of land located at 411 Hillview Street.

There being no comments and no opposition from the public, Mayor Jarrell closed the public hearing.

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

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

Ordinance Number 46 ORD 10-09
ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
CITY OF ASHEBORO, NORTH CAROLINA
(10.118 Acres of Land Located at 411 Hillview Street)

WHEREAS, pursuant to Section 160A-31 of the North Carolina General Statutes, the owners of all of the real property located within the proposed annexation area hereinafter described submitted a signed petition to the Asheboro City Council requesting that the said area be annexed to the City of Asheboro; and

WHEREAS, on September 10, 2009, the Asheboro City Council directed, by means of a duly adopted resolution, the City Clerk of the City of Asheboro to investigate the sufficiency of the petition, and the city clerk has certified the sufficiency of the said petition; and

WHEREAS, at the direction of the city council, the City of Asheboro did publish to the public on the 19th day of September, 2009 in *The Courier-Tribune*, a newspaper having general circulation in the City of Asheboro, a notice setting forth that, during the Asheboro City Council's regular October meeting at 7:00 o'clock p.m. on the 8th day of October, 2009, at the City of Asheboro Municipal Building, a public hearing would be held in order to consider the adoption of an ordinance annexing the said area to the City of Asheboro; and

WHEREAS, the said public hearing was in fact held on the 8th day of October, 2009; and

WHEREAS, the city council has determined that the petition meets the requirements of Section 160A-31 of the North Carolina General Statutes.

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

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

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a point not set on the existing primary corporate limits line for the City of Asheboro, the said point is located by means of the North Carolina Coordinate System at the coordinates of North 715,464.1510 feet and East 1,751,142.8932 feet (NAD 83); thence from the said beginning point along the common boundary line between the Ronald Keith Pugh property described in Deed Book 2018, Page 886, Randolph County Public Registry and the Randall Scott Teague property described in Deed Book 1752, Page 1894, Randolph County Public Registry the following courses and distances: North 74 degrees 07 minutes 46 seconds West 254.24 feet to an existing iron rod; thence North 35 degrees 30 minutes 45 seconds West 138.58 feet to an existing iron rod; thence North 38 degrees 06 minutes 27 seconds West 83.45 feet to an existing iron rod; thence North 16 degrees 50 minutes 11 seconds West 226.24 feet to an existing iron rod; thence North 02 degrees 25 minutes 29 seconds West 584.22 feet to an existing iron pipe set on the south bank of the creek; thence South 84 degrees 36 minutes 51 seconds East 109.88 feet to a point in the centerline of the creek; thence along the centerline of the creek the following courses and distances: South 27 degrees 10 minutes 57 seconds East 48.59 feet to a point not set; thence South 61 degrees 59 minutes 31 seconds East 53.35 feet to a point not set; thence South 31 degrees 03 minutes 08 seconds East 39.92 feet to a point not set; thence South 88 degrees 08 minutes 34 seconds East 51.86 feet to a point not set; thence South 86 degrees 22 minutes 53 seconds East 115.05 feet to a point not set; thence South 75 degrees 58 minutes 59 seconds East 79.35 feet to a point not set; thence South 50 degrees 29 minutes 09 seconds East 83.18 feet to a point not set; thence South 85 degrees 29 minutes 42 seconds East 45.30 feet to a point not set; thence along the common boundary line between the said Ronald Keith Pugh property and the Eva Fryes, Inc. property described in Deed Book 1229, Page 331, Randolph County Public Registry the following courses and distances: South 03 degrees 41 minutes 24 seconds West 385.77 feet to an existing iron pipe; thence South 85 degrees 23 minutes 31 seconds East 122.80 feet to an existing iron pipe; thence South 85 degrees 23 minutes 31 seconds East 36.52 feet along the common boundary line between the said Ronald Keith Pugh property and the City of Asheboro property described in Deed Book 814, Page 514, Randolph County Public Registry to a point not set on the existing primary corporate limits line for the City of Asheboro, this point is located by means of the North Carolina Coordinate System at the coordinates of North 715,920.1283 feet and East 1,751,356.4549 feet (NAD 83); thence along the existing primary corporate limits line for the City of Asheboro the following courses and distances: South 37 degrees 34 minutes 52 seconds West 347.24 feet to a point not set; thence South 02 degrees 28 minutes 20 seconds West 178.15 feet to the point and place of BEGINNING, and containing 10.118 acres of land, more or less, to be annexed.

The above-listed description is in accordance with a plat of survey entitled "ANNEXATION SURVEY FOR THE CITY OF ASHEBORO." This plat of survey was drawn under the supervision of Jerry A. King, Professional Land Surveyor with Registration Number L-3373, from an actual survey made under his supervision. The said plat of survey is dated September 29, 2008, and the job number for the plat of survey is 5523 P 10.

Section 2. Upon and after October 8, 2009, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Asheboro and shall be entitled to the same privileges and benefits as other parts of the City of Asheboro. Said territory shall be subject to municipal taxes according to Section 160A-58.10 of the North Carolina General Statutes.

Section 3. The Mayor of the City of Asheboro shall cause to be recorded in the office of the Register of Deeds of Randolph County, North Carolina, and in the office of the Secretary of State of North Carolina at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Randolph County Board of Elections, as required by Section 163-288.1 of the North Carolina General Statutes.

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

Section 5. This ordinance shall be in full force and effect upon and after the 8th day of October, 2009.

This ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 8th day of October, 2009.

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

ATTEST:

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

Approved as to form:

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

11. Consideration of a petition received from Habitat for Humanity of Randolph County, Inc. requesting contiguous annexation of 0.415 of an acre of land along the west side of Third Street. [Agenda Item Number 10]

Mayor Jarrell opened the public hearing on the proposed contiguous annexation of 0.415 of an acre of land located along the west side of Third Street.

There being no comments and no opposition from the public, Mayor Jarrell closed the public hearing.

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

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

**Ordinance Number 47 ORD 10-09
ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
CITY OF ASHEBORO, NORTH CAROLINA
(0.415 of an Acre of Land Located along the West Side of Third Street)**

WHEREAS, pursuant to Section 160A-31 of the North Carolina General Statutes, the owners of all of the real property located within the proposed annexation area hereinafter described submitted a signed petition to the Asheboro City Council requesting that the said area be annexed to the City of Asheboro; and

WHEREAS, on September 10, 2009, the Asheboro City Council directed, by means of a duly adopted resolution, the City Clerk of the City of Asheboro to investigate the sufficiency of the petition, and the city clerk has certified the sufficiency of the said petition; and

WHEREAS, at the direction of the city council, the City of Asheboro did publish to the public on the 19th day of September, 2009 in *The Courier-Tribune*, a newspaper having general circulation in the City of Asheboro, a notice setting forth that, during the Asheboro City Council's regular October meeting at 7:00 o'clock p.m. on the 8th day of October, 2009, at the City of Asheboro Municipal Building, a public hearing would be held in order to consider the adoption of an ordinance annexing the said area to the City of Asheboro; and

WHEREAS, the said public hearing was in fact held on the 8th day of October, 2009; and

WHEREAS, the city council has determined that the petition meets the requirements of Section 160A-31 of the North Carolina General Statutes.

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

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

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a new iron pipe set at the northeast corner of the Habitat for Humanity of Randolph County, Inc. property described in Deed Book 1783, Page 1183, Randolph County Public Registry, the said new iron pipe is located South 08 degrees 50 minutes 53 seconds West 386.10 feet from a PK nail set at the intersection of the centerline for Third Street (North Carolina Secondary Road 2808) with the centerline for Ridge Street (North Carolina Secondary Road 2915); thence from the said beginning point South 07 degrees 49 minutes 08 seconds West 124.87 feet along the western margin of the 50-foot right-of-way for Third Street to a new iron pipe set at the southeastern corner of the said Habitat for Humanity of Randolph County, Inc. property; thence North 87 degrees 12 minutes 27 seconds West 144.72 feet to a point on the existing primary corporate limits line for the City of Asheboro; thence North 07 degrees 23 minutes 38 seconds East 124.85 feet along the existing primary corporate limits line for the City of Asheboro to a point not set; thence along the northern boundary line for the said Habitat for Humanity of Randolph County, Inc. property the following courses and distances: South 87 degrees 11 minutes 09 seconds East 3.30 feet to a new iron pipe; thence South 87 degrees 11 minutes 09 seconds East 142.34 feet to the point and place of BEGINNING, and containing 0.415 of an acre of land, more or less, to be annexed.

The above-listed description is in accordance with a plat of survey entitled "Annexation Survey City of Asheboro(;) Plat Prepared For Habitat For Humanity Of Randolph County, Inc." This plat of survey was drawn under the supervision of Michael R. Stout, Professional Land Surveyor with license number L-3492, from an actual survey made under his supervision. The said plat of survey was originally dated June 11, 2009, and was revised on August 6, 2009. The job number for the plat of survey is 09-HABITAT-0.

Section 2. Upon and after October 8, 2009, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Asheboro and shall be entitled to the same privileges and benefits as other parts of the City of Asheboro. Said territory shall be subject to municipal taxes according to Section 160A-58.10 of the North Carolina General Statutes.

Section 3. The Mayor of the City of Asheboro shall cause to be recorded in the office of the Register of Deeds of Randolph County, North Carolina, and in the office of the Secretary of State of North Carolina at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Randolph County Board of Elections, as required by Section 163-288.1 of the North Carolina General Statutes.

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

Section 5. This ordinance shall be in full force and effect upon and after the 8th day of October, 2009.

This ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 8th day of October, 2009.

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

ATTEST:

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

Approved as to form:

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

12. Public comment period. [Agenda Item Number 11]

Mr. David Whitaker of Chettington Drive asked for clarification in regards to a withdrawn agenda item pertaining to the closing of portions of the Lansdowne Road right-of-way. Mr. Bunker addressed Mr. Whitaker's question by explaining in more detailed terms the location of the right-of-way proposed for permanent closure.

13. Resolution of intent to close portions of the Lansdowne Road right-of-way where the street has not been built at Gold Hill Road and East Presnell Street, as requested by Trollinger Investment Company. [Agenda Item Number 12]

The above-referenced item was withdrawn at the request of the applicant. This item will be resubmitted for consideration during the council's regular meeting on November 5, 2009.

14. Report on bids received by Randolph County on October 2, 2009 for the proposed water line extension along U.S. Highway 64 East. [Agenda Item Number 13]

Mr. Bunker submitted the bid summary utilized by the County of Randolph for the U.S. Highway 64 Water Main Extension project. Fourteen (14) bids were received on October 2, 2009. The bid submitted by Triangle Grading and Paving, Inc. of Burlington, North Carolina was the low responsive bid at \$623,810.00.

Mr. Bunker explained that the engineering cost for this project is approximately \$159,000.00 with the total project cost being approximately \$782,810.00. The City of Asheboro will own and operate this water line once the county constructs the line and conveys it to the city.

15. Transportation Items: [Agenda Item Number 14]

(a) Report on the U.S. Highway 64 Traffic Operations and Safety Corridor Study being coordinated by the Transportation Mobility and Safety Division of the North Carolina Department of Transportation.

Mr. Bunker reported that the North Carolina Department of Transportation has authorized a corridor study (U.S. Highway 64 Traffic Operations and Safety Corridor Study) in the wake of an unsuccessful attempt by Cracker Barrel to obtain a left turn option off of U.S. Highway 64 East. This study will take place over a period of approximately seven (7) months and will address certain driveway issues on U.S. Highway 64 East.

(b) Report of RPO's prioritized construction list.

Mr. Baker reported on the Piedmont Trial Rural Planning Organization's prioritized construction list of projects for the Transportation Improvement Program. This list will be presented to the North Carolina Department of Transportation for further review.

16. Announcement of SAFER (Staffing for Adequate Fire and Emergency Response) grant approval to fund hiring of three (3) new firefighters. [Agenda Item Number 15]

Chief Smith reported that the City of Asheboro received a SAFER (Staffing for Adequate Fire and Emergency Response) Grant to assist in the funding of three (3) new firefighter positions over a period of five (5) years. The city must bear 100% of the cost the fifth year. At its conclusion, the total value of the grant will equal approximately \$325,140.00.

17. Update on the City of Asheboro's monthly water billing. [Agenda Item Number 16]

Ms. Reaves updated the council on the city's monthly water billing procedures.

18. Receive state demographer's report of Municipal Population Estimates of July 1, 2009 boundaries. [Agenda Item Number 17]

Mr. Evans reported that the final 2008 municipal population estimates are as follows:

July 1, 2008 Standard Municipal Estimate With July 1, 2008 boundaries	24,827
July 1, 2008 Certified Estimate with July 1, 2009 Boundaries (used to distribute state-shared revenues)	25,124

19. Upcoming Events: [Agenda Item Number 19]

- City of Asheboro Health Fair – October 14th at 8:30 a.m. until 2:00 p.m. – Public Works Facility
- NCLM Annual Conference – October 25th, 26th, 27th, 2009 – Greenville, North Carolina

20. Discussion of items not on the agenda.

- Mayor Jarrell and Mr. Neely introduced and welcomed Ms. Casandra (“Casey”) Fletcher, the city’s Marketing Specialist.

There being no further business, the meeting was adjourned at 9:34 p.m.

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

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