

**NOTICE OF A SPECIAL MEETING OF THE
ASHEBORO CITY COUNCIL**

Thursday, February 19, 2009

7:00 p.m.

Notice of a special meeting of the City Council of the City of Asheboro, North Carolina is hereby given. This meeting will be held on Thursday, the 19th day of February 2009 at 7:00 p.m. in the council chamber of the City of Asheboro Municipal Building, which is located at 146 North Church Street in Asheboro.

This special meeting of the Asheboro City Council has been called for the purpose of considering the following agenda items:

- I. Consent agenda items that are more specifically described as follows:
 1. Findings of facts, conclusions of law, and orders in the three different land use cases that are identified by planning department file numbers CUP-08-38, SUP-08-04, and SUP-08-06.
 2. Resolution setting the compensation for members of the Asheboro ABC Board.
 3. Resolution updating documentation with CommunityOne Bank, N.A. to correctly reflect the Finance Director's name on the form designating individuals authorized to initiate funds transfers.
- II. Report on occupancy tax and visitor information from Tammy O'Kelly, Director of Tourism with the Randolph County Tourism Development Authority.
- III. Ordinance amending Chapter 50 of the Code of Asheboro in order to enhance the compatibility of certain water and sewer service charges with the monthly billing system.
- IV. Resolution exempting the Monroe Avenue Sewer Pump Station Project from the procurement requirements for engineering and surveying services that are specified in Article 3D of Chapter 143 of the North Carolina General Statutes.
- V. Resolution authorizing Mayor Jarrell to execute an application requesting state loan assistance for the Cedar Creek Water System Project.
- VI. Continuation of the on-going discussion with planning department staff members about the principles that should guide the staff's efforts to improve the Asheboro Zoning Ordinance's design standards and to create a zoning district or districts complimentary to the B2 zoning district.
- VII. Continuation of the discussion held during the council's regular meeting on February 5, 2009 concerning a proposed resolution to approve the positions of public information director and marketing specialist.
- VIII. Report on potential stipend for members of the City of Asheboro Planning Board.
- IX. Update concerning the city's strategic plan.

This notice is issued on the 13th day of February 2009 in accordance with the laws and ordinances of the State of North Carolina and the City of Asheboro.

s/ David H. Jarrell
David H. Jarrell, Mayor
City of Asheboro, North Carolina

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**SPECIAL MEETING
ASHEBORO CITY COUNCIL
COUNCIL CHAMBER
THURSDAY, FEBRUARY 19, 2009
7:00 p.m.**

This being the time and place for a special meeting of the Asheboro City Council, a meeting was held in the Council Chamber of the Asheboro Municipal Building with the following members and officials present:

David H. Jarrell) – Mayor Presiding

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

John N. Ogburn, III, City Manager
Dumont Bunker, P.E. City Engineer
Holly H. Doerr, City Clerk/Senior Legal Assistant
John L. Evans, Planner
R. Wendell Holland, Jr., Zoning Administrator
T. Myers Johnson, Human Resources Director
R. Reynolds Neely, Jr., Planning Director
O. Lynn Priest, Community Development Director
Deborah P. Reaves, Finance Director
James W. Smith, Fire Chief
Jeffrey C. Sugg, City Attorney

1. Call to order.

Mayor Jarrell called the meeting to order for the transaction of business, and business was transacted as follows.

2. Consent agenda:

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

(a) The findings of fact, conclusions of law, and order in the matter of CUP-08-38.

Case No. CUP-08-38
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF DARREN LUCAS FOR A CONDITIONAL USE PERMIT
ALLOWING MULTIPLE FAMILY DWELLING UNITS

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER DENYING 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 January 8, 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. Mr. Darren Lucas (hereinafter referred to as the "Applicant") properly filed an application with the City of Asheboro Planning Department for a legislative rezoning of approximately 6.513 acres of land that, if approved, would place the property in a CU-RA6 zoning district, which is also known as a conditional use high-density residential zoning district. When the Applicant applied for this legislative rezoning, he also filed an application for a Conditional Use Permit that would allow the use of this land for multiple family dwelling units.

2. The land upon which the Applicant wishes to develop multiple family dwelling units is located along the east side of Eastview Road, approximately 720 feet north of East Pritchard Street, and along the west side of Meadowbrook Road, approximately 800 feet north of East Pritchard Street. This property (hereinafter referred to as the "Zoning Lot") is more specifically identified by Randolph County Parcel Identification Numbers 7761171599, 7761174800, 7761170956, and 7761180011.

3. The "Zoning Lot" is currently located in an R10 medium-density residential zoning district.

4. The city's growth strategy map identifies this area as a primary growth area, and the proposed land development plan map designates the area as neighborhood residential.

5. The Asheboro Zoning Ordinance does not permit multiple family dwelling units as a land use in an R10 zoning district, but multiple family dwelling units with a floor area ratio up to .17 are permitted by right in an RA6 zoning district, and multiple family dwelling unit developments with a floor area ratio up to .22 are permitted in an RA6 zoning district by Special Use Permit or Conditional Use Permit.

6. Prior to formally evaluating the evidence submitted in support of the requested Conditional Use Permit, the Council concurred with the planning board's and planning department staff's analysis of the application in that the Council found the requested rezoning to be incompatible with the city's adopted comprehensive land development plan and the surrounding land uses. On the basis of this analysis, the Council denied the Applicant's request to place the Zoning Lot in a Conditional Use RA6 zoning district. As of the date of these findings, the Zoning Lot remains in an R10 medium-density residential zoning district.

7. Section 1102 of the Asheboro Zoning Ordinance provides that a "Conditional Use Permit" is a "permit required to be issued by the Asheboro City Council which establishes permitted uses within a Conditional Use District and sets forth conditions."

8. Section 1013.2 of the Asheboro Zoning Ordinance provides as follows:

In considering an application for a Conditional Use Permit, the City Council, (sic) shall give due regard that the purpose and intent of this ordinance shall be served, public safety and welfare secured and substantial justice done. If the City Council should find, after a public hearing, that the proposed Conditional Use Permit should not be granted, such proposed permit shall be denied. Specifically the following general standards shall be met:

1. *That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.*
2. *That the use meets all required conditions and specifications.*
3. *That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity, and*
4. *That 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.*

The City Council shall make these general findings based upon substantial evidence contained in its proceedings. It shall be the responsibility of the applicant to present evidence in the form of testimony, exhibits, documents, models, plans and the like to support the application for approval of a Special Use (sic).

9. Furthermore, Section 102 of the Asheboro Zoning Ordinance provides in pertinent part as follows:

Within a CU District, only those uses specifically permitted in the zoning district to which the CU District corresponds (i.e. R15 and CUR15) shall be permitted, and all other requirements of the corresponding district shall be met. It is the intent of this ordinance that all requirements within a CU District be equal to or more stringent than those in a corresponding non-CU District.

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

CONCLUSIONS OF LAW

1. The Asheboro Zoning Ordinance does not permit the Council to issue a Conditional Use Permit that purports to authorize a land use on a lot or parcel of land that is not located in a conditional use zoning district. The Council is only authorized to issue a Conditional Use Permit, with all of its

encumbrances upon the land uses that may occur on a lot or parcel of land that is subject to the permit, when the said lot or parcel of land is located within a conditional use district.

2. The Council cannot approve the Applicant's request for a Conditional Use Permit authorizing multiple family dwelling units because the Zoning Lot is located within an R10 medium-density residential zoning district that does not permit multiple family dwelling units as a land use. In the absence of a conditional use zoning district with a corresponding zoning district that permits the requested land use, a Conditional Use Permit cannot be issued.

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

ORDER

The application filed by Darren Lucas for a Conditional Use Permit authorizing multiple family dwelling units as a land use on the Zoning Lot is hereby denied.

The above-stated findings, conclusions, and order were adopted by the Asheboro City Council in open session during a special meeting held on the 19th day of February 2009.

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

ATTEST:

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

(b) The findings of fact, conclusions of law, and order in the matter of SUP-08-04.

Case No. SUP-08-04
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF THE CITY OF ASHEBORO 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 December 4, 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. The City of Asheboro (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 1032 Bonkemeyer Drive. The requested permit encompasses approximately 90.3 acres of city-owned land. This city-owned land is described by the following Randolph County Parcel Identification Numbers: 7763645814, 7763758973, 7763742717, 7763742104, 7763639878, and 7763634796.

2. The above-described property (hereinafter referred to as the "Zoning Lot") is the site of the existing City of Asheboro Wastewater Treatment Plant, which is considered a legal non-conforming land use under the City of Asheboro Zoning Ordinance. The Applicant does not propose to expand or alter in any manner the actual wastewater treatment plant facilities. However, the Applicant does wish to utilize an approximately 300-foot by 100-foot area within the existing Zoning Lot to construct a vehicle storage lot that will be used by the Asheboro Police Department as an impound lot.

3. The existing wastewater treatment plant along with the proposed police department storage/impound lot is a land use that is classified by the Asheboro Zoning Ordinance as a Public Use Facility.

4. The Zoning Lot is located in R-40 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 submitted site plan demonstrates that the proposed police storage/impound lot does meet all of the applicable regulatory requirements of the Asheboro Zoning Ordinance. However, the proposed police storage/impound lot must be considered as part of the entire Zoning Lot when determining if the proposed land use meets the regulatory requirements of the Asheboro Zoning Ordinance. Due to issues associated with the legal non-conforming status of the wastewater treatment plant, and fiscal constraints that prevent the city from automatically retrofitting the plant when such a retrofit is not legally necessary, the overall use of the Zoning Lot as a Public Use Facility does not comply with the entirety of the Asheboro Zoning Ordinance's regulatory requirements

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

9. The Zoning Lot is located in an area characterized by a mixture of undeveloped land, including land upon which future church construction is proposed, and residential land uses, including a manufactured housing park and single-family residential dwellings.

10. The majority of the property is located within the city's corporate limits, and all city services are available to the Zoning Lot.

11. The wastewater treatment plant has operated on the Zoning Lot since the 1960's.

12. The Applicant's proposal does not include the construction of any new structures.

13. As reflected on the submitted site plan, security issues and aesthetic concerns are addressed by the Applicant's proposal in that fencing and buffering/screening measures that comply with the specifications prescribed by the Asheboro Zoning Ordinance are to be installed around the police storage/impound lot.

14. The proposed police storage/impound lot is located well within the existing facility's grounds and can only be accessed by means of a private road that is already controlled by the Applicant as part of its operation of the municipal wastewater treatment plant.

15. Uncontroverted testimony was offered on behalf of the Applicant that the Applicant needed to be able to maintain and operate the existing wastewater treatment plant and construct a police storage/impound lot in order to serve the needs of the public.

16. No testimony was offered in opposition to the proposed land use. The sole questioning of the proposal pertained to how much artificial lighting would be added and whether action would be taken to keep pollutants associated with activities at the police storage/impound lot from escaping from the lot.

Based on the foregoing findings of fact, the Council hereby makes 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. Additionally, the proposed use of the Zoning Lot for a Public Use Facility that serves the legally prescribed needs of the wastewater treatment plant and the Asheboro Police Department is a public necessity.

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 development and operation on the Zoning Lot of a Public Use Facility that includes the existing wastewater treatment plant and the proposed vehicle storage/impound lot for the Asheboro Police Department. 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:

- a. Any hazardous runoff associated with the activities occurring within or upon the police department's vehicle storage/impound lot is to be confined to the Zoning Lot.
- b. Any new artificial lighting added to the Zoning Lot shall be installed and utilized in compliance with the most current provisions of the Asheboro Zoning Ordinance.

These findings, conclusions of law, and order were adopted by the Asheboro City Council in open session during a special meeting held on the 19th day of February 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 SUP-08-06.

Case No. SUP-08-06
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF KAREN C. BURHMAN FOR A SPECIAL USE PERMIT
ALLOWING AN ELEMENTARY SCHOOL IN A RESIDENTIAL DISTRICT

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 December 4, 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. Ms. Karen C. Burhman (hereinafter referred to as the "Applicant") has properly filed an application with the City of Asheboro Planning Department for a Special Use Permit that would allow a private elementary school to be located in a residential district.
2. The Applicant proposes utilizing, as a temporary facility for Agape Christian Academy, the existing church facilities of New Life Family Fellowship. These facilities are referenced in some public records as the property of Quaker Heights Friends Meeting, which is the church that used the property prior to New Life Family Fellowship.
3. Agape Christian Academy is a private K-5 school, with approximately forty (40) students and four (4) employees. Agape Christian Academy wishes to use these church facilities until the private school's permanent facility is ready for occupancy at another location for which a Special Use Permit has already been issued by this Council. The school's hours of operation at this temporary location will not overlap with the days and times when the church actively utilizes the existing facilities.
4. The church property, which is identified by Randolph County Parcel Identification Number 7762536354, is located at 1354 East Allred Street and is approximately 7.19 acres in size. This property shall be hereinafter referred to as the "Zoning Lot."
5. The Zoning Lot is located in an R-15 zoning district.

6. As a land use, public and private elementary schools are not permitted by right in R-15 zoning districts. However, public and private elementary school land uses may be established within R-15 zoning districts with the issuance of a Special Use Permit by the Council.

7. The Growth Strategy Map identifies the area in which the Zoning Lot is located as "Adjacent Developed," and the Proposed Land Development Plan Map designates the area in question as "Neighborhood Residential."

8. The land uses to the north, south, and west are single-family residential, while the land to the east is undeveloped.

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

10. The existing church sanctuary and classroom structure have existed on the Zoning Lot since approximately 1990.

11. The site plan for the proposed land use was submitted in a timely manner and does comply with the Asheboro Zoning Ordinance.

12. The number of existing parking spaces and the lighting for the parking lot are in compliance with the provisions of the Asheboro Zoning Ordinance.

13. The Applicant proposes to utilize the classrooms in the existing church structure as well as the existing playground for the private school. No new structures or additions to existing structures are proposed by the Applicant.

14. Uncontroverted testimony was offered to this Council to show that Mr. Lee Roberts, who is a real estate appraiser, reviewed the Applicant's proposed land use and formed an expert opinion, as expressed in an affidavit submitted during the hearing of this matter, that the proposed use will not have a negative impact on the value of the real property adjoining the Zoning Lot.

15. The Applicant has received from the North Carolina Department of Transportation a temporary permit to utilize for the school an existing entrance on East Allred Street. This temporary permit expires on November 15, 2009.

16. No testimony was offered during the hearing of this matter in opposition to the Applicant's request.

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

CONCLUSIONS OF LAW

1. During the hearing of this matter, the evidence submitted to the Council indicated that the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.

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

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

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

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

ORDER

Karen C. Burhman, and her heirs, executors, administrators, successors, and assigns, is hereby issued a Special Use Permit allowing an elementary school for grades Kindergarten through Fifth Grade with a maximum enrollment of forty (40) students and related activities on the Zoning Lot 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 condition:

A valid driveway permit issued by the North Carolina Department of Transportation authorizing the utilization by the private elementary school of the existing entrance on East Allred Street shall be maintained throughout the duration of the proposed private elementary school land use.

These findings, conclusions, and order were adopted by the Asheboro City Council in open session during a special meeting of the Council on February 19, 2009.

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

ATTEST:

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

(d) Resolution setting the compensation for members of the Asheboro ABC Board.

11 RES 2-09

RESOLUTION SETTING THE COMPENSATION FOR MEMBERS OF THE ASHEBORO ABC BOARD

WHEREAS, Section 18B-700(g) of the North Carolina General Statutes provides that the compensation for members of a local ABC board is determined by the appointing authority; and

WHEREAS, the Asheboro City Council, as the appointing authority for the Asheboro ABC Board, has determined that the members of the Asheboro ABC Board should receive compensation in the amount of one thousand two hundred and no/100 dollars (\$1,200.00) annually.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that effective immediately each of the members of the Asheboro ABC Board, including without limitation the chairperson, are to be compensated in the amount of one thousand two hundred and no/100 dollars (\$1,200.00) annually.

This resolution was adopted by the Asheboro City Council in open session during a special meeting held on the 19th day of February 2009.

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

ATTEST:

Holly H. Doerr
Holly H. Doerr, City Clerk

(e) Resolution updating documentation with CommunityOne Bank, N.A. to correctly reflect the Finance Director's name on the form designating individuals authorized to initiate funds transfers.

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

3. Mayor Jarrell gave an opportunity for Mr. Chad Varner of Hammerhead's Hardware to present comments in regards to the North Carolina Department of Transportation's proposed design for improvements to portions of North Fayetteville Street. [This item was added to the agenda by Mayor Jarrell with the consent of the Council.]

Mr. Chad Varner of Hammerhead's Hardware presented comments in opposition to the North Carolina Department of Transportation's proposed design for improvements to portions of North Fayetteville Street. In essence, Mr. Varner felt that, as designed, the project would jeopardize the survival of businesses located along the portions of North Fayetteville Street impacted by the proposed project. Consequently, Mr. Varner was seeking Council action on opposition to the proposed project.

Mayor Jarrell noted that the Council had already adopted a resolution (44 RES 9-07) in opposition to the project, and that the resolution was sent to the North Carolina Department of Transportation. Additionally, city officials have met with NCDOT and discussed said project. No formal action was taken by the Council on this matter during this meeting.

4. Report on occupancy tax and visitor information from Tammy O’Kelly, Director of Tourism with the Randolph County Tourism Development Authority. [Agenda Item Number 3]

Ms. Tammy O’Kelly, Director of Tourism, presented an overview of the Randolph County Tourism Development Authority which markets as the Heart of North Carolina Visitors Bureau. Ms. O’Kelly highlighted that, in 2008, there was an overall increase in visitor inquiries.

Additionally, Ms. O’Kelly reported that the room occupancy tax levy was set by the Randolph County Board of Commissioners at three percent (3%) where it currently remains. The board of commissioners may by resolution levy a room occupancy tax of up to but not greater than five percent (5%). This tax is used to promote travel and tourism by marketing, advertising, conducting market research, or other activities that attract travelers.

Throughout substantive discussion, Council Members generally agreed that Mayor Jarrell should talk with the chairman of the Randolph County Board of Commissioners and other elected officials about maximizing the revenues that are potentially available to market our area, especially Asheboro and the North Carolina Zoological Park. No formal action was taken on this item by the Council.

5. Ordinance amending Chapter of the Code of Asheboro in order to enhance the compatibility of certain water and sewer service charges with the monthly billing system. [Agenda Item Number 4]

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

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

08 ORD 2-09

AN ORDINANCE AMENDING CHAPTER 50 OF THE CODE OF ASHEBORO

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

WHEREAS, the Asheboro City Council has concluded that the city’s water and sewer regulations need to be amended in order to update the billing practices of the city’s water and sewer utility in the aftermath of the conversion to monthly billing.

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

Section 1. Section 50.006 of the Code of Asheboro, which is entitled “**PAYING SERVICE CHARGES**,” is hereby rewritten to provide as follows:

§ 50.006 PAYING SERVICE CHARGES.

Text of section effective until April 1, 2009. See, also, section effective April 1, 2009.

(A) Water and sewer accounts are payable to the City Water Department, 146 North Church Street, Asheboro, North Carolina. All bills are due and payable on receipt, and, subject to division (C) of this section, all accounts for which payment is not received by the Water Department within 15 days from the billing date indicated on the bill shall be considered delinquent. Once an account becomes delinquent, a \$10.00 fee shall be assessed against the account as a first tier late fee. If an account remains in a state of delinquency as of the 25th day from the billing date indicated on the bill, an additional \$35.00 fee shall be assessed against the account as a second tier late fee. Upon assessment, any and all late fees shall be immediately due and payable. For all delinquent accounts, a reminder notice shall be mailed which shall specify a final date, not prior to ten days after the delinquent date, by which payment must be remitted or service will be discontinued pursuant to § 50.007. The reminder notice shall also provide notice that customers may submit disputed bills to the water and sewer billing and collections department supervisor for review; the supervisor or his deputy shall be authorized to make adjustments to the billing amount in accordance with § 50.021 if such is deemed proper following the review and the bill is unpaid. The notice shall specify the hours during which a customer may call or come by for a review of disputed unpaid bills. After the review process, any customer who does not pay or make arrangements to pay the adjusted amount shall be entered on the list of delinquent customers whose services are to be terminated pursuant to § 50.007.

(B) If notification is received that a check has not been honored and has been returned due to insufficient funds or for any other reason, a charge of \$25.00 shall be added to the customer's current bill, and such charge shall become immediately due and payable. Additionally, if payment in full with good funds has not been received within 15 days from the billing date indicated on the customer's bill, the account shall be considered delinquent. In the event an account becomes delinquent due to a financial institution not honoring a check, a \$10.00 late fee shall be assessed against the account as a first tier late fee. If the account is or remains in a state of delinquency as of the 25th day from the billing date, an additional \$35.00 fee shall be assessed against the account as a second tier late fee. A customer shall have five (5) business days from the date of notification to the city that the customer's check has not been honored to make payment in full, including any assessed fees, with good funds to the City Water Department. If the outstanding balance is not paid in full with good funds within the time period specified in the preceding sentence or by the 25th day of the month in which the bill is first due and payable, whichever is later, the customer's water service will be discontinued without further notice pursuant to § 50.007. Whenever within any 12-month period the city is notified on two (2) separate occasions that a customer's check has been returned due to insufficient funds in the account or for any other reason, such a customer shall be required to make payment in good funds for twelve (12) consecutive billing periods before such a customer is eligible to make payments in any other form.

(C) As with all other customers, water and sewer accounts that are paid by means of automatic draft are payable to the City Water Department, 146 North Church Street, Asheboro, North Carolina. Customers who choose to make payments on their water and sewer accounts by means of automatic draft may make arrangements with the City Water Department to have an appropriate account at a financial institution drafted for payment in full of a regular billing on the 10th day, 15th day, 20th day, or 25th day of the month in which a bill is due and payable. If notification is received that an attempted automatic draft of a payment has failed due to insufficient funds in a customer's designated account or for any other reason, a charge of \$25.00 shall be added to the customer's current bill, and such charge shall become immediately due and payable. Additionally, if any attempted automatic draft of a customer's account fails and payment in full with good funds has not been received within 15 days from the billing date indicated on the customer's bill, the account shall be considered delinquent. In the event an account becomes delinquent, a \$10.00 late fee shall be assessed against the account as a first tier late fee. If the account is or remains in a state of delinquency as of the 25th day from the billing date, an additional \$35.00 fee shall be assessed against the account as a second tier late fee. A customer shall have five (5) business days from the date of notification to the City Water Department that an automatic draft of the customer's designated account has not been honored to make payment in full, including any assessed fees, with good funds to the City Water Department. If the outstanding balance is not paid in full with good funds within the time period specified in the preceding sentence or by the 25th day of the month in which the bill is first due and payable, whichever is later, the customer's water service will be discontinued without further notice pursuant to § 50.007. Whenever within any 12-month period the City Water Department is notified on two (2) separate occasions that an attempt to automatically draft a customer's designated account for payment has failed due to insufficient funds in the account or for any other reason, such a customer shall be required to make payment in good funds only for twelve (12) consecutive billing periods before such a customer is eligible to make payments to the city in any form other than good funds.

§ 50.006 PAYING SERVICE CHARGES.

Text of section effective April 1, 2009. See, also, section effective until April 1, 2009.

(A) Water and sewer accounts are payable to the City Water Department, 146 North Church Street, Asheboro, North Carolina. All bills are due and payable on receipt, and, subject to division (C) of this section, all accounts for which payment is not received by the Water Department within 15 days from the billing date indicated on the bill shall be considered delinquent. Once an account becomes delinquent, a \$10.00 fee shall be assessed against the account as a first tier late fee. If an account remains in a state of delinquency as of the 25th day from the billing date indicated on the bill, an additional ~~\$35.00~~ **\$20.00** fee shall be assessed against the account as a second tier late fee. Upon assessment, any and all late fees shall be immediately due and payable. For all delinquent accounts, a reminder notice shall be mailed which shall specify a final date, not prior to ten days after the delinquent date, by which payment must be remitted or service will be discontinued pursuant to **and in accordance with** § 50.007. The reminder notice shall also provide notice that customers may submit disputed bills to the water and sewer billing and collections department supervisor for review; the supervisor or his deputy shall be authorized to make adjustments to the billing amount in accordance with § 50.021 if such is deemed proper following the review and the bill is unpaid. The notice

shall specify the hours during which a customer may call or come by for a review of disputed unpaid bills. After the review process, any customer who does not pay or make arrangements to pay the adjusted amount shall be entered on the list of delinquent customers whose services are to be terminated pursuant to and in accordance with § 50.007.

(B) If notification is received that a check has not been honored and has been returned due to insufficient funds or for any other reason, a charge of \$25.00 shall be added to the customer's current bill, and such charge shall become immediately due and payable. Additionally, if payment in full with good funds has not been received within 15 days from the billing date indicated on the customer's bill, the account shall be considered delinquent. In the event an account becomes delinquent due to a financial institution not honoring a check, a \$10.00 late fee shall be assessed against the account as a first tier late fee. If the account is or remains in a state of delinquency as of the 25th day from the billing date, an additional ~~\$35.00~~ \$20.00 fee shall be assessed against the account as a second tier late fee. A customer shall have five (5) business days from the date of notification to the city that the customer's check has not been honored to make payment in full, including any assessed fees, with good funds to the City Water Department. If the outstanding balance is not paid in full with good funds within the time period specified in the preceding sentence or by the 25th day of the month in which the bill is first due and payable, whichever is later, the customer's water service will be discontinued without further notice pursuant to and in accordance with § 50.007. Whenever within any 12-month period the city is notified on two (2) separate occasions that a customer's check has been returned due to insufficient funds in the account or for any other reason, such a customer shall be required to make payment in good funds for twelve (12) consecutive billing periods before such a customer is eligible to make payments in any other form.

(C) As with all other customers, water and sewer accounts that are paid by means of automatic draft are payable to the City Water Department, 146 North Church Street, Asheboro, North Carolina. Customers who choose to make payments on their water and sewer accounts by means of automatic draft may make arrangements with the City Water Department to have an appropriate account at a financial institution drafted for payment in full of a regular billing on the 10th day, 15th day, 20th day, or 25th day of the month in which a bill is due and payable. If notification is received that an attempted automatic draft of a payment has failed due to insufficient funds in a customer's designated account or for any other reason, a charge of \$25.00 shall be added to the customer's current bill, and such charge shall become immediately due and payable. Additionally, if any attempted automatic draft of a customer's account fails and payment in full with good funds has not been received within 15 days from the billing date indicated on the customer's bill, the account shall be considered delinquent. In the event an account becomes delinquent, a \$10.00 late fee shall be assessed against the account as a first tier late fee. If the account is or remains in a state of delinquency as of the 25th day from the billing date, an additional ~~\$35.00~~ 20.00 fee shall be assessed against the account as a second tier late fee. A customer shall have five (5) business days from the date of notification to the City Water Department that an automatic draft of the customer's designated account has not been honored to make payment in full, including any assessed fees, with good funds to the City Water Department. If the outstanding balance is not paid in full with good funds within the time period specified in the preceding sentence or by the 25th day of the month in which the bill is first due and payable, whichever is later, the customer's water service will be discontinued without further notice pursuant to and in accordance with § 50.007. Whenever within any 12-month period the City Water Department is notified on two (2) separate occasions that an attempt to automatically draft a customer's designated account for payment has failed due to insufficient funds in the account or for any other reason, such a customer shall be required to make payment in good funds only for twelve (12) consecutive billing periods before such a customer is eligible to make payments to the city in any form other than good funds.

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 February 19, 2009.

This ordinance was adopted by the Asheboro City Council in open session during a special meeting held on the 19th day of February 2009.

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

ATTEST:

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

6. Resolution exempting the Monroe Avenue Sewer Pump Station Project from the procurement requirements for engineering and surveying services that are specified in Article 3D of Chapter 143 of the North Carolina General Statutes. [Agenda Item Number 5]

Due to the existence of a financial conflict of interest, upon motion by Mr. Smith, and seconded by Mr. Burks, the Council voted unanimously to excuse Mr. Moffitt from participating in the Council's consideration of agenda item number 5. Council Members Baker, Burks, Carter, Priest, and Smith voted in favor of the motion.

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. Councilmembers Baker, Burks, Carter, Priest, and Smith voted in favor of the motion.

13 RES 2-09

RESOLUTION EXEMPTING A PROJECT FROM THE PROVISIONS OF ARTICLE 3D OF CHAPTER 143 OF THE NORTH CAROLINA GENERAL STATUTES
(Monroe Avenue Sewer Pump Station Project)

WHEREAS, Section 143-64.31 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, prior to September 4, 2008, privately funded developers doing business as West Pointe Luxury Apartments, L.L.C. (hereinafter referred to as "West Pointe") were engaged in the process of designing and constructing a development that required a sewer pump station in the vicinity of Monroe Avenue; and

WHEREAS, during a city council meeting held on September 4, 2008, the Asheboro City Council concluded that the city could construct in a cost effective manner a publicly owned and operated regional sewer pump station by upgrading the sewer pump station for which West Pointe had already procured engineering and survey services from Site and Utility Design Services, PA of Asheboro; and

WHEREAS, the approved public project, which came to be known as the Monroe Avenue Sewer Pump Station Project, required additional engineering and surveying services above and beyond what had been needed by West Pointe Luxury Apartments when the proposed sewer pump station was designed to serve a single development rather than function as a regional pump station; and

WHEREAS, part of the design services rendered to West Pointe by Site and Utility Design Services, PA included an evaluation, including cost estimates, that was used by the developer to persuade the city council that the originally envisioned privately maintained sewer pump station could be cost effectively upgraded to function as a publicly maintained regional pump station; and

regular monthly meetings of the board. An ordinance implementing this proposal will be presented to the Council at its regular March meeting.

11. Update concerning the city's strategic plan. [Agenda Item Number 10]

Mr. Neely updated the Council on the city's strategic plan. Mr. Neely reviewed the plan's vision and mission statements and reported that the city has made significant progress in some areas of the plan. Mayor Jarrell asked the Council to review the strategic plan in preparation for a detailed discussion at the Council's planning retreat in May.

- 12.** With the general consent of the Council, Mayor Jarrell recognized Mr. Rich Brenner, and he discussed in an impromptu manner a project with which he is involved. Mr. Brenner is working with a group that is focused on twelve (12) counties in the piedmont/triad area, including Randolph County, for the purpose of establishing a local/regional version of an internet search engine that can provide for 2-way communication. Councilmembers had positive comments about the undertaking, but no action was taken by the Council on this matter.

There being no further business, the meeting was adjourned at 9:15 p.m.

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

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