

**REGULAR MEETING  
ASHEBORO CITY COUNCIL  
COUNCIL CHAMBER, MUNICIPAL BUILDING  
THURSDAY, MARCH 5, 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           )  
Walker B. Moffitt         ) – Council Members Present  
Archie B. Priest            )  
David H. Smith             )

John N. Ogburn, III, City Manager  
Edsel L. Brown, Code Enforcement Officer  
Dumont Bunker, P.E., City Engineer  
Richard L. Cox, Jr., Community Planning and Development Department Intern  
Holly H. Doerr, City Clerk/Senior Legal Assistant  
John L. Evans, Planner  
R. Wendell Holland, Jr., Zoning Administrator  
R. Reynolds Neely, Jr., Planning Director  
O. Lynn Priest, Community Development Director  
Deborah P. Reaves, Finance Director  
Jonathan Sermon, Assistant Parks and Recreation Director  
Jennifer R. Staley, Program Specialist  
Jeffrey C. Sugg, City Attorney  
Rickey D. Wilson, Chief of Police

**1. Call to order.**

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

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

Mayor Jarrell asked everyone to stand and repeat the Pledge of Allegiance, after which Reverend O. Ralph Kraft, Jr. of St. John's Lutheran Church gave the invocation.

**3. Administration of oath of office to Dr. Stuart B. Fountain.**

Dr. Stuart B. Fountain was sworn in as a member of the City Council for the City of Asheboro.

Dr. Fountain took and subscribed before the City Clerk the following oath of office:

**OATH OF COUNCILMEMBER**

STATE OF NORTH CAROLINA  
COUNTY OF RANDOLPH  
CITY OF ASHEBORO

I, Stuart B. Fountain, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully perform the duties of the office of councilmember of the City of Asheboro, on which I am about to enter, according to my best skill and ability; so help me, God.

\_\_\_\_\_  
s/ Stuart B. Fountain  
Stuart B. Fountain

Sworn to and subscribed before me this 5<sup>th</sup> day of March, 2009.

\_\_\_\_\_  
s/ Holly H. Doerr  
Holly H. Doerr  
City Clerk

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

Mayor Jarrell welcomed everyone in attendance.

**5. Receive annual report of the police department.**

Mr. Rickey D. Wilson, Chief of Police, presented an overview of the Police Department's activities during 2008. A copy of the report presented by Chief Wilson is on file in the City Clerk's office.

**6. Consent agenda:**

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

- (a) **The minutes of the special meeting of the City Council that was held on January 15, 2009.**
- (b) **The minutes of the regular meeting of the City Council that was held on February 5, 2009.**
- (c) **An ordinance establishing a handicapped parking space on the north side of Sunset Avenue 65.4 feet west of the center line of North Church Street.**

**09 ORD 3-09**

**AN ORDINANCE DESIGNATING AN ON-STREET PARKING SPACE ON SUNSET AVENUE FOR PERSONS WITH MOBILITY IMPAIRMENTS**

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

**WHEREAS**, the city council has received a written request, which is dated January 30, 2009, from Dr. John Rogers, who is the pastor at First Baptist Church, 133 North Church Street, Asheboro, North Carolina 27203, requesting the designation of an on-street parking space for handicapped persons in front of the church's HeartSpace Building which is located at 320 Sunset Avenue; and

**WHEREAS**, this request has been submitted in order to accommodate the needs of persons with mobility impairments that are served by the church in the normal course of First Baptist Church's operations; and

**WHEREAS**, the city council has concluded that the request submitted by Dr. John Rogers for the designation of the specified on-street parking space on Sunset Avenue for handicapped persons should be approved.

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

**Section 1.** The existing on-street parking space that is located on the north side of Sunset Avenue between a point on the curb line that is approximately 65.4 feet west of the centerline of North Church Street (North Carolina Secondary Road 1707) and another point on the curb line of the north side of Sunset Avenue that is approximately 85.4 feet west of the centerline of North Church Street is hereby designated as a parking space for handicapped persons.

**Section 2.** The city manager is hereby authorized and directed to cause the above-described on-street parking space to be designated as a parking space for handicapped persons in compliance with Section 20-37.6(d) of the North Carolina General Statutes.

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

**Section 4.** This ordinance shall take effect and be in force from and after the date of its adoption.

This ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 5<sup>th</sup> day of March 2009.

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

ATTEST:

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

- (d) A resolution requesting satellite annexation by local act of the North Carolina General Assembly of 268.18 acres of land owned by The North Carolina Zoological Society, Inc. and located at the intersection of Old Cox Road and Lions Rest Road.

15 RES 3-09

**RESOLUTION REQUESTING SATELLITE ANNEXATION OF PROPERTY OWNED BY THE NORTH CAROLINA ZOOLOGICAL SOCIETY, INC. INTO THE CITY OF ASHEBORO BY LOCAL ACT OF THE NORTH CAROLINA GENERAL ASSEMBLY**

**WHEREAS**, by and through a letter dated January 26, 2009 from the Executive Director of the North Carolina Zoological Society, Inc. to the City Manager for the City of Asheboro, the North Carolina Zoological Society, Inc. has requested that the property owned by the society and described in Deed Book 2080, Page 1122, Randolph County Public Registry be annexed into the corporate limits of the City of Asheboro; and

**WHEREAS**, the City of Asheboro has a long-standing special relationship with the North Carolina Zoological Park as evidenced by the fact that municipal water and sewer services were provided to the zoo prior to the creation of the first exhibit; and

**WHEREAS**, the Asheboro City Council has concluded that the annexation of the above-described property into the City of Asheboro is in the long-term interests of the City of Asheboro and the North Carolina Zoological Park; and

**WHEREAS**, a description of the North Carolina Zoological Society, Inc. property proposed for annexation, which is divided into three (3) annexation areas due to the manner in which public highways divide the property, is attached to this resolution as EXHIBIT 1 and is hereby incorporated into this resolution by reference as if copied fully herein; and

**WHEREAS**, due to the fact that the distance between the city's primary corporate limits and the property proposed for annexation is in excess of three (3) miles, the annexation of this property can only be accomplished by action of the North Carolina General Assembly.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Asheboro hereby respectfully requests that the local legislative delegation to the North Carolina General Assembly introduce and support a local act annexing into the City of Asheboro the real property of the North Carolina Zoological Society, Inc. that is described in EXHIBIT 1; and

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 5<sup>th</sup> day of March 2009.

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

ATTEST:

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

**EXHIBIT 1**

**ANNEXATION AREA ONE**

Grant Township, Randolph County, North Carolina:

BEGINNING at a computed point located at the intersection of the southern margin of the 60-foot right-of-way for Old Cox Road (North Carolina Secondary Road 2834) with the western margin of the 60-foot right-of-way for Lions Rest Road (North Carolina Secondary Road 2837); thence from the said beginning point along the western margin of the right-of-way for Lions Rest Road the following courses and distances: South 47 degrees 23 minutes 52 seconds West 71.83 feet to a computed point; thence South 38 degrees 02 minutes 09 seconds West 250.53 feet to a computed point; thence the following course and distance along the Michael L. Spoon and Joy W. Spoon property described in the Randolph County

Public Registry in Deed Book 1578 at Page 223 and further described as Tract # 4 on a plat recorded in Plat Book 55, Page 59, Randolph County Public Registry: North 02 degrees 19 minutes 39 seconds East 582.77 feet to a computed point on the southern margin of the right-of-way for Old Cox Road; thence along the southern margin of the right-of-way for Old Cox Road the following courses and distances: South 26 degrees 15 minutes 50 seconds East 196.77 feet to a computed point; thence South 29 degrees 59 minutes 18 seconds East 142.30 feet to a computed point; thence South 34 degrees 42 minutes 28 seconds East 44.57 feet to the point and place of the BEGINNING, and containing 1.24 acres of land, more or less, to be annexed.

This description is in accordance with a map entitled "Satellite Annexation Map For City of Asheboro(,) Property of THE NORTH CAROLINA ZOOLOGICAL SOCIETY, INC." that was prepared by the City of Asheboro Engineering Department. This annexation map, which is identified by the engineering department as Job # 09006, is dated February 11, 2009. The property lines drawn on this annexation map were taken from Randolph County Tax Maps as of February 11, 2009.

## **ANNEXATION AREA TWO**

Grant Township, Randolph County, North Carolina:

BEGINNING at a computed point located at the intersection of the southern margin of the 60-foot right-of-way for Old Cox Road (North Carolina Secondary Road 2834) with the eastern margin of the 60-foot right-of-way for Lions Rest Road (North Carolina Secondary Road 2837); thence from the said beginning point along the southern margin of the right-of-way for Old Cox Road the following courses and distances: South 40 degrees 51 minutes 39 seconds East 80.82 feet to a computed point; thence South 45 degrees 17 minutes 21 seconds East 122.60 feet to a computed point; thence South 50 degrees 58 minutes 50 seconds East 460.64 feet to a computed point; thence South 47 degrees 25 minutes 21 seconds East 138.01 feet to a computed point; thence South 42 degree 32 minutes 42 seconds East 76.35 feet to a computed point; thence South 33 degrees 47 minutes 51 seconds East 55.50 feet to a computed point; thence South 25 degrees 39 minutes 17 seconds East 56.30 feet to a computed point; thence South 18 degree 37 minutes 48 seconds East 359.21 feet to a computed point; thence South 21 degrees 39 minutes 35 seconds East 103.29 feet to a computed point; thence South 31 degrees 40 minutes 58 seconds East 64.50 feet to a computed point; thence South 37 degrees 24 minutes 58 seconds East 62.95 feet to a computed point; thence South 42 degrees 59 minutes 46 seconds East 48.02 feet to a computed point; thence South 43 degrees 25 minutes 04 seconds East 16.00 feet to a computed point; thence South 51 degrees 03 minutes 46 seconds East 44.35 feet to a computed point; thence South 60 degrees 52 minutes 48 seconds East 63.96 feet to a computed point; thence South 66 degrees 12 minutes 12 seconds East 83.33 feet to a computed point; thence South 72 degrees 36 minutes 26 seconds East 143.43 feet to a computed point; thence South 79 degrees 04 minutes 38 seconds East 123.36 feet to a computed point; thence South 85 degrees 18 minutes 43 seconds East 260.01 feet to a computed point; thence South 79 degrees 50 minutes 27 seconds East 197.72 feet to a computed point; thence South 76 degrees 27 minutes 24 seconds East 158.04 feet to a computed point; thence South 72 degrees 04 minutes 27 seconds East 199.41 feet to a computed point; thence South 74 degrees 03 minutes 04 seconds East 237.01 feet to a computed point; thence South 64 degrees 04 minutes 27 seconds East 110.22 feet to a computed point; thence South 52 degrees 41 minutes 19 seconds East 116.00 feet to a computed point; thence South 36 degrees 02 minutes 42 seconds East 159.32 feet to a computed point; thence South 31 degrees 54 minutes 01 second East 256.41 feet to a computed point; thence South 30 degrees 14 minutes 02 seconds East 206.54 feet to a computed point; thence South 26 degrees 21 minutes 39 seconds East 154.29 feet to a computed point; thence South 19 degrees 46 minutes 07 seconds East 159.66 feet to a computed point; thence South 16 degrees 26 minutes 06 seconds East 114.21 feet to a computed point; thence along the Randolph Telephone Membership Corporation property described in Deed Book 1782, Page 2350, Randolph County Public Registry the following courses and distances: South 89 degrees 09 minutes 27 seconds West 1,124.16 feet to a computed point; thence South 15 degrees 53 minutes 23 seconds East 421.10 feet to a computed point; thence along the western boundary line of the Randolph Telephone Membership Corporation property described in Deed Book 1132, Page 308, Randolph County Public Registry the following courses and distances: South 29 degrees 21 minutes 30 seconds East 105.34 feet to a computed point; thence South 22 degrees 21 minutes 35 seconds East 19.06 feet to a computed point; thence South 29 degrees 59 minutes 37 seconds East 50.01 feet to a computed point; thence South 46 degrees 36 minutes 30 seconds East 20.47 feet to a computed point; thence South 27 degrees 13 minutes 25 seconds East 24.32 feet to a computed point; thence South 23 degrees 10 minutes 39 seconds East 22.23 feet to a computed point; thence South 36 degrees 08 minutes 58 seconds East 25.85 feet to a computed point; thence South 28 degrees 01 minutes 04 seconds East 54.02 feet to a computed point; thence South 33 degrees 35 minutes 31 seconds East 84.27 feet to a computed point; thence South 31 degrees 58 minutes 41 seconds East 27.85 feet to a computed point; thence South 23 degrees 50 minutes 36 seconds East 114.39 feet to a computed point; thence South 20 degrees 01 minute 36 seconds East 111.36 feet to a computed point; thence along the Pat M. Bailey, Jr. and Betty Bailey property described in Deed Book 536, Page 112, Randolph County Public Registry the following courses and distances: South 73 degrees 34 minutes 44 seconds West 647.82 feet to a computed point; thence South 86 degrees 41 minutes 04 seconds West 135.98 feet to a computed point; thence along the Howard E. Cooper and Debra D. Cooper property described in Deed Book 1040, Page 450, Randolph County Public Registry the following courses and distances: North 01 degree 21 minutes 55 seconds West 257.07 feet

to a computed point; thence North 00 degrees 44 minutes 12 seconds West 942.23 feet to a computed point; thence North 85 degrees 28 minutes 49 seconds West 585.33 feet to a computed point; thence South 03 degrees 57 minutes 26 seconds East 2,158.71 feet to a computed point; thence South 00 degrees 10 minutes 38 seconds West 404.07 feet along the Howard E. Cooper and Debra D. Cooper property described in Deed Book 1312, Page 1181, Randolph County Public Registry to a computed point; thence North 89 degrees 48 minutes 02 seconds West 89.76 feet to a computed point located on the northern margin of the 60-foot right-of-way for Ross Harris Road (North Carolina Secondary Road 2835); thence along the northern margin of the right-of-way for Ross Harris Road the following courses and distances: North 41 degrees 40 minutes 34 seconds West 83.84 feet to a computed point; thence North 32 degrees 13 minutes 59 seconds West 142.02 feet to a computed point; thence North 47 degrees 51 minutes 45 seconds West 102.66 feet to a computed point; thence North 41 degrees 08 minutes 33 seconds West 93.28 feet to a computed point; thence North 22 degrees 55 minutes 30 seconds West 72.20 feet to a computed point; thence North 26 degrees 08 minutes 11 seconds West 150.11 feet to a computed point; thence North 30 degrees 59 minutes 12 seconds West 53.66 feet to a computed point; thence North 46 degrees 26 minutes 33 seconds West 49.16 feet to a computed point; thence North 63 degrees 21 minutes 52 seconds West 45.45 feet to a computed point; thence North 75 degrees 32 minutes 51 seconds West 12.52 feet to a computed point; thence North 87 degrees 32 minutes 54 seconds West 40.91 feet to a computed point; thence South 84 degrees 59 minutes 30 seconds West 160.36 feet to a computed point; thence South 73 degrees 42 minutes 01 second West 141.19 feet to a computed point; thence South 79 degrees 52 minutes 07 seconds West 73.90 feet to a computed point; thence North 82 degrees 58 minutes 18 seconds West 174.69 feet to a computed point; thence North 80 degrees 11 minutes 24 seconds West 260.44 feet to a computed point; thence North 84 degrees 13 minutes 10 seconds West 142.73 feet to a computed point; thence South 89 degrees 53 minutes 02 seconds West 123.50 feet to a computed point; thence South 80 degrees 51 minutes 19 seconds West 185.62 feet to a computed point; thence South 70 degrees 49 minutes 48 seconds West 64.71 feet to a computed point; thence South 60 degrees 55 minutes 22 seconds West 30.61 feet to a computed point; thence along the Edward B. Commins and Joyce M. Commins property described in Deed Book 2059, Page 1701, Randolph County Public Registry the following courses and distances: North 02 degrees 20 minutes 34 seconds West 214.30 feet to a computed point; thence South 89 degrees 12 minutes 54 seconds West 784.70 feet to a computed point; thence North 00 degrees 25 minutes 18 seconds West 594.29 feet to a computed point located on the eastern boundary line of the Roger D. DeHart property described in Estate File 76E, Page 195 in the office of the Randolph County Clerk of Superior Court; thence continuing along the eastern boundary line of the said DeHart property the following courses and distances: South 88 degrees 43 minutes 33 seconds East 230.45 feet to a computed point; thence North 02 degrees 17 minutes 22 seconds East 253.20 feet to a computed point; thence North 89 degrees 17 minutes 57 seconds East 281.03 feet to a computed point; thence North 05 degrees 53 minutes 27 seconds East 745.46 feet to a computed point; thence North 05 degrees 22 minutes 55 seconds East 1,642.09 feet to a computed point located on the southern boundary line of the Carol Woodell Brown property described in Deed Book 1578, Page 221, Randolph County Public Registry and further described as Tract # 2 on a plat recorded in Plat Book 55, Page 59, Randolph County Public Registry; thence continuing along the southern boundary line of the said Brown property the following course and distance: South 87 degrees 17 minutes 36 seconds East 515.74 feet to a computed point; thence North 02 degrees 19 minutes 35 seconds East 924.06 feet to a computed point located on the eastern margin of the right-of-way for Lions Rest Road; thence continuing along the eastern margin of the right-of-way for Lions Rest Road the following courses and distances: North 40 degrees 19 minutes 21 seconds East 60.61 feet to a computed point; thence North 38 degrees 06 minutes 16 seconds East 264.97 feet to a computed point; thence North 47 degrees 12 minutes 21 seconds East 62.01 feet to the to the point and place of the BEGINNING, and containing 253.88 acres of land, more or less, to be annexed.

This description is in accordance with a map entitled "Satellite Annexation Map For City of Asheboro(,) Property of THE NORTH CAROLINA ZOOLOGICAL SOCIETY, INC." that was prepared by the City of Asheboro Engineering Department. This annexation map, which is identified by the engineering department as Job # 09006, is dated February 11, 2009. The property lines drawn on this annexation map were taken from Randolph County Tax Maps as of February 11, 2009.

### **ANNEXATION AREA THREE**

Grant Township, Randolph County, North Carolina:

BEGINNING at a computed point on the southern margin of the 60-foot right-of-way for Ross Harris Road (North Carolina Secondary Road 2835) that is located North 65 degrees 45 minutes 18 seconds East 2,174.68 feet from the intersection of the centerline of Ross Harris Road with the centerline of Lions Rest Road (North Carolina Secondary Road 2837); thence from the said beginning point along the southern margin of the right-of-way for Ross Harris Road the following courses and distances: South 84 degrees 24 minutes 56 seconds East 33.40 feet to a computed point; thence South 80 degrees 09 minutes 42 seconds East 259.70 feet to a computed point; thence South 82 degrees 59 minutes 7 seconds East 185.26 feet to a computed point; thence North 79 degrees 57 minutes 47 seconds East 86.07 feet to a computed point; thence North 73 degrees 42 minutes 29 seconds East 138.58 feet to a computed point; thence North 84 degrees 57 minutes 07 seconds East 150.58 feet to a computed point; thence South 87 degrees 39 minutes 11 seconds East 30.53 feet to a computed point; thence South 63 degrees 19 minutes 42 seconds East 30.08 feet to a computed point; thence South 46 degrees 34 minutes 25 seconds East 32.19 feet to a computed point; thence South 31 degrees 02 minutes 07 seconds East

42.91 feet to a computed point; thence South 26 degrees 05 minutes 01 second East 145.84 feet to a computed point; thence South 22 degrees 52 minutes 53 seconds East 80.05 feet to a computed point; thence South 41 degrees 08 minutes 40 seconds East 106.58 feet to a computed point; thence South 47 degrees 54 minutes 11 seconds East 97.88 feet to a computed point; thence South 32 degrees 13 minutes 39 seconds East 138.76 feet to a computed point; thence South 41 degrees 38 minutes 39 seconds East 37.62 feet to a computed point; thence departing from the southern margin of the right-of-way for Ross Harris Road and following a bearing and distance of North 89 degrees 05 minutes 46 seconds West 1,271.06 feet to a computed point located at the southeastern corner of the Wayne Miller and Teresa Miller property described in Deed Book 1119, Page 13, Randolph County Public Registry; thence along the eastern boundary line of the said Miller property the following course and distance: North 01 degree 00 minutes 30 seconds West 552.92 feet to the point and place of the BEGINNING, and containing 13.06 acres of land, more or less, to be annexed.

This description is in accordance with a map entitled "Satellite Annexation Map For City of Asheboro(,) Property of THE NORTH CAROLINA ZOOLOGICAL SOCIETY, INC." that was prepared by the City of Asheboro Engineering Department. This annexation map, which is identified by the engineering department as Job # 09006, is dated February 11, 2009. The property lines drawn on this annexation map were taken from Randolph County Tax Maps as of February 11, 2009.

- (e) **Second reading and approval of an ordinance granting a taxicab franchise to Community Cabs of Randolph County, Inc.**

10 ORD 3-09

**CERTIFICATE OF CONVENIENCE AND NECESSITY**

**WHEREAS**, Section 160A-304 of the North Carolina General Statutes provides that a city may by ordinance license and regulate all vehicles operated for hire in the city; and

**WHEREAS**, Section 114.10 of the Code of Asheboro provides that it is unlawful for any person to operate a taxicab upon and over the streets of the city without first applying for and securing from the city council a certificate of convenience and necessity in accordance with the provisions of Chapter 114 of the Code of Asheboro; and

**WHEREAS**, Section 114.17 of the Code of Asheboro provides that such a certificate of convenience and necessity shall constitute a franchise from the city for the operation of taxicabs within the city; and

**WHEREAS**, Section 160A-76 of the North Carolina General Statutes provides that an ordinance granting a franchise cannot be finally adopted until it has been passed at two regular meetings of the city council; and

**WHEREAS**, Community Cabs of Randolph County, Inc., which has its principal office located at 1430 Providence Church Road in Randleman, North Carolina, has properly submitted an application for a certificate of convenience and necessity; and

**WHEREAS**, a public hearing on this application by Community Cabs of Randolph County, Inc. for such a certificate was scheduled for February 5, 2009 during a regular city council meeting, and legal notice of this public hearing was published in *The Courier-Tribune* on January 17, 2009; and

**WHEREAS**, the city council did conduct the advertised public hearing on February 5, 2009, and the city council has considered the factors prescribed by Section 114.15 of the Code of Asheboro for determining whether the requested certificate of convenience and necessity should be granted.

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

**Section 1.** A certificate of convenience and necessity to operate five (5) taxicabs upon and over the streets of the City of Asheboro is hereby granted to Community Cabs of Randolph County, Inc. (hereinafter referred to as the "Grantee").

**Section 2.** This franchise is granted for a term of one (1) year from and after the 9<sup>th</sup> day of March 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) Prior to the effective date of this ordinance, the Grantee shall obtain from the city clerk's office the required annual license for the privilege of operating the taxicabs referenced in subsection (a).
- (d) 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 Community Cabs of Randolph County, Inc. 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 regular session on the 5<sup>th</sup> day of February 2009.

This ordinance was approved by the Asheboro City Council for the second time in regular session on the 5<sup>th</sup> day of March 2009.

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

ATTEST:

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

- (f) **A resolution approving the plans, material list and cost estimate for installation of highway-railway grade crossing signals and gates at the intersection of West Wainman Avenue and Norfolk Southern railway tracks.**

16 RES 3-09

**RESOLUTION APPROVING THE PLANS, MATERIAL LIST AND COST ESTIMATE  
FOR INSTALLATION OF HIGHWAY-RAILWAY GRADE CROSSING SIGNALS AND  
GATES AT THE INTERSECTION OF WEST WAINMAN AVENUE AND NORFOLK  
SOUTHERN RAILWAY TRACKS BY THE CITY COUNCIL OF THE  
CITY OF ASHEBORO**

WHEREAS, the City of Asheboro entered into an agreement dated June 13, 2008 with the NC Department of Transportation (NCDOT) for the installation and maintenance of highway-railway grade crossing signals and gates at the intersection of West Wainman Avenue and Norfolk Southern railway tracks (approved by City Council resolution # 26 RES 06-08 adopted on June 5, 2008); and

WHEREAS, the City of Asheboro's share of the installation cost was estimated at \$15,900 (10% of the project cost), and the City of Asheboro's share of the maintenance cost was estimated at \$1,290 per year (50% of the total maintenance cost) per said agreement and letter from the NCDOT dated February 18, 2008; and

WHEREAS, the City of Asheboro received a letter from the NCDOT dated January 12, 2009 with the Norfolk Southern Corporation plans, materials list and revised cost estimate for the subject project, wherein the cost estimate for the project is \$249,253.76, and the City of Asheboro's share is \$24,925.38 (10% of the project cost); and

WHEREAS, the NCDOT has requested that the City of Asheboro approve the plans, material list and revised cost estimate.

NOW, THEREFORE, BE IT RESOLVED that the Asheboro City Council has reviewed and approves the plans, materials list and revised cost estimate for the West Wainman Avenue railroad crossing, and approves of Norfolk Southern Corporation proceeding with construction.

Adopted in regular session on this 5<sup>th</sup> day of March, 2009.

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

ATTEST:

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

- (g) An ordinance making technical corrections to Chapter 130 (Offenses Against Public Peace and Safety) of the Code of Asheboro.

11 ORD 3-09

**AN ORDINANCE AMENDING CHAPTER 130 OF THE CODE OF ASHEBORO**

**WHEREAS**, Chapter 130 of the Code of Asheboro enumerates certain offenses that are deemed to be offenses against the public peace and safety; and

**WHEREAS**, the Asheboro City Council has concluded that certain technical corrections need to be made to this chapter in order to correct an inadvertent omission, correct a duplication of section numbers, and generally reorganize the sections within the chapter.

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

**Section 1.** Chapter 130 of the Code of Asheboro is hereby rewritten as follows:

**§ 130.01** ~~CURFEW ESTABLISHED FOR PARKS~~

~~(A) A curfew shall be in effect between the hours of 11:00 p.m. and 6:00 a.m. in each of the following parks and recreation areas:~~

- ~~(1) Asheboro Memorial Park, including Nance Little League Field and Thomas Tennis Center~~
- ~~(2) North Asheboro City Park~~
- ~~(3) Frazier Park~~
- ~~(4) Westwood Park~~
- ~~(5) Hammer Memorial Park~~
- ~~(6) Mini park at Cross and Brewer Streets~~
- ~~(7) Athletic field at Brewer, Tucker and Watkins Streets~~
- ~~(8) Park Street Park located on South Park Street~~
- ~~(9) Kiwanis Park off Meadowbrook Road~~
- ~~(10) City ball fields on Farr Street~~
- ~~(11) McCrary Ball Field~~
- ~~(12) Pugh Little League Field on Country Club Drive~~
- ~~(13) Bicentennial Park~~

~~(B) No person shall be deemed guilty of violating the curfew if such a person is present in one of the parks and recreation areas specified in division (A) of this section within 30 minutes of the official conclusion of an event conducted in the parks and recreation areas with the approval of the Asheboro Parks and Recreation Department.~~

~~(C) Anyone found guilty of violating the curfew shall be guilty of a misdemeanor punishable under the General Statutes of the State of North Carolina.~~

**§ 130.02** ~~DISCHARGE OF GUNS AND OTHER WEAPONS~~

~~(A) It shall be unlawful for any person to shoot or discharge within the city any gun, rifle, pistol, air rifle, spring gun or pistol, compressed air rifle, pistol, bean shooter or other similar device which impels with force a shot or pellet of any kind.~~

~~(B) This section shall not apply to persons who discharge weapons in the discharge of a duty imposed by law or in self-defense.~~

**§ 130.01 DISCHARGE OF GUNS AND OTHER WEAPONS**

- (A) It shall be unlawful for any person to shoot or discharge within the city any gun, rifle, pistol, air rifle, spring gun or pistol, compressed air rifle, pistol, bean shooter or other similar device which impels with force a shot or pellet of any kind.
- (B) This section shall not apply to persons who discharge weapons in the discharge of a duty imposed by law or in self-defense.

**§ 130.02 PROHIBITION OF CARRYING CONCEALED WEAPONS IN CITY BUILDINGS AND PARKS**

(A) Posting of Signs Required. The City Manager is authorized and instructed to post conspicuous signage at appropriate locations on or within each park and each building or portion of a building owned, leased as lessee, operated, occupied, managed or controlled by the city, as well as the appurtenant premises to such buildings, indicating that carrying a concealed handgun is prohibited therein.

(B) Location of Signs. Signs on buildings shall be visibly posted on the exterior of each entrance by which the general public can access the building. The City Manager shall exercise discretion in determining the number and appropriate location of signs to be placed on or within appurtenant premises and parks.

**§ 130.03 CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES IN CERTAIN LOCATIONS**

(A) *Consumption of malt beverages and unfortified wine.* It shall be unlawful for any person who is not an occupant of a motor vehicle to consume a malt beverage or unfortified wine on any public street, sidewalk, or alley in the city; or on any other property owned, occupied, or controlled by the city.

(B) *Possession of open containers of malt beverages and unfortified wine.* It shall be unlawful for any person who is not an occupant of a motor vehicle to possess open container(s) of malt beverages and unfortified wines on any public street, sidewalk or alley in the city; or on any other property owned, occupied, or controlled by the city. For the purposes of this subsection, an open container means a container whose seal has been broken or a container other than the manufacturer's unopened original container.

(C) *Possession of malt beverages and unfortified wines on public streets, alleys, or parking lots which are temporarily closed to regular traffic for special events.* It shall be unlawful for any person to possess any malt beverage or unfortified wine on any public street, alley, or parking lot which has been temporarily closed to regular traffic for a special event.

(D) *Possession and consumption of fortified wine, spirituous liquor, and mixed beverages.* The possession or consumption of fortified wine, spirituous liquor, or mixed beverages is hereby prohibited on property owned or leased by the city.

(E) *Exception for sworn law enforcement officers.* The regulations contained in this section shall not be construed to prohibit a sworn law enforcement officer acting in the performance of his official duties or a person acting under the immediate and direct supervision of a sworn law enforcement officer in furtherance of the officer's official duties from possessing or consuming alcoholic beverages.

(F) *Penalties.* Any person who violates the prohibitions prescribed by subsections (A), (B), and (C) shall be guilty of a misdemeanor in accordance with Section 14-4 of the North Carolina General Statutes.

**§ 130.04 LOITERING FOR THE PURPOSE OF CONTROLLED SUBSTANCES VIOLATIONS**

(A) For the purposes of this section, "public place" means any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot or transportation facility or the doorways and entrance ways to any building which fronts on any of those places, or a motor vehicle in or on any of those places.

(B) No person shall remain or wander about in a public place and:

(1) Repeatedly beckon to, stop or, attempt to stop passers-by or repeatedly attempt to engage passers-by in conversation; or

(2) Repeatedly stop or attempt to stop motor vehicles; or

(3) Repeatedly interfere with the free passage of other persons for the purpose of violating any subdivision of G.S. § 90-95.

**§ 130.05 AGGRESSIVE SOLICITATION PROHIBITED**

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

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

- (a) Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;
- (b) Following the person being solicited, if that conduct is: intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- (c) Continuing to solicit within five feet of the person being solicited after the person has made a negative response, if continuing the solicitation is: intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or, is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- (d) Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's Constitutional right to picket or legally protest, and acts authorized by a permit issued pursuant to Chapter 97 of the Code of Asheboro shall not constitute obstruction of pedestrian or vehicular traffic;
- (e) Intentionally or recklessly using obscene or abusive language or gestures: intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or, words intended to or reasonably likely to intimidate the person into responding affirmatively to the solicitation; or
- (f) Approaching the person being solicited in a manner that: is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or, is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

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

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

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

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

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

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

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

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

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

(D) *Construction and severability.*

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

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

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

~~§ 130.06 POSTING SIGNS PROHIBITING CARRYING CONCEALED WEAPONS~~

~~(A) *Posting of Signs Required.* The City Manager is authorized and instructed to post conspicuous signage at appropriate locations on or within each park and each building or portion of a building owned, leased as lessee, operated, occupied, managed or controlled by the city, as well as the appurtenant premises to such buildings, indicating that carrying a concealed handgun is prohibited therein.~~

~~(B) *Location of Signs.* Signs on buildings shall be visibly posted on the exterior of each entrance by which the general public can access the building. The City Manager shall exercise discretion in determining the number and appropriate location of signs to be placed on or within appurtenant premises and parks.~~

§ 130.06 PUBLIC URINATION AND DEFECACTION PROHIBITED

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

§ 130.07 ALL-TERRAIN VEHICLES PROHIBITED ON CITY-OWNED LANDS

(A) The act of operating any motorized all-terrain vehicle on city-owned real property is hereby prohibited and declared to be unlawful.

(B) For the purpose of this section, **MOTORIZED ALL-TERRAIN VEHICLE** is a two or more wheeled vehicle designed for recreational off-road use.

(C) This section is not applicable to employees and contractors of the City of Asheboro, law enforcement officers, firefighters, rescue personnel, emergency medical services personnel, and emergency management personnel acting in the course and scope of their official duties.

~~§ 130.08 PUBLIC URINATION AND DEFECACTION PROHIBITED~~

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

§ 130.08 CURFEW ESTABLISHED FOR PARKS

(A) A curfew shall be in effect between the hours of 11:00 p.m. and 6:00 a.m. in each of the following parks and recreation areas:

(1) Asheboro Memorial Park, including Nance Little League Field and Thomas Tennis Center

(2) North Asheboro City Park

- (3) Frazier Park
- (4) Westwood Park
- (5) Hammer Memorial Park
- (6) Mini-park at Cross and Brewer Streets
- (7) Athletic field at Brewer, Tucker and Watkins Streets
- (8) Park Street Park located on South Park Street
- (9) Kiwanis Park off Meadowbrook Road
- (10) City ball fields on Farr Street
- (11) McCrary Ball Field
- (12) Pugh Little League Field on Country Club Drive
- (13) Bicentennial Park
- (14) Asheboro Skate Park

(B) No person shall be deemed guilty of violating the curfew if such a person is present in one of the parks and recreation areas specified in division (A) of this section within 30 minutes of the official conclusion of an event conducted in the parks and recreation areas with the approval of the Asheboro Parks and Recreation Department.

(C) Anyone found guilty of violating the curfew shall be guilty of a misdemeanor punishable under the General Statutes of the State of North Carolina.

**§ 130.09**      **REGULATION OF SKATEBOARDS AND INLINE SKATES**

(A) Subject to division (B), it shall be unlawful for any person riding on a skateboard or inline skates to ride any such device on the premises of facilities or lands owned in fee simple or leased by the city.

(B) Skateboards and inline skates may be utilized within designated areas of the Asheboro Skate Park in accordance with Chapter 98 of the Code.

(C) This section shall not be construed to authorize any activity involving skateboards, roller skates, coasters, toy vehicles, or similar devices that is prohibited by § 70.53.

**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 April 1, 2009.

**Section 4.**      No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this ordinance shall be abated or otherwise affected by the adoption of this ordinance.

This ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on March 5, 2009.

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

ATTEST:

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

- (h) **Approval of the N.C. Highway 49 South alternate route for the Tot Hill Farm/airport sewer pump station force main, along with an amendment to the contract for professional services (W. K. Dickson & Company, Inc. of Charlotte, N.C.) increasing the contract amount by \$23,300.00 to \$234,600.00 for changes pertaining to the alternate route, reducing the total project costs by \$512,700.00 to \$1,686,502.00.**

[A copy of the recommendation from W.K. Dickson and Company, Inc. in support of this action is on file in the City Clerk's office.]

- (i) **An ordinance authorizing a stipend for members of the City of Asheboro Planning Board.**

12 ORD 3-09

**AN ORDINANCE AMENDING SECTION 34.52 OF THE CODE OF ASHEBORO**

**WHEREAS**, Section 160A-363(c) of the North Carolina General Statutes authorizes a city council to compensate members of a planning board created pursuant to Article 19 of Chapter 160A of the North Carolina General Statutes; and

**WHEREAS**, the Asheboro City Council has created the Asheboro Planning Board pursuant to and in accordance with Article 19 of Chapter 160A of the North Carolina General Statutes; and

**WHEREAS**, the members of the Asheboro Planning Board do not currently receive any compensation for their service on the planning board; and

**WHEREAS**, the Asheboro City Council has determined that it would be desirable to compensate members of the Asheboro Planning Board for their faithful attendance at the board's scheduled meetings.

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

**Section 1.** Section 34.52 of the Code of Asheboro is hereby rewritten as follows:

**§ 34.52 APPOINTMENT AND TERM; VACANCIES; ATTENDANCE; COMPENSATION**

(A) Members of the Planning Board shall be appointed for a term of five years and until their successors are appointed and qualify, and, to provide overlapping terms, two members shall be appointed each year during the month of January. Of the two annual appointees, one shall be a resident of the city and one shall be a resident of the extraterritorial area as is shown on the map entitled "Boundaries of Extraterritorial Jurisdiction - City of Asheboro," such map bearing the date of June 8, 1972, and any amendments thereto.

(B) Members of the Planning Board who are residents of the city shall be appointed by the City Council. Members of the planning board who are residents of the extraterritorial area as is shown on the map entitled "Boundaries of Extraterritorial Jurisdiction - City of Asheboro," such map bearing the date of June 8, 1972, and any amendments thereto, shall be appointed by the Board of County Commissioners provided, that in the event such Board of County Commissioners fails to make any appointment provided for in this section within 90 days after the receipt of a resolution from the city council requesting that such appointment be made, the City Council may thereupon make such appointment.

(C) Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term.

(D) Faithful attendance at the meetings of the Planning Board is considered a prerequisite for the maintenance of membership on the board.

(E) On and after April 1, 2009, each member of the Planning Board shall receive a stipend of \$100.00 for each month that the member actively serves on the Planning Board. In order to be deemed to be actively serving on the Planning Board during any specific month, a member of the board must attend, at a minimum, the regular Planning Board meeting scheduled for the month for which the monthly stipend is to be paid. The actual disbursement of the monthly stipends for Planning Board members shall be made according to a schedule to be developed by the City of Asheboro Finance Department in accordance with that department's normal business practices. Irrespective of the number of special meetings that may be held during any specific month, the amount of the monthly stipend for Planning Board members shall not exceed \$100.00.

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

**Section 3.** This ordinance shall take effect and be in force from and after April 1, 2009.

This ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on March 5, 2009.

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

ATTEST:

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

**7. Land Use Issues:**

- (a) **SUP-09-01: Special Use Permit for a Commercial Planned Unit Development in a B2 (General Commercial) Zoning District.** The property for which a Special Use Permit is sought is the property of Charles E. Greer and Barbara S. Greer located along the north side of East Dixie Drive, approximately 600 feet west of the intersection of East Dixie Drive with N.C. Highway 42 North. The 13.34 acre parcel also adjoins the west side of N.C. Highway 42 North at a point located approximately 175 feet north of the intersection of N.C. Highway 42 with Patton Avenue.

Mr. Neely was sworn in and presented the planning department staff's analysis of the Applicant's request, including the submitted site plan. The Applicants, Darren and Bobby Lucas, requested a special use permit for a Commercial Planned Unit Development.

Mr. Darren Lucas was placed under oath and addressed the four standard tests. Additionally, Mr. Jesse Wilson, P.E., was placed under oath and presented comments in support of the requested Special Use Permit.

At the request of members of the Council, the city engineer was also placed under oath in order to address technical questions from the Council about the quality of storm water runoff from the proposed project. This issue was of concern to the Council because of ambiguities in the testimony pertaining to the storm water runoff study specified in condition number four (4) that was initially proposed by the planning department staff for attachment to the requested permit.

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

After substantive discussion in regards to the staff suggested conditions, and upon motion by Mr. Moffitt and seconded by Ms. Carter, Council voted unanimously to remove from consideration condition number four (4) that was initially proposed by the planning department staff.

Upon motion by Mr. Priest and seconded by Mr. Burks, Council then voted unanimously to approve the requested Special Use Permit. The formal findings of fact, conclusions of law, and order granting the Special Use Permit will be entered by Council during regular session on April 9, 2009. This order will reflect certain conditions that were imposed upon this permit as a consequence of the testimony presented during the hearing of this matter.

- (b) **SUB-09-01: Starmount Commercial Development. Sketch Design.**

Mr. Neely presented the sketch design for the proposed Starmount Commercial Development Subdivision. Darren and Bobby Lucas requested the approval of a sketch design for the subdivision to be located along the north side of East Dixie Drive approximately 600 feet west of N.C. Highway 42 North. The proposed subdivision contains approximately 13.34 acres of land, consisting of 8 lots plus common area.

The Planning Department Staff and the Planning Board recommended approval of the sketch design plat.

Upon motion by Mr. Moffitt and seconded by Ms. Carter, Council voted unanimously to approve the sketch design plat.

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

- (c) **SUB-07-01: Olde Town Village. Subdivision Ordinance Variance Request.**

Mr. Neely presented the request by Routh Builders, LLC for a variance that decreases the right-of-way width required by the cross section specified in Article IX and Article X of the City of Asheboro Subdivision Ordinance. The applicant would utilize a portion of certain street right-of-way widths in accordance with cross-section detail sketches that

were attached to the applicant's written request for variances from the subdivision ordinance.

Due to the topographic condition on the site, the Applicant is requesting a 50-foot right-of-way along a portion of Old Towne Parkway, a 56-foot right-of-way along Middleton Circle, and a 40-foot right-of-way along Millbrook Drive and Frankton Court. The applicant is not requesting a variance from the width of the street(s).

The 21.27 acre parcel of land is located on the south side of Old Lexington Road and is more specifically identified by Randolph County Parcel Identification Number 7741889270. A copy of the Applicant's written request is on file in the City Clerk's office.

The Planning Board recommended approval of the request.

Mr. Jim Routh presented comments in support of the requested variances.

Upon motion by Ms. Carter and seconded Mr. Burks, Council voted unanimously to approve the requested variances from the Subdivision Ordinance.

#### **8. Public Comment Period.**

Mr. Ronald Powell presented positive comments in regards to the city's new website. Additionally, he thanked the city for rescheduling trash pickup that was missed on Monday, March 2, 2009 due to inclement weather. He felt that the city should take this same approach with trash pickup during holidays.

Mr. Powell expressed his concerns for the possible sale of alcoholic beverages at McCrary Park. In essence, Mr. Powell was concerned that if the ordinance was amended, then the likelihood would be increased that alcoholic beverages would be sold in other city owned parks/facilities as well as McCrary Park.

Mr. Lynn Lancaster asked the Council to consider meeting at times that do not conflict with the Asheboro City School Board meetings. Additionally, Mr. Lancaster asked that the Council schedule all special meetings during the evenings and to provide for a public comment period during special meetings.

With regard to another scheduling issue, Mr. Lancaster requested that trash pickup times be announced on the city's website.

#### **9. Presentation by Mr. Ronnie Pugh, manager-member of Asheboro Copperheads, LLC, addressing the potential sale of alcoholic beverages at McCrary Park.**

Mr. Ronnie Pugh, Manager-Member of Asheboro Copperheads, LLC, presented a request on behalf of Asheboro Copperheads, LLC to amend Section 130.03 of the Code of Asheboro to allow the sale of alcoholic beverages specifically at McCrary Park for Coastal Plain League/Asheboro Copperhead hosted events of collegiate or professional baseball.

Additionally, Mr. Pugh presented a drawing depicting the possible location of a beer garden during such events. Mr. Pugh plans to have a section designated as a family section in which no alcoholic beverages will be allowed in said section. Mr. Pugh stated that alcoholic beverages would only be purchased in the beer garden area, and no alcoholic beverages would be sold after the seventh inning.

After discussion, including a discussion with Dr. Fountain about the specific wording of the motion, Mr. Smith moved to amend Section 130.03 of the Code of Asheboro to allow the sale of malt alcoholic beverages at McCrary Park for Coastal Plain League/Asheboro Copperhead hosted events of collegiate or professional baseball. Mr. Moffitt seconded the motion. Councilmembers Baker, Fountain, Moffitt, and Smith voted in favor of the motion. Councilmembers Burks, Carter, and Priest voted no.

[In accordance with Section 160A-75 of the North Carolina General Statutes, an ordinance reflecting this vote will be prepared for consideration at the next regular meeting of the City Council.]

**10. Consideration of a resolution of intent to annex 15.88 acres of city-owned land that is adjacent to the Asheboro Regional Airport and located along the north side of Pilots View Road.**

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

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

**17 RES 3-09**

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

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

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

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

Cedar Grove Township, Randolph County, North Carolina:

BEGINNING at a computed point that is located on the northern margin of the 60-foot right-of-way for Pilots View Road (North Carolina Secondary Road 1197) and is located North 31 degrees 04 minutes 26 seconds West 954.23 feet from the point of intersection between the centerline of Pilots View Road and the centerline of Tot Hill Farm Road (North Carolina Secondary Road 1142); thence from the said Beginning point along the northern margin of the right-of-way for Pilots View Road the following courses and distances: North 54 degrees 02 minutes 03 seconds West 82.79 feet to a computed point; thence North 63 degrees 08 minutes 51 seconds West 133.66 feet to a computed point; thence North 67 degrees 28 minutes 58 seconds West 851.28 feet to a computed point on the existing satellite corporate limits line of the City of Asheboro; thence along the existing satellite corporate limits line of the City of Asheboro that follows the boundary line for the City of Asheboro property described in Deed Book 719, Page 11, Randolph County Public Registry the following courses and distances: North 02 degrees 19 minutes 28 seconds East 490.29 feet to a computed point; thence North 88 degrees 51 minutes 37 seconds East 329.31 feet to a computed point; thence North 88 degrees 51 minutes 37 seconds East 651.15 feet along the Kenneth Michael Freeland and Sherri B. Freeland property described in Deed Book 1505, Page 795, Randolph County Public Registry and in Deed Book 1427, Page 1785, Randolph County Public Registry to a computed point; thence along the western boundary line of the David Johnson property that is described in Deed Book 1324, Page 484, Randolph County Public Registry the following course and distance: South 01 degree 40 minutes 07 seconds West 944.80 feet to the point and place of the BEGINNING, and containing 15.88 acres of land, more or less, to be annexed.

This description is in accordance with a plat of survey entitled "Satellite Annexation Map For City of Asheboro AIRPORT PROPERTY." The City of Asheboro Engineering Department prepared the said plat, which is dated February 9, 2009 and is identified as Job # 09004. The property lines shown on the said plat were taken from Randolph County Tax Maps as of February 9, 2009.

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

**Section 4.** A public hearing on the question of annexation will be held during a regular meeting of the City Council that is to be held in the Council Chamber of the Asheboro Municipal Building at 7:00 o'clock p.m. on Thursday, April 9, 2009.

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

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 5<sup>th</sup> day of March 2009.

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

ATTEST:

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

**11. Discussion about the potential reorganization of the Parks and Recreation Department.**

Mr. Ogburn presented an organizational chart in regards to the potential reorganization of the Parks and Recreation Department. Mr. Ogburn suggested that the position of Parks and Recreation Director be replaced with a Cultural and Recreational Services Director, and the Buildings and Grounds Maintenance Department be placed within the same division with parks and recreation. The newly created division would follow the model of the existing Public Works Division.

This proposed reorganization will be discussed further during the Council's regular April meeting.

**12. Preview of the new city website by Mr. Richard Cox.**

Mr. Cox provided an on-line demonstration of the city's new website.

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

Mayor Jarrell reminded the Councilmembers of the public hearing on the question of a city-initiated annexation that is to be held on Thursday, March 19, 2009 at 7:00 p.m. in the conference room at the City of Asheboro Public Works Facility located at 1312 North Fayetteville Street. This public hearing will be conducted as part of a special meeting of the City Council.

There being no further business, the meeting was adjourned at 10:22 p.m.

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

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