

**REGULAR MEETING
ASHEBORO CITY COUNCIL
COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, JULY 9, 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) – Council Members Present
Walker B. Moffitt)
Archie B. Priest, Sr.)
David H. Smith)

Stuart B. Fountain) – Council Member Absent

John N. Ogburn, III, City Manager
Dumont Bunker, P.E., City Engineer
Edsel L. Brown, Code Enforcement Officer
Richard L. Cox, Jr., Community Planning and Development Department Intern
Holly H. Doerr, City Clerk/Senior Legal Assistant
John L. Evans, Planner
T. Myers Johnson, Human Resources Director
Justin T. Luck, Community Planning and Development Department Intern
R. Reynolds Neely, Jr., Planning Director
Ralph W. Norton, Assistant Chief of Police
James W. Smith, Fire Chief
Jeffrey C. Sugg, City Attorney

1. Call to order.

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

2. Invocation and Pledge of Allegiance.

Mayor Jarrell asked everyone to stand and repeat the Pledge of Allegiance, after which he gave the invocation.

3. Appearance and recognition of guests and citizens.

Mayor Jarrell welcomed everyone in attendance.

4. Consent agenda:

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

- (a) **The minutes of the regular meeting of the City Council that was held on June 4, 2009.**
- (b) **The minutes of the special meeting of the City Council that was held on June 23, 2009.**
- (c) **The minutes of the special meeting of the City Council that was held on June 30, 2009.**
- (d) **The new Municipal Records Retention and Disposition Schedule issued by the North Carolina Department of Cultural Resources.**

**RESOLUTION APPROVING THE MUNICIPAL RECORDS RETENTION AND DISPOSITION
SCHEDULE FOR THE CITY OF ASHEBORO**

WHEREAS, in accordance with Section 121-5 of the North Carolina General Statutes and Section 132-3 of the North Carolina General Statutes, public records maintained by the City of Asheboro may only be destroyed with the consent of the North Carolina Department of Cultural Resources; and

WHEREAS, the Municipal Records Retention and Disposition Schedule issued by the Government Records Branch of the Archives and Records Section in the North Carolina Department of Cultural Resources' Division of Historical Resources is the primary means by which the Department of Cultural Resources gives its consent for the destruction of records that do not and will not have further use or value for official business, research, or reference purposes after the respective retention periods specified within the schedule; and

WHEREAS, in the absence of approving this schedule, the city is obligated to obtain permission from the Department of Cultural Resources to destroy any record, regardless of how insignificant a particular record might be; and

WHEREAS, a copy of the most recent schedule, which was issued on May 19, 2009, has been printed and is available for inspection in the City Clerk's office; and

WHEREAS, the City Clerk and City Manager have recommended approval of the above-referenced Municipal Records Retention and Disposition Schedule.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the Municipal Records Retention and Disposition Schedule issued on May 19, 2009 by the North Carolina Department of Cultural Resources is hereby approved; and

BE IT FURTHER RESOLVED that the Mayor is hereby authorized and directed to execute the approved schedule's signature page that is attached hereto as EXHIBIT 1 and is hereby incorporated into this resolution by reference as if copied fully herein.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on July 9, 2009.

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

ATTEST:

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

[Exhibit 1 is attached to the original resolution on file in the City Clerk's office.]

- (e) **A resolution per G.S. 143-64.32 exempting the City of Asheboro from the advertisement/qualification based selection procedure to contract with Atlantic Coast Engineering and Testing, Inc. of Greensboro, North Carolina for engineering services required for geotechnical quality control testing services on a retainer basis for FY 2009-2010 as required by the North Carolina Department of Transportation to verify compaction of trench backfill and paving repair on NCDOT streets.**

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

(Retainer of Firm to Conduct Geotechnical Quality Control Testing Services on a Retainer Basis for Trench Backfill and Paving Repair on NCDOT Streets during Fiscal Year 2009-2010)

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

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

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

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

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

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

WHEREAS, the City of Asheboro has, as one of its continuing projects each fiscal year, the on-going maintenance, extension, and addition of municipal water and sewer service to customers and/or future customers of the city's water and sewer utility; and

WHEREAS, this on-going maintenance, extension, and addition of municipal water and sewer service lines requires city forces to make road cuts at various times; and

WHEREAS, when these road cuts are made on streets maintained by the North Carolina Department of Transportation ("NCDOT"), the city has to comply with certain NCDOT mandated compaction standards associated with trench backfill and paving repair; and

WHEREAS, in order to comply with these NCDOT standards, the city must have access to qualified personnel who can conduct geotechnical quality control testing services at various times throughout the fiscal year; and

WHEREAS, during the performance of its contracted services during other city projects, Atlantic Coast Engineering and Testing, Inc. of Greensboro, North Carolina has demonstrated its capability to provide the geotechnical quality control testing needed by the city for this on-going project; and

WHEREAS, Atlantic Coast Engineering and Testing, Inc. has proposed to provide the needed geotechnical quality control testing services for this project throughout fiscal year 2009-2010 on a unit price basis tied to the firm's existing fee schedule for various services; and

WHEREAS, on the basis of the firm's demonstrated competence, ability to meet the staffing needs and time constraints associated with the described project, and familiarity with the city's expectations for geotechnical quality control testing services, the City Manager and the City Engineer have concluded that Atlantic Coast Engineering and Testing, Inc. should be utilized to provide the geotechnical quality control testing services needed to successfully implement and complete this project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the above-described on-going project for fiscal year 2009-2010 is hereby exempted from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes on the basis of Atlantic Coast Engineering and Testing, Inc.'s demonstrated competence and ability to provide adequate testing personnel in a timely manner; and

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

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 9th day of July 2009.

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

ATTEST:

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

- (f) A change order increasing the contract amount to be paid to Bar Construction Company, Inc. for the Wastewater Treatment Plan Standby Generator Project. This change order, which is the first one for this project, increases the contract amount from \$393,739.00 to \$409,850.00 (an increase of \$16,111.00) in order to upgrade the automatic transfer switch to 2,000 amps.

[A copy of the actual change order is on file in the City Clerk's office.]

5. Public comment period.

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

6. Consideration of a petition received from Harold and Anita Nwamu requesting contiguous annexation of their property at 777 Honeysuckle Road.

- (a) Mr. Bunker presented and recommended adoption, by reference, of a resolution directing the city clerk to investigate a petition requesting contiguous annexation of 1.01 acres of land owned by Harold and Anita Nwamu at 777 Honeysuckle Road. When combined with street right-of-way included within the proposed annexation area, the total area under consideration encompasses 1.32 acres.

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

30 RES 7-09

RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE AN ANNEXATION PETITION RECEIVED PURSUANT TO SECTION 160A-31 OF THE NORTH CAROLINA GENERAL STATUTES (1.32 Acres of Land Located at 777 Honeysuckle Road)

WHEREAS, a petition requesting the annexation of approximately 1.01 acres of land located at 777 Honeysuckle Road has been received by the Asheboro City Council from Harold and Anita Nwamu, who own the parcel of land for which annexation is requested; and

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

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

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

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 9th day of July 2009.

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

ATTEST:

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

CERTIFICATE OF SUFFICIENCY
(1.32 Acres of Land Located at 777 Honeysuckle Road)

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Asheboro, North Carolina in order to make this certification effective as of the 9th day of July 2009.

(SEAL)

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

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

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

31 RES 7-09

RESOLUTION SETTING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO SECTION 160A-31 OF THE NORTH CAROLINA GENERAL STATUTES
(1.32 Acres of Land Located at 777 Honeysuckle Road)

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

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

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

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

Section 1. A public hearing on the question of annexation of the area described herein will be held in the Council Chamber of the City of Asheboro Municipal Building, which is located at 146 North Church Street in the City of Asheboro, North Carolina, during the city council's regular meeting that is to be held at 7:00 o'clock p.m. on the 6th day of August 2009.

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

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

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 9th day of July 2009.

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

ATTEST:

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

EXHIBIT 1

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a computed point in the northern margin of the 60-foot right-of-way for Honeysuckle Road (North Carolina Secondary Road No. 2293) at the southeastern corner of the Harold C. Nwamu property described as Lots 135-150 on a plat of survey recorded in Plat Book 12, Page 2, Randolph County Public Registry and described in Deed Book 1771, Page 1414, Randolph County Public Registry, the said point is located North 86 degrees 32 minutes 57 seconds West 731.77 feet from the center of the intersection of Honeysuckle Road with the 60-foot right-of-way for Ingram Drive (North Carolina Secondary Road No. 2292); thence from the said Beginning point North 88 degrees 50 minutes 46 seconds West 57.16 feet

along the northern margin of the right-of-way for Honeysuckle Road to a computed point; thence South 01 degree 31 minutes 37 seconds West 60.03 feet across Honeysuckle Road to a computed point in the southern margin of the right-of-way for Honeysuckle Road; thence along the existing primary corporate limits line for the City of Asheboro, which follows the southern margin of the right-of-way for Honeysuckle Road, the following courses and distances: North 88 degrees 52 minutes 36 seconds West 102.02 feet to a computed point; thence North 88 degrees 39 minutes 50 seconds West 42.01 feet to a computed point; thence North 88 degrees 53 minutes 54 seconds West 19.50 feet to a computed point; thence North 88 degrees 48 minutes 26 seconds West 74.27 feet to a computed point; thence following the existing primary corporate limits of the City of Asheboro North 26 degrees 25 minutes 49 seconds East 66.23 feet across Honeysuckle Road to a computed point in the northern margin of the right-of-way for Honeysuckle Road; thence continuing along the existing primary corporate limits line for the City of Asheboro that divides the above-described Harold Nwamu property the following course and distance: North 26 degrees 25 minutes 49 seconds East 220.14 feet to a computed point; thence South 89 degrees 06 minutes 45 seconds East 176.07 feet along the Phillip E. Bumgarner and Betty Bumgarner property described in Deed Book 1090, Page 84, Randolph County Public Registry to a computed point; thence along the western boundary line of the Cranford Enterprises property described as Lots 123-134 on a plat of survey recorded in Plat Book 12, Page 2, Randolph County Public Registry and described in Deed Book 1771, Page 1414, Randolph County Public Registry the following course and distance: South 02 degrees 00 minutes 35 seconds West 199.89 feet to the point and place of BEGINNING, and containing 1.32 acres of land, more or less, to be annexed.

The above-listed description is in accordance with a plat of survey entitled "Annexation Map For HAROLD C. NWAMU PROPERTY." This plat of survey was prepared by the City of Asheboro Engineering Department. The said plat of survey is dated June 25, 2009, and the job number for the plat of survey is 09026.

7. Consideration of authorizing city staff to renegotiate certain fire protection service contracts with the Ulah Volunteer Fire Protective Association, Inc.

After reviewing fire protection service contracts the city has with other fire departments, city staff concluded that the amount paid to the Ulah Volunteer Fire Protective Association, Inc. for services at the Tot Hill Farm development and the Asheboro Regional Airport should be increased. City Attorney Jeff Sugg recommended that the annual contract amount for services at the Tot Hill Farm development be increased to \$3,000.00 and the annual contract amount for services at the Asheboro Regional Airport be increased to \$600.00.

Upon motion by Mr. Baker and seconded by Ms. Carter, Council voted unanimously to authorize the city attorney to draft new fire protection service contracts that reflect the above-stated recommendations. The revised contracts will be placed on the August 6, 2009 consent agenda for final approval by the City Council.

8. Discussion Items:

(a) Discussion of proposed updates to Land Development Plan

Mr. Justin Luck, Community Planning and Development Department Intern, presented proposed updates to the Land Development Plan. A revised draft of the updated Land Development Plan will be presented for Council's review at a later date.

The power point presentation utilized by Mr. Luck is on file in the City Clerk's office.

(b) Discussion of proposed updates to Subdivision Ordinance

Mr. Richard Cox, Jr. discussed updates that are under consideration for the city's subdivision ordinance. The process to be used for considering the potential updates is as follows:

1. Update *Conventional Subdivision* design standards.
2. Add *Cluster Subdivision* provisions.
3. Re-work *Planned Unit Development (PUD)* article into *Unit Development (UD)* article (UD-R, UD-C, UD-I); eliminate *Residential Townhouse Development* article.
4. Add *Traditional Neighborhood Development (TND)* article (TND-VC, TND-NC)
5. Consult with Engineering Department, Public Works, etc. regarding updates and additions to design standards.
6. Update *Zoning Ordinance* and create *Village Center TND* and *Neighborhood Center TND* zoning districts.
7. Coordinate updates to subdivision review and appeal procedures with City Attorney.
8. Hold public hearing on updates and additions.

The power point presentation utilized by Mr. Cox is on file in the City Clerk's office.

(c) Discussion concerning feasibility of sidewalks along Old Liberty Road

Mr. John Evans presented an excerpt from the Pedestrian Plan as it pertains to the construction of sidewalks along Old Liberty Road. While the installation of sidewalks (along with curb and gutter) on Old Liberty Road from North Fayetteville Street through the city limits is contemplated under the plan, serious funding issues associated with the cost of such a project will have to be overcome.

The planning department staff will begin working with the Rural Planning Organization for a Transportation Improvement Program (TIP) request as one means of finding funding for this potential project.

(d) Discussion of potential City Code Amendments (Animals, Grass Height)

Mr. Edsel Brown discussed potential amendments to Section 96.01(A) of the Code of Asheboro. Mr. Brown asked the Council to think about reducing the maximum allowable height of weeds and grass from 24 inches (24") to 12 inches (12"). The general consensus of the Council was that such an amendment should be presented at the next regular Council meeting.

Additionally, Mr. Brown discussed the regulation of animals under Chapter 91 of the Code of Asheboro. While no formal action was taken on Chapter 91, the general consensus of the council members was that Chapter 91 needed further study and should be updated once specific proposals can be brought to the Council.

9. Review of planning retreat.

Mayor Jarrell assigned the focus areas to the council members as follows:

- a. Growth, Annexation, and Infrastructure – Walker Moffitt and Edward Burks
- b. Economic Development – Stuart Fountain and Mayor Jarrell
- c. Quality of Life – Linda Carter and David Smith
- d. North Carolina Zoo – Talmadge Baker, Archie Priest, and Mr. Ogburn

Mayor Jarrell asked the council to focus on the areas assigned and develop action plans for these topics.

10. Discussion of eligibility requirements and the formula used to calculate the special separation allowance for police officers.

Mr. Johnson presented a brief overview of the requirements and formula used to calculate the special separation allowance for police officers. As legislation is pending on this issue, Mr. Johnson recommended that the city refrain from altering its current policies pertaining to the special separation allowance until the current session of the North Carolina General Assembly has concluded.

11. Upcoming Events:

Mayor Jarrell announced that a special meeting will be held on July 28, 2009 at 7:00 p.m. to discuss an on-going USDA loan application.

12. Discussion of items not on the agenda.

Due to the need to utilize a different firm to handle geotechnical engineering services needed for the East Presnell Street/Old Cedar Falls Road Development Project, Mr. Sugg presented and recommended adoption, by reference, of a resolution exempting a project from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes.

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

31 RES 7-09

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

(Geotechnical Services for the East Presnell Street/Old Cedar Falls Road Development Project)

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

It is the public policy of this State and all public subdivisions and Local Governmental Units thereof . . . to announce all requirements for

architectural, engineering, surveying, and construction management at risk services, to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm; and

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

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

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

WHEREAS, the City of Asheboro has undertaken a development project in the East Presnell Street/Old Cedar Falls Road area in order to facilitate development and growth in this portion of the greater Asheboro area; and

WHEREAS, the city previously procured, pursuant to resolution no. 56 RES 10-08, geotechnical engineering services from Unifour Engineering & Testing Laboratories, PC of Hickory, North Carolina for the purpose of conducting the geotechnical quality control testing needed to properly construct a sanitary sewer pump station; and

WHEREAS, Unifour Engineering & Testing Laboratories, PC was ultimately unable to perform the required services in a manner that conformed with the time table established by the city, and, therefore, the city and Unifour mutually agreed to terminate the contract with Unifour Engineering and Testing Laboratories, PC ; and

WHEREAS, Atlantic Coast Engineering and Testing, Inc. of Greensboro, North Carolina has proposed to provide the remaining geotechnical engineering services that are needed to complete the East Presnell Street/Old Cedar Falls Road Development Project in consideration of an estimated professional fee of One Thousand One Hundred and No/100 dollars (\$1,100.00); and

WHEREAS, on the basis of the estimated professional fee for this project, the City Manager and the City Engineer have concluded that Atlantic Coast Engineering and Testing, Inc. should be utilized to provide the remaining geotechnical engineering services needed to successfully implement and complete this construction project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the East Presnell Street/Old Cedar Falls Road Development Project is hereby exempted from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes on the basis of the fact that the estimated professional fee for the remaining geotechnical engineering services is less than thirty thousand and no/100 dollars (\$30,000.00); and

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

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 9th day of July 2009.

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

ATTEST:

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

There being no further business, the meeting was adjourned at 9:08 p.m.

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

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