

**REGULAR MEETING  
ASHEBORO CITY COUNCIL  
COUNCIL CHAMBER, MUNICIPAL BUILDING  
THURSDAY, JANUARY 7, 2010  
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. Smith            ) – Mayor Presiding  
  
Talmadge S. Baker        )  
Clark R. Bell             )  
Edward J. Burks         )  
Linda H. Carter         ) – Council Members Present  
Stuart B. Fountain       )  
Michael W. Hunter       )  
Walker B. Moffitt        )

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  
Casandra M. Fletcher, Marketing Specialist  
R. Wendell Holland, Jr., Zoning Administrator  
Justin T. Luck, Community Planning and Development Department Intern  
R. Reynolds Neely, Jr., Planning Director  
Ralph W. Norton, Assistant Chief of Police  
Deborah P. Reaves, Finance Officer  
Jeffrey C. Sugg, City Attorney  
Felix L. Ward, Cultural and Recreation Services Director

**1. Call to order.**

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

**2. Moment of Silence and Pledge of Allegiance.**

After a moment of silence was observed in order to allow council members, staff, and guests to collect their thoughts and private meditations, Mayor Smith asked everyone to stand and repeat the pledge of allegiance.

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

Mayor Smith welcomed everyone in attendance.

**4. Presentation by Mr. Devin Griffith of Randolph Hospital addressing the Fit Community application and grant.**

After receiving an introduction by Dr. John Rogers of First Baptist Church, Mr. Devin Griffith, Vice President for Community and Staff Services of Randolph Hospital updated the council on the Fit Community project. An application to designate Asheboro as a Fit Community (a community that supports physical activity, healthy eating, and tobacco free lifestyles) and a grant application for \$60,000.00 have been completed and will be submitted on January 15, 2010. The \$60,000.00 grant would fund a Zoo City Fitness, Fun, and Fellowship project, including six walking/jogging routes, ranging from one mile to 4.5 miles within the downtown area.

A community wellness steering committee has been formed and will meet on January 11, 2010. This committee will oversee this project as well as similar projects in the future.

Upon motion by Mr. Baker and seconded by Mr. Burks, Council voted unanimously to endorse the above-described applications in order to advance the Fit Community project.

**5. Presentation of the Randolph County Economic Development Corporation's annual report by Ms. Bonnie Renfro.**

Ms. Bonnie Renfro, President of the Randolph County Economic Development Corporation, and Mr. Harry Lane, Existing Industry and Business Coordinator, presented the corporation's Annual

Report for 2009. Throughout the year, more than \$15 million was invested in new and existing industries with approximately 402 new jobs created. A copy of the annual report presented by Ms. Renfro is on file in the City Clerk's office.

**6. Consent Agenda:**

Prior to considering the consent agenda, Mayor Smith recognized a boy scout from troop 531 who was in attendance as a requirement for an achievement badge.

Upon motion by Dr. Fountain and seconded by Mr. Bell, Council voted unanimously to continue consent agenda item numbers 6(c), 6(d), 6(e), 6(f) to the special council meeting that is scheduled for January 21, 2010, while approving the remainder of the consent agenda items. The status of each consent agenda item is as follows:

- (a) **The minutes of the regular meeting of the City Council that was held on December 10, 2009, were approved.**
- (b) **The minutes of the special meeting of the City Council that was held on December 14, 2009, were approved.**
- (c) **The findings of fact, conclusions of law, and order in the matter of SUP-09-04 were continued to the Council's special meeting that is scheduled for January 21, 2010.**
- (d) **The findings of fact, conclusions of law, and order in the matter of SUP-09-05 were continued to the Council's special meeting that is scheduled for January 21, 2010.**
- (e) **The findings of fact, conclusions of law, and order in the matter of CUP-09-14 were continued to the Council's special meeting that is scheduled for January 21, 2010.**
- (f) **The findings of fact, conclusions of law, and order in the matter of CUP-09-15 were continued to the Council's special meeting that is scheduled for January 21, 2010.**
- (g) **An agreement with Marlowe and Company was approved.**

This "Services Agreement" with Marlowe and Company, LLC, which is located in Washington, D.C., provides for the encouragement of Marlowe and Company, LLC to provide federal government affairs consulting services. The initial term of the agreement continues through December 10, 2010, and the limited liability company's fees, exclusive of certain expenses, are not to exceed \$48,000.00 during the term of the contract.

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

- (h) **A budget ordinance amending the General Fund to account for the appropriation of funds to the Boys and Girls Club.**

**01 ORD 1-10**

**ORDINANCE TO AMEND THE GENERAL FUND FY 2009-2010**

WHEREAS, the City of Asheboro has traditionally allocated a contribution to the Boys & Girls Club to support their community outreach programs, and;

WHEREAS, this allocation was not included in the 2009-2010 adopted fiscal year budget, and;

WHEREAS, the budget as adopted requires amendment to reflect the appropriation of fund balance for this expense, and;

WHEREAS, the City of Asheboro wants to be in compliance with all generally accepted accounting principles, and;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA:

Section 1: That the following Revenue line item be increased:

<u>Account #</u>	<u>Revenue Description</u>	<u>Increase</u>	<u>Amended Total Appropriation</u>
10-399-0000	Fund Balance Appropriation	25,000	640,649

Section 2: That the following Expense line item be increased:

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>	<u>Amended Budget</u>
10-620-0402	Contribution to Boys & Girls Club	25,000	25,000

Adopted this the 7th day of January 2010.

s/ David H. Smith  
David H. Smith, Mayor

ATTEST:

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

- (i) **A resolution authorizing the establishment of a designated gift fund for use as part of the Sunset Theatre Capital Campaign was approved.**

**01 RES 1-10**

**BENEFICIARY RESOLUTION**

BE IT RESOLVED that The City of Asheboro does hereby request and authorize establishment of a Designated Gift Fund for the Sunset Theatre Capital Campaign by the North Carolina Community Foundation, Inc. (NCCF), pursuant to the Agreement signed by Donor and NCCF. The Designated Gift is to be owned and managed by the NCCF as provided by said Agreement and held by the NCCF as a component fund thereof; and

BE IT RESOLVED that the City of Asheboro hereby authorizes NCCF and its officers and agents to accept contributions to the said Designated Gift Fund on its behalf, and further authorizes its own officers and directors to execute and deliver to NCCF any instruments or documents necessary or useful to effect the authorization, establishment, use and continued maintenance of such Designated Gift Fund.

ADOPTED on January 7, 2010, by such organization's governing body at a meeting duly called and held, at which a quorum was present and acting throughout.

Signed this 7th day of January, 2010.

(Corporate Seal if applicable)

s/ David H. Smith  
David H. Smith, Mayor

ATTEST:

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

**7. Land Use Issues:**

- (a) **RZ-09-17: Technical Amendments to the Zoning Ordinance.** An application by Mr. H.R. Gallimore to amend Article 500 of the Asheboro Zoning Ordinance.

Mayor Smith opened the public hearing on the following request.

Mr. Neely presented the staff's analysis of the request by Mr. H.R. Gallimore to amend Article 500 of the Asheboro Zoning Ordinance. In essence, the Applicant wishes to amend Table 500-1 and Section 512 concerning the permitted height, size, placement, and type of on-premises real estate signs. Off-premises real estate signs are not part of this request.

After reviewing the applicant's proposal, the planning department staff found some merit in the proposal, but could not concur with the entirety of the proposal. Instead, staff proposed the following amendment to Section 512(a)(1) of the Asheboro Zoning Ordinance: (Added text is in italics.)

512 Temporary Signs

- (a) Not Requiring Permit

The following temporary, unlighted signs may be erected in the manner prescribed without the issuance of a Zoning Compliance Permit:

- (1) Real Estate Signs: A sign located on the premises and offering said premises for sale, rent, lease, or development, shall not exceed the following height or area per sign face:

**A. Residential Districts**

Distance from all street right-of-way lines	Maximum Sign Area	Maximum Sign Height
0 to 49 feet	12 square feet	4-6 feet
50 feet or more	32 square feet	8-10 feet

1. *Permitted sign type in residential zoning district: Freestanding (ground)*
2. *A real estate sign on a residential lot may be up to 32 square feet and 10 feet high, if it is located on a major thoroughfare and meets one or more of the following criteria:*
  - a.) *the speed limit of the road on which the sign is placed is 45 miles per hour or above; or*
  - b.) *the lot for sale, rent, lease, or development is five acres or more.*

*B. Commercial (includes OA6, O&I, B1, M, B2, B3, and TH districts and corresponding Conditional Use districts) /Industrial Districts (includes I1, I2, and I3, and corresponding Conditional use districts)*

Location	Maximum Sign Area	Maximum Sign Height
<i>Commercial/Industrial Districts* Sign is located 0 to 49 feet from street right-of-way line</i>	<i>32 square feet (unless modified below*)</i>	<i>10 feet</i>
<i>Commercial/Industrial Districts Sign is located 50 feet or more from street right-of-way line</i>	<i>64 square feet (unless modified below*)</i>	<i>10 feet</i>
<i>B3 District**</i>	<i>32 square feet (unless modified below**)</i>	<i>10 feet (freestanding) Top of wall (wall sign)</i>

\*1. *Permitted sign type in OA6, O&I, B1, M, B2, and TH zoning district (and corresponding Conditional Use districts), and I1, I2, and I3 industrial districts (and corresponding Conditional use districts): Freestanding (ground)*

*Alternately, in these districts, a real estate sign offering property for sale, rent, lease, or development may utilize the frame of an existing, legally erected freestanding sign (including pole monument types). If an existing and legally erected sign is used, no additional real estate sign shall be permitted and no increase in the area of the existing sign is permitted.*

**\*\*2.** *Permitted sign types in the B3 district (and corresponding Conditional Use district), the following type of real estate sign is permitted: Freestanding (ground), Wall (including window, canopy, banner type)*

*A real estate wall sign located in the B3 zoning district may be attached to a wall canopy, and/or window, as otherwise permitted. A banner type wall sign may be used in the B3 district as the permitted real estate sign.*

*Alternately, in the B3 district, a real estate sign offering property for sale, rent, lease, or development may utilize the frame of an existing, legally erected, freestanding (including pole and monument type) or wall sign. If an existing and legally erected sign is used, no additional real estate sign shall be permitted and no increase in the area of the existing sign is permitted.*

The planning department staff recommended a modified version of the request based on the following analysis:

“After reviewing the applicant’s request and reviewing it for compliance with the Land Development Plan, staff believes that language as proposed by staff both recognizes the valid need to encourage economic activity while ensuring real estate signs will not negatively impact the character of surrounding land uses. Considering these factors, staff believes the request is generally in the public interest and recommends approval of the language as proposed by staff.”

Additionally, the staff noted in its analysis that, for purposes of Land Development Plan conformity, two (2) goals/policies support the staff’s proposed text for amending the zoning ordinance. These goals/policies are as follows:

- 1.2.4 User friendly permitting process
- 3.2.3 Sign compatibility

The Planning Board concurred with the planning department staff’s analysis and proposed amendment of the zoning ordinance.

Mr. H.R. Gallimore did not oppose the staff recommendation.

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

Dr. Fountain moved to continue this item until the Council’s regular February meeting. Ms. Carter seconded the motion. Council Members Bell, Carter, and Fountain voted in favor of the motion, while Council Members Baker, Burks, Hunter, and Moffitt voted no.

Mr. Burks moved to follow the Planning Board’s recommendation and adopt the analysis and text put forward by the planning department staff to amend the Asheboro Zoning Ordinance. Mr. Hunter seconded the motion. Council Members Baker, Bell, Burks, Carter, Hunter, and Moffitt voted in favor of the motion. Council Member Fountain voted no.

While this motion to amend the zoning ordinance was approved, a consensus did emerge from the council members that further study of the city’s regulation of signs by planning department staff should be undertaken.

**(b) Consideration of a resolution approving an offer from the City to purchase a parcel of land (Randolph County Parcel Identification Number 7761026136) located at 120,122, and 124 South Randolph Avenue.**

With the assistance of Mr. Evans, Mr. Ogburn described the status of the property located at 120, 122, and 124 South Randolph Avenue.

Mr. Sugg then recommended adoption, by reference, of the aforementioned resolution.

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

**02 RES 1-10**

**RESOLUTION AUTHORIZING AN OFFER BY THE CITY OF ASHEBORO  
TO PURCHASE CERTAIN REAL PROPERTY**

**WHEREAS**, Jimmy J. and Sheryl Jiminez, who are residents of Los Angeles County, California, own a parcel of land on South Randolph Avenue that is approximately eleven thousand four hundred

forty-nine (11,449) square feet in size and is more specifically identified by Randolph County Parcel Identification Number 7761026136 (this parcel of land is hereinafter referred to as the "Jiminez Lot"); and

**WHEREAS**, an abandoned triplex structure (120, 122, and 124 South Randolph Avenue) is located on the Jiminez Lot; and

**WHEREAS**, this triplex structure first came to the attention of city officials when neighbors began voicing concerns about the structure's state of disrepair, the potential threat that it posed to the safety and welfare of minors as an attractive nuisance, and the impact of the abandoned structure on the value of adjoining properties; and

**WHEREAS**, on the basis of his examination of the structure on September 14, 2009, the city's chief building inspector concluded that the triplex had deteriorated to the point that demolition of the structure appeared to be the most economically feasible option for initiating the rehabilitation of this lot; and

**WHEREAS**, due to the current economic conditions, the owners of the Jiminez Lot are financially unable to take any action to remedy this situation while simultaneously meeting their obligations to the lender that is the beneficiary of a deed of trust encumbering the lot; and

**WHEREAS**, the Asheboro City Council has consistently taken the position that dwellings within the city are inimical to the welfare of the residents of the city when such dwellings are unfit for inhabitation due to dilapidation and are negatively impacting the safety of members of the urban community; and

**WHEREAS**, the Asheboro City Council is committed to working with non-profit organizations such as Habitat for Humanity that help facilitate the provision of safe and affordable housing for the municipality's citizens when such cooperation can be undertaken in a financially responsible manner; and

**WHEREAS**, Habitat for Humanity of Randolph County, North Carolina has expressed a willingness to invest seventeen thousand five hundred and no/100 dollars (\$17,500.00) in order to create safe and affordable housing on the Jiminez Lot in accordance with the applicable land use regulations; and

**WHEREAS**, the owners of the Jiminez Lot have expressed a willingness to convey the lot to the City of Asheboro in fee simple if the city will satisfy the deed of trust encumbering the title to the real property; and

**WHEREAS**, the City Council of the City of Asheboro has concluded that, within certain fiscal limits, the Jiminez Lot should be acquired in order to rehabilitate the lot and advance the city's purpose of removing unfit dwellings that are contrary to the welfare of the citizenry while simultaneously fostering decent, safe, and affordable housing for the city's residents.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the OFFER TO PURCHASE AND CONTRACT attached to this resolution as EXHIBIT 1 and incorporated herein by reference is hereby approved; and

**BE IT FURTHER RESOLVED** that the Mayor and the city's appointed officials are hereby authorized to execute any and all documents and instruments necessary to the implementation of the said OFFER TO PURCHASE AND CONTRACT.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 7<sup>th</sup> day of January, 2010.

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

ATTEST:

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

**EXHIBIT 1**

**STATE OF NORTH CAROLINA**

**OFFER TO PURCHASE AND  
CONTRACT**

**COUNTY OF RANDOLPH**

The CITY OF ASHEBORO (hereinafter referred to as the "Buyer"), a North Carolina municipal corporation that maintains its principal office in Randolph County, North Carolina, hereby contracts and

agrees to purchase and JIMMY J. JIMINEZ and wife, SHERYL LEWIS JIMINEZ (hereinafter collectively referred to as the "Seller"), who are residents of Los Angeles County, California, hereby contract and agree to sell and convey to Buyer a parcel of land that is identified by Randolph County Parcel Identification Number 7761026136 and is more specifically described by metes and bounds as follows:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a  $\frac{3}{4}$ " existing iron pipe set at the northeast corner of the Jimmy J. and Sheryl Jiminez property described in Deed Book 1246, Page 1716, Randolph County Public Registry and further described as part of Lots 38 and 39 on a plat of survey recorded in Plat Book 1, Page 23, Randolph County Public Registry (this property shall be hereinafter referred to as the "Jiminez Property"), the said Beginning point is located South 16 degrees 12 minutes 37 seconds West 251.60 feet from the intersection of the centerline of South Randolph Avenue with the centerline of Worth Street; thence from the said Beginning point in a southwesterly direction along the western margin of the right-of-way for South Randolph Avenue following the arc of a curve with a radius of 300 feet a chord bearing and distance of South 22 degrees 25 minutes 35 seconds West 27.02 feet to a  $\frac{3}{4}$ " existing iron pipe; thence continuing along the western margin of the right-of-way for South Randolph Avenue the following course and distance: South 29 degrees 07 minutes 49 seconds West 71.19 feet to a 1" existing iron pipe; thence North 67 degrees 13 minutes 00 seconds West 136.42 feet along the Frances F. Taylor property described in Deed Book 851, Page 285, Randolph County Public Registry to a  $\frac{1}{2}$ " piece of rebar set at the southwestern corner of the Jiminez Property; thence along the Edwin Arthur Sermon and wife, Sherrill Edith Sermon property described in Deed Book 1330, Page 1477, Randolph County Public Registry the following course and distance: North 19 degrees 16 minutes 53 seconds East 62.22 feet to a  $\frac{1}{2}$ " piece of rebar set at the northwestern corner of the Jiminez Property; thence South 80 degrees 46 minutes 28 seconds East 152.17 feet along the Casey E. Conover and wife, Laura A. Conover property described in Deed Book 1892, Page 3312, Randolph County Public Registry to the point and place of the BEGINNING, and being all of that certain 11,449 square feet of land, more or less, encompassed by the preceding metes and bounds description.

This description is in accordance with a plat of survey entitled "Property of JIMMY J. and SHERYL LEWIS JIMINEZ" that was drawn under the supervision of Thomas Scaramastra, a Professional Land Surveyor with registration number L-4421. This plat of survey, which is identified as Job No. 09058 and is dated January 5, 2010, is hereby incorporated into this OFFER TO PURCHASE AND CONTRACT by reference as if copied fully herein.

The consideration to be paid for the above-described parcel shall be the payoff amount required to cancel the deed of trust encumbering the said real property. The payoff amount is estimated to be thirty-four thousand six hundred ninety-six and 65/100 dollars (34,696.65) as of January 31, 2010. Notwithstanding any other term and/or condition of this offer, the Buyer may terminate its offer without any penalty or cost to itself, and the parties shall have no further rights or obligations regarding the sale of the above-described property, if a payoff in excess of thirty-six thousand and no/100 dollars (\$36,000.00) is required in order to cancel the outstanding deed of trust.

This offer from the Buyer is subject to the following terms and conditions which, if accepted by the Seller, shall be deemed to be the terms and conditions of sale:

1. The Buyer shall be responsible for obtaining a title examination and any other studies deemed appropriate in the sole discretion of the Buyer. If the results or findings of any such studies or examinations are not acceptable to the Buyer, written notice shall be provided to the Seller. The parties shall make a reasonable effort to resolve any unsatisfactory matters disclosed by said studies or examinations. If such unsatisfactory matters cannot be resolved prior to the closing date referenced below, the Buyer may terminate its offer without any penalty or cost to itself, and the parties shall have no further rights or obligations regarding the sale of the above-described property.
2. The Seller shall be responsible for the payment of the following expenses: (i) The recording fees charged by the Office of the Register of Deeds for Randolph County, North Carolina in order to record any instrument(s) deemed necessary by the Buyer for the conveyance of title to the above-described real property from the Seller to the Buyer in accordance with the terms and conditions of this offer; (ii) Any excise or revenue stamps associated with the conveyance of the real property from the Seller to the Buyer; and (iii) Ad valorem taxes prorated to the date of closing.
3. The Buyer shall be responsible for the preparation of the North Carolina General Warranty Deed specified herein and for the payment of closing costs not otherwise assigned to the Seller by this agreement.

4. All deeds of trust, liens, and other charges against the property must be paid and cancelled by the Seller prior to or at closing.
5. Title must be delivered at closing by means of a North Carolina General Warranty Deed and must be fee simple marketable title, free of all encumbrances and exceptions other than those specifically approved by the Buyer.
6. Closing shall be completed on or before **January 29, 2010, TIME BEING OF THE ESSENCE WITH REGARD TO SAID DATE.**
7. This contract contains the entire agreement of the parties and there are no representations, inducements, or other provisions other than those expressed herein. All changes, additions, or deletions hereto must be in writing and signed by both parties.

**DATE OF OFFER:** \_\_\_\_\_

**CITY OF ASHEBORO ("BUYER"):**

By: \_\_\_\_\_  
David H. Smith, Mayor

ATTEST: \_\_\_\_\_  
Holly H. Doerr, City Clerk

This instrument has been preaudited in the manner prescribed by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
Deborah P. Reaves, Finance Officer

**DATE OF ACCEPTANCE:** \_\_\_\_\_

**JIMMY J. JIMINEZ AND WIFE, SHERYL LEWIS JIMINEZ ("SELLER"):**

\_\_\_\_\_  
Jimmy J. Jiminez (SEAL)

\_\_\_\_\_  
Sheryl Lewis Jiminez (SEAL)

**8. Consideration of a petition received from Baybuilt Properties, LLC requesting contiguous annexation of 0.436 of an acre of land located at 664 Lincoln Avenue.**

Mayor Smith opened the public hearing on the proposed contiguous annexation of 0.504 of an acre of land located at 664 Lincoln Avenue. There is a greater amount of land under consideration for annexation than listed in the petition due to the city's need to consider annexing certain street right-of-way that was not listed by the petitioner.

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

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

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

**Ordinance Number** 02 ORD 1-10  
**ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE  
CITY OF ASHEBORO, NORTH CAROLINA  
(Total Annexation Area of 0.504 of an Acre of Land in the Vicinity of 664 Lincoln Avenue)**

**WHEREAS**, pursuant to Section 160A-31 of the North Carolina General Statutes, the owner of all of the real property located outside of the public right-of-way for Lincoln Avenue and within the proposed annexation area described herein submitted a signed petition to the Asheboro City Council requesting this real property be annexed to the City of Asheboro; and



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

**WHEREAS**, at the direction of the city council, the City of Asheboro did publish to the public on the 24<sup>th</sup> day of December, 2009 in *The Courier-Tribune*, a newspaper having general circulation in the City of Asheboro, a notice setting forth that, during the Asheboro City Council's regular January 2010 meeting at 7:00 o'clock p.m. on the 7<sup>th</sup> day of January, 2010, at the City of Asheboro Municipal Building, a public hearing would be held in order to consider the adoption of an ordinance annexing the said area to the City of Asheboro; and

**WHEREAS**, this public hearing was in fact held on the 7<sup>th</sup> day of January, 2010; and

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

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

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

Asheboro Township, Randolph County, North Carolina:

BEGINNING at an existing iron pipe control corner set at the northwest corner of the Baybuilt Properties, L.L.C. property described in Deed Book 2078, Page 468, Randolph County Registry, which is identified as Lot 263 on a plat of survey recorded in Plat Book 1, Page 227, Randolph County Public Registry (the said Beginning point is located by means of the North Carolina Coordinate System at the coordinates of North 717,567.24 feet and East 1,753,766.96 feet (NAD 83)); thence from the said Beginning point South 88 degrees 07 minutes 05 seconds East 198.84 feet along the southern margin of the 30-foot right-of-way for Wilson Street (North Carolina Secondary Road 1461) to an existing iron pipe control corner located by means of the North Carolina Coordinate System at the coordinates of North 717,560.71 feet and East 1,753,965.70 feet (NAD 83); thence South 03 degrees 33 minutes 26 seconds West 95.94 feet along the eastern boundary line of the Baybuilt Properties, L.L.C. lot identified above as Lot 263 to an existing iron pipe; thence North 87 degrees 52 minutes 05 seconds West 198.87 feet along the existing City of Asheboro primary corporate limits line to a computed point on the eastern margin of the 30-foot right-of-way for Lincoln Avenue (North Carolina Secondary Road 1458); thence continuing along the existing primary corporate limits line by going across the right-of-way for Lincoln Avenue North 89 degrees 10 minutes 32 seconds West 30.64 feet to an existing iron pipe set in the western margin of the right-of-way for Lincoln Ave; thence North 03 degrees 35 minutes 22 seconds East 97.57 feet to an existing iron pipe set at the intersection of the southern margin of the right-of-way for Wilson Street with the western margin of the right-of-way for Lincoln Avenue; thence across the right-of-way for Lincoln Avenue the following course and distance: South 84 degrees 29 minutes 28 seconds East 30.62 feet to the point and place of BEGINNING, and containing a total of 0.504 of an acre of land, more or less, to be annexed.

The above-listed description is in accordance with a plat of survey entitled "ANNEXATION PLAT PREPARED FOR CITY OF ASHEBORO 664 LINCOLN AVENUE." This plat of survey was drawn under the supervision of Glenn L. Brown, Professional Land Surveyor with Registration Number L-3663, from an actual survey made under his supervision. The said plat of survey is dated November 16, 2009, and the job number for the plat of survey is G09084AX.

**Section 2.** Upon and after January 7, 2010, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Asheboro and shall be entitled to the same privileges and benefits as other parts of the City of Asheboro. Said territory shall be subject to municipal taxes according to Section 160A-58.10 of the North Carolina General Statutes.

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

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

**Section 5.** This ordinance shall be in full force and effect upon and after the 7<sup>th</sup> day of January, 2010.

This ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 7<sup>th</sup> day of January, 2010.

s/ David H. Smith  
David H. Smith, Mayor

ATTEST:

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

Approved as to form:

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

**9. Public comment period.**

Mr. Omar Lassiter of the Boys and Girls Club thanked the Council for its support. No additional comments were offered the public.

**10. Consideration of a request from the NC Zoological Park for funding in support of a feasibility study:**

Prior to the council's consideration of the following resolution and ordinances, Mr. Russ Williams, Executive Director of the North Carolina Zoological Society, and Ms. Mary Joan Pugh, Deputy Director of the North Carolina Zoological Park, spoke in support of funding for the feasibility study.

**(a) Resolution authorizing an economic incentives grant.**

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

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

**03 RES 1-10**

**RESOLUTION AUTHORIZING THE CITY OF ASHEBORO TO PROVIDE AN ECONOMIC INCENTIVES GRANT**

**WHEREAS**, Section 158-7.1 of the North Carolina General Statutes authorizes a city to fund a project which, in the discretion of the governing body of the city, will increase the population, taxable property, agricultural industries, and business prospects within the city; and

**WHEREAS**, the Asheboro City Council has held a public hearing to consider whether to participate in a project that will result in the City of Asheboro (hereinafter referred to as the "City") appropriating Twenty-Five Thousand Dollars (\$25,000.00) to partially fund a feasibility study regarding the expansion of the North Carolina Zoological Park (the "Zoo") through the addition of a third "continent," the development of an associated and compatible further destination attraction (or attractions) on land adjacent to the Zoo, and the addition of public support facilities to possibly include accommodations and a conference center; and

**WHEREAS**, this economic development project may stimulate and stabilize the local economy, promote business in the City, and result in the creation of a significant number of jobs in the City; and

**WHEREAS**, the City has in its General Fund available revenues sufficient to fund this economic development project;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro, this 7<sup>th</sup> day of January, 2010, that the City is authorized to expend Twenty-Five Thousand Dollars (\$25,000.00) of City funds for the Zoo feasibility study project; and

**BE IT FURTHER RESOLVED** that the Mayor of the City of Asheboro is hereby authorized to sign an Agreement memorializing the project and the City's involvement with all participating parties.

s/ David H. Smith  
David H. Smith, Mayor  
City of Asheboro

ATTEST:

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

**(b) Ordinance to amend the General Fund and (c) ordinance to amend the Economic Development Fund.**

Mr. Ogburn presented and recommended adoption, by reference, of the above-described ordinances.

Upon motion by Dr. Fountain and seconded by Mr. Bell, Council voted unanimously to adopt the following ordinances by reference:

Ordinance listed under Agenda Item 10(b)

**03 ORD 1-10**

**ORDINANCE TO AMEND THE GENERAL FUND FY 2009-2010**

WHEREAS, on December 14, 2009, the City of Asheboro City Council and the Randolph County Commissioners held a joint meeting to hear a request from the NC Zoological Park for funding of an expansion feasibility study, and;

WHEREAS, the City Council wishes to help promote the NC Zoological Park's desires to expand so that it can become a two day tourism spot, and;

WHEREAS, the budget as adopted requires amendment to reflect the appropriation of fund balance for this expense, and;

WHEREAS, the City of Asheboro wants to be in compliance with all generally accepted accounting principles, and;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA:

Section 1: That the following Revenue line item be increased:

<u>Account #</u>	<u>Revenue Description</u>	<u>Increase</u>	<u>Amended Budget</u>
10-399-0000	Fund Balance Appropriation	25,000	665,649

Section 2: That the following Expense line item be increased:

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>	<u>Amended Budget</u>
------------------	----------------------------	-----------------	-----------------------

10-610-7200	Contribution to Economic Development Fund	25,000	431,250
-------------	--	--------	---------

Adopted this the 7th day of January 2010.

s/ David H. Smith  
David H. Smith, Mayor

ATTEST:

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

Ordinance Listed Under Agenda Item 10(c)

**04 ORD 1-10**

**ORDINANCE TO AMEND THE ECONOMIC DEVELOPMENT FUND FY 2009-2010**

WHEREAS, on December 14, 2009, the City of Asheboro City Council and the Randolph County Commissioners held a joint meeting to hear a request from the NC Zoological Park for funding of an expansion feasibility study, and;

WHEREAS, the City Council wishes to help promote the NC Zoological Park's desires to expand so that it can become a two day tourism spot, and;

WHEREAS, the budget as adopted requires amendment to reflect the appropriation of fund balance for this expense, and;

WHEREAS, the City of Asheboro wants to be in compliance with all generally accepted accounting principles, and;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA:

Section 1: That the following Revenue line item be increased:

<u>Account #</u>	<u>Description</u>	<u>Revenue Increase</u>	<u>Amended Budget</u>
72-367-1030	General Fund Contribution for NC Zoo	25,000	25,000

Section 2: That the following Expense line item be increased:

<u>Account #</u>	<u>Description</u>	<u>Expense Increase</u>	<u>Amended Budget</u>
72-860-0020	Contribution to NC Zoo	25,000	25,000

Adopted this the 7th day of January 2010.

s/ David H. Smith  
David H. Smith, Mayor

ATTEST:

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

**11. First reading of an ordinance granting a 15-year franchise to Morton and Sewell Land Company, LLC for the operation of a construction and demolition debris landfill at Gold Hill Road Landscape Supply and Landfill.**

Mr. Sugg presented and recommended adoption by referenced of the first reading of an ordinance granting a 15-year franchise to Morton and Sewell Land Company, LLC.

Upon motion by Ms. Carter and seconded by Mr. Burks, Council voted unanimously to approve the first reading of the following ordinance by reference.

**ORDINANCE GRANTING A CONSTRUCTION AND DEMOLITION DEBRIS LANDFILL FRANCHISE TO MORTON AND SEWELL LAND COMPANY, LLC**

**WHEREAS**, Morton and Sewell Land Company, LLC (hereinafter referred to as the "Franchisee") currently owns and operates a construction and demolition debris landfill (hereinafter referred to as the "Landfill") that is located at 385 Gold Hill Road, Asheboro, North Carolina and is commonly known as Gold Hill Road Landscape Supply and LCID Landfill; and

**WHEREAS**, the Landfill is located within the corporate limits of the City of Asheboro (hereinafter referred to as the "City"); and

**WHEREAS**, on August 10, 2006, the Asheboro City Council gave final approval to a franchise ordinance, which came into effect on October 17, 2006, granting the Franchisee a 5-year construction and demolition debris landfill franchise; and

**WHEREAS**, at the request of the Franchisee, staff members employed by the City have examined the level of service provided by the Franchisee since the current franchise ordinance came into effect and have also reviewed the documentation entitled "Application for Substantial Change Gold Hill Road Construction and Demolition Debris Landfill – Combined Cell Lateral Expansion" that was submitted by the Franchisee's engineer(s) to state regulators; and

**WHEREAS**, on the basis of this review of the available evidence, including the good standing of the Franchisee with state regulators, City staff members have recommended to the Asheboro City Council that the Franchisee be granted a slightly modified 15-year franchise to continue the operation of the existing construction and demolition debris landfill; and

**WHEREAS**, the City Council of the City of Asheboro has concluded that the granting of the staff recommended franchise is in the public's interest.

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

**Section 1.** Pursuant to and in accordance with Sections 130A-294 and 160A-319 of the North Carolina General Statutes, Morton and Sewell Land Company, LLC (hereinafter referred to as the "Franchisee") is hereby granted a franchise to operate a construction and demolition debris landfill located at 385 Gold Hill Road, Asheboro, North Carolina.

**Section 2.** The Landfill shall be operated as Gold Hill Road Landscape Supply and LCID Landfill under the direction of Alfred H. Morton of 2280 Stutts Road, Asheboro, North Carolina. The hours of operation shall be Monday through Friday from 7:00 a.m. until 5:00 p.m. and Saturday from 8:00 a.m. until 12:00 p.m.

**Section 3.** The Landfill shall have available for its use twenty-two (22) acres of land that are permitted in accordance with the laws of the State of North Carolina for use as a construction and demolition debris landfill. Approximately seventy-five (75) cubic yards of waste will be deposited into the Landfill per day each year. The Landfill has a total capacity of one million one hundred fourteen thousand (1,114,000) cubic yards, and it has an estimated life of twenty-five (25) or more years.

**Section 4.** By supplying the City with an electronic file entitled "Application for Substantial Change Gold Hill Road Construction and Demolition Debris Landfill – Combined Cell Lateral Expansion" that was submitted to state regulators and dated October 2009, the Franchisee has furnished the City with a facility plan for the Landfill that includes the boundaries of the proposed facility, the proposed

development of the facility in 5-year operational phases, the boundaries of all waste disposal units, final elevations and capacity of all waste disposal units, the amount of waste to be received per day in tons, the total waste disposal capacity of the Landfill in tons, a description of environmental controls, and a description of any other waste management activities to be conducted at the facility as well as the proposed location of soil borrow areas, leachate facilities, and all other facilities and infrastructure, including ingress and egress to the facility. This information is sufficient under the provisions of Section 130A-294(b1)(2)(f) of the North Carolina General Statutes to properly grant a construction and demolition debris landfill franchise to the Franchisee. The above-referenced facility plan is hereby accepted by the City and is hereby incorporated into this ordinance by reference as if copied fully herein. A copy of the facility plan is on file in the city clerk's office and is available for inspection.

**Section 5.** Throughout the duration of the franchise granted by this ordinance, the Franchisee shall purchase and maintain a one million dollar (\$1,000,000.00) environmental liability insurance policy, a one million dollar (\$1,000,000.00) general liability insurance policy, and workers' compensation insurance coverage that complies with the applicable provisions of the North Carolina General Statutes. The City shall be named as an additional insured under the environmental liability insurance and general liability insurance policies.

On an annual basis, the City shall be furnished with Certificates of Insurance in a form satisfactory to the City for the purpose of verifying the existence of the insurance coverage required by this section. The insurance policies mandated by this section shall provide for thirty (30) days advance written notice of material change, cancellation, or non-renewal.

**Section 6.** The population to be served by the Landfill shall be primarily commercial contractors who specialize in construction and demolition activities. The main waste stream shall primarily come from the City of Asheboro, Randolph County, and from counties contiguous to Randolph County.

**Section 7.** As part of its efforts to reduce, reuse, and recycle as much solid waste as possible, the City has worked in a cooperative manner with Gold Hill Road Landscape Supply and LCID Landfill to dispose of the following materials: brush, tree trimmings, leaves, yard waste, and stumps as well as clean concrete, building materials, and construction and demolition materials. After these materials are taken to the facility by city personnel and/or others, the materials are processed in a variety of ways and, if possible, resold to the public. Therefore, the continued successful operation of Gold Hill Road Landscape Supply and LCID Landfill has a positive impact on the City's efforts to reduce, reuse, and recycle solid waste.

Under the City of Asheboro Solid Waste Management Plan that was adopted by the City on July 5, 2007, in accordance with Section 130A-309.09A of the North Carolina General Statutes, the Landfill is specifically cited as a crucial actor in assisting the city with the disposal of construction and demolition waste. The City's sanitation department does not pickup or haul construction and demolition waste. Therefore, the granting of the requested franchise so as to maintain a privately owned and properly permitted construction and demolition debris landfill is critical to providing cost-effective disposal options to meet the needs of the municipality's citizens.

**Section 8.** The waste accepted by the construction and demolition debris landfill shall be composed of waste or debris resulting from roofing, construction, remodeling, repair, or demolition operations on pavement, buildings, or other structures. In furtherance of the City's goal to promote and make available to its citizens cost-effective disposal options that are environmentally sustainable, the Franchisee is authorized, by way of illustration and not limitation, to accept waste containing asbestos. However, the Franchisee shall monitor the wastes offered to the Landfill and shall reject any unacceptable waste including without limitation organic/household waste, waste that has been in contact with petroleum, solvents, or chemicals, waste containing PCB's, and waste that has been in contact with pesticides or herbicides.

**Section 9.** The fee schedule for the Landfill is attached to this ordinance as Exhibit A and is hereby incorporated into this ordinance by reference as if copied fully herein. This fee schedule may be adjusted by the Franchisee on an annual basis in accordance with the Consumer Price Index - All Urban Consumers, U.S. City Average, All Items (not seasonally adjusted) as published by the U. S. Department of Labor, Bureau of Labor Statistics with an index base period of 1982-84 = 100. Such an adjustment shall be made on the 1<sup>st</sup> day of July of each year that this franchise is in full force and effect. On the adjustment date, the above-referenced fee schedule may be increased by a percentage equal to the cumulative percentage increase, if any, in the above-cited consumer price index (hereinafter referred to as the "CPI"). The cumulative percentage increase in the CPI means the percentage increase, if any, in the CPI for the month of May immediately preceding the adjustment date over the CPI recorded for the month of May during the preceding calendar year.

If the CPI ceases to use as the basis of calculation the standard of 1982-84 = 100, or if a change is made in the items contained in the CPI, or if the CPI is altered, modified, converted, or revised in any other manner, then the foregoing computations shall be made with the use of such conversion factor, formula, or table for converting the CPI as may be published by the Bureau of Labor Statistics. If the Bureau of Labor Statistics does not publish such conversion information, then the foregoing computations

shall be made with the use of a conversion factor that adjusts the modified CPI to the figure that would have been calculated had the manner of computing the CPI not been altered.

**Section 10.** The franchise granted by this ordinance shall have a term of fifteen (15) years.

**Section 11.** The Franchisee agrees to operate the Landfill in accordance with all applicable laws and regulations and shall comply with any permit(s) issued by the State of North Carolina.

**Section 12.** The Franchisee shall require anyone using the Landfill to comply with Section 20-116(g) of the North Carolina General Statutes.

**Section 13.** The effective date of this franchise ordinance shall be February 26, 2010.

**Section 14.** All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed effective February 26, 2010.

This ordinance was adopted by the Asheboro City Council during a regular meeting while in open session and after a first reading of the ordinance on the 7<sup>th</sup> day of January, 2010.

This ordinance was adopted by the Asheboro City Council during a regular meeting while in open session and after a second reading of the ordinance on the 4<sup>th</sup> day of February, 2010.

\_\_\_\_\_  
David H. Smith, Mayor

ATTEST:

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

#### **CERTIFICATION**

I, Holly H. Doerr, City Clerk for the City of Asheboro, North Carolina, do hereby certify that this ORDINANCE GRANTING A CONSTRUCTION AND DEMOLITION DEBRIS LANDFILL FRANCHISE TO MORTON AND SEWELL LAND COMPANY, LLC, with an effective date of February 26, 2010, was duly passed by the City Council of the City of Asheboro during the first reading of the ordinance on the 7<sup>th</sup> day of January, 2010, and during the second reading of the ordinance on the 4<sup>th</sup> day of February, 2010.

WITNESS my hand and seal, this \_\_\_\_\_ day of February, 2010.

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

#### **EXHIBIT A**

##### **Price List for Construction and Demolition Debris:**

- a. Standard Charge = \$31.00 per ton
- b. Roofing = \$36.00 per ton
- c. Clean Concrete = \$10.00 per ton
- d. Asbestos = \$45.00 per cubic yard
- e. Minimum Charge = \$10.00 per ton

\*This price list, as with the franchise ordinance itself, only addresses the Construction and Demolition Debris Landfill charges and is not inclusive of all user charges incurred at Gold Hill Road Landscape Supply and LCID Landfill.

#### **12. Consideration of an ordinance amending the Code of Asheboro to reflect the creation of the Cultural and Recreation Services Division and to update Article XI (Farmers' Market) of the Parks and Recreation Department Policy Manual.**

Mr. Sugg presented and recommended adoption, by reference, of the aforementioned ordinance, and Mr. Ward presented an overview of the proposed updates to Article XI of the Parks and Recreation Department Policy Manual. Additionally, Mr. Ward highlighted some events that are planned for the upcoming farmers' market season.

05 ORD 1-10

**AN ORDINANCE AMENDING THE CODE OF ASHEBORO AND THE POLICY MANUAL GOVERNING  
THE OPERATIONS OF THE CITY OF ASHEBORO CULTURAL AND RECREATION SERVICES  
DIVISION**

**WHEREAS**, Chapter 98 of the Code of Asheboro is entitled "Parks and Recreation" due to the fact that public recreational programming provided by the City of Asheboro has historically been supervised by the Department of Recreation pursuant to Sections 34.15 and 34.16 of the Code of Asheboro; and

**WHEREAS**, the leisure activities offered by the municipal corporation in order to improve the quality of life of its citizens has evolved over time and includes more activities and services than has been traditionally associated with the term "parks and recreation;" and

**WHEREAS**, the evolution of these services is reflected in the fact that the municipal corporation is currently organized to provide these expanded services under the auspices of the City of Asheboro Cultural and Recreation Services Division; and

**WHEREAS**, one of the expanded services offered by the Cultural and Recreation Services Division is the Downtown Farmers' Market; and

**WHEREAS**, the Asheboro City Council's primary goals and expectations for the Downtown Farmers' Market are as follows: (1) The creation and maintenance of a permanent, safe space for local farmers to sell their goods and thereby increase awareness of the important continuing role of agriculture in Randolph County and the lives of the municipality's citizens; (2) The provision of opportunities for elementary school children to learn about local agricultural activities; and (3) The provision of opportunities for citizens to purchase farm fresh goods; and

**WHEREAS**, a review of the operations of the Downtown Farmers' Market has led the City Council to conclude that certain amendments need to be made to the regulations governing the market's operation in order to ensure that the City Council's goals and expectations for the market are met; and

**WHEREAS**, the resulting amendments of the Code of Asheboro and the regulations governing the operations of the City of Asheboro Cultural and Recreation Services Division are attached hereto as EXHIBIT 1 and are hereby incorporated into this ordinance by reference as if copied fully herein.

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

**Section 1.** Chapter 34 of the Code of Asheboro is hereby rewritten to provide as follows:

**DEPARTMENT OF RECREATION  
CULTURAL AND RECREATION SERVICES DIVISION**

**§ 34.15 DEPARTMENT AND OFFICE OF DIRECTOR CREATED**

Subject to the general control and supervision of the City Manager, there is hereby created the Department of Recreation Cultural and Recreation Services Division and the office of Director of Recreation Cultural and Recreation Services Director.

**§ 34.16 DIRECTOR OF RECREATION CULTURAL AND RECREATION  
SERVICES DIRECTOR**

The Director of Recreation Cultural and Recreation Services Director shall have general supervision, direction, and control over all public recreation Cultural and Recreation Services Division personnel, programs, activities, facilities, and areas of the city and facilities, specifically including athletic fields, parks, open spaces, passive recreation areas, and other areas such as greenways that are designated by the City Manager as subject to the operational control of the Cultural and Recreation Services Division.

**Section 2.** Chapter 98 of the Code of Asheboro is hereby rewritten to provide as follows:

**CHAPTER 98: PARKS AND RECREATION  
CHAPTER 98: CULTURAL AND RECREATION SERVICES**

**§ 98.01 ADOPTION BY REFERENCE**

The City of Asheboro Cultural and Recreation Services Division Policy Manual (formerly known as the Parks and Recreation Department Policy Manual), originally approved by the City Council on March 5, 1998, and as amended, Parks and Recreation Department Policy Manual, adopted March 5, 1998, and as amended, is hereby adopted by reference and made a part of this code as if set forth at length herein.

**§ 98.02 REQUIRED SAFETY EQUIPMENT AT ASHEBORO SKATE PARK**



(A) It shall be unlawful for any person to ride, operate, or utilize in any manner a skateboard or inline skates, specifically including sneakers or other types of shoes with one or more wheels embedded in each shoe's sole, on the premises of the Asheboro Skate Park unless such a person is wearing a helmet, elbow pads, and kneepads in strict compliance with the instructions provided by the manufacturer of the safety equipment.

(B) The city manager, in consultation with the city police department and the cultural and recreation services division ~~city parks and recreation department~~, shall cause signage to be erected on the premises of the Asheboro Skate Park in order to provide notice of the safety equipment requirements imposed by this section.

**Section 3.** The City of Asheboro Cultural and Recreation Services Division Policy Manual is hereby amended to provide as specified in EXHIBIT 1. All articles, sections, and provisions of the said manual that are not expressly addressed by EXHIBIT 1 will continue in full force and effect without alteration.

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

**Section 3.** This ordinance shall be in full force and effect upon and after the 1<sup>st</sup> day of February, 2010.

This ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 7<sup>th</sup> day of January, 2010.

s/ David H. Smith  
David H. Smith, Mayor

ATTEST:

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

## **EXHIBIT 1**

### **ARTICLE XI. DOWNTOWN FARMERS' MARKET**

#### **SECTION 11.1 OPERATION AND CONTROL**

The Downtown Farmers' Market ~~and the facility in which it is operated~~ ~~Facility~~ shall be administered by the City of Asheboro Cultural and Recreation Services Division ~~City of Asheboro, Department of Parks & Recreation~~ in a manner that will provide the citizens of Asheboro and Randolph County with an opportunity for a quality experience.

Under general guidance from the Cultural and Recreation Services Director ~~Parks & Recreation Director~~, a designated city employee within the Cultural and Recreation Services Division ~~staff member~~ will operate the facility in the best interest of the City of Asheboro.

#### **SECTION 11.2 HOURS OF OPERATION**

- A. The Hours of Operation of the Farmers' Market shall vary with the season and activities permitted.
- B. The Operating days shall be Tuesday, Thursday and Saturday. Operating Days may be added or deleted, depending on supply of produce. The Cultural and Recreation Services Director ~~Parks & Recreation Director~~ reserves the right to adjust hours of operation, as needed.

#### **SECTION 11.3 FEES AND CHARGES**

An annual Membership is available for a nominal yearly fee. Membership affords the vendor one daily vendor fee per season and an assigned space for the season. On market days, all assigned member spaces will be reserved for one hour after the market opens. After this time limit has expired, spaces are available to eligible vendors on a first come, first served basis. Excepted as noted above, members and non-members will be required to pay a daily fee. ~~Members and non-members will be required to pay a daily fee~~ Fees and charges shall be set by City Council and shall be incorporated into the Schedule of Deposits, Fees, and Charges Administered by the Cultural and Recreation Services Division ~~Parks & Recreation Department~~.

#### SECTION 11.4 RULES AND REGULATIONS

- A. ~~Designated city employees within the Cultural and Recreation Services Division shall enforce the rules and regulations specified herein on each day of the market's operation by inspecting produce and goods of each vendor to ensure compliance with the Grower's Certification and by documenting compliance or noncompliance of each vendor on a daily inspection form. The initials of staff on the daily inspection form shall signify the payment of any required fee, if applicable, and compliance with the Grower's Certification. Staff shall enforce all rules and regulations during the operation of the Farmers' Market.~~
- B. ~~All goods offered for sale by a vendor. All products sold at the market must be grown or made by the person, family, or company selling the product at the market. Only home grown or home made products from the following counties may be sold: Randolph, Alamance, Chatham, Davidson, Forsyth, Guilford, Moore, Montgomery, Richmond and Stanley. Staff shall assign spaces to all vendors.~~
- C. ~~Designated employees within the Cultural and Recreation Services Division shall assign spaces to all vendors. Each vendor shall be responsible for keeping his or her assigned space clean during use and when leaving the facility. Growers Agent: A Market Member may be a Grower's Agent for other farmers who are unable to sell at the market. The Agent shall be responsible for obtaining a Grower's Certification for each grower represented. The Agent will be required to post signage detailing the name and location of where the products are from. The Agent will also be required to pay a Growers Agent fee for each person, family or company they represent.~~
- D. ~~Each Seller shall be responsible for keeping their assigned space clean during use and when leaving the facility. Excess produce must be removed from the market and not dumped in market facility trash containers.~~
- E. ~~In order to be a vendor sell at the Farmers' Market, a prospective vendor must submit a properly completed application and the appropriate fees in good funds to the designated personnel in the City of Asheboro Cultural and Recreation Services Division. An Application must be filled out and returned to Asheboro Parks & Recreation with the appropriate fees.~~
- F. Staff shall review and approve each application. Applications should be received at least two weeks before the vendor plans to begin selling at the Market.
- G. All vendors must have received a "Grower's Certification" from their local cooperative extension service agent. In order to be deemed valid and in compliance with these rules and regulations, a Grower's Certification must be dated as having been issued on or after April 1 of the market season during which the vendor is currently offering goods for sale at the market. Additionally, each vendor must post his or her Grower's Certification for public inspection at the grower's assigned space while selling at the market. Cooperative Extension service and have the certificate or a copy on hand in order to sell at the market.
- H. All Vendors shall display a sign bearing their name and address. This sign shall be prominently displayed by the vendor while selling at the market. The sign shall be provided by the City of Asheboro Cultural and Recreation Services Division Asheboro Parks & Recreation.
- I. Prices must be posted for all items to be sold.
- J. Products that can be sold include:
- a. Vegetables grown from seeds, sets, or seedlings
  - b. Fruits, nuts, or berries
  - c. Plants grown from seed, seedling transplant, or cutting
  - d. Bulbs
  - e. Eggs
  - f. Meats
  - g. Dairy products
  - h. Honey
  - i. Cut or dried flowers
  - j. Straw
  - k. Preserves, pickles, relishes, jams, and jellies
  - l. Baked goods baked by the seller
  - m. Baskets Any other commodity or product reasonably determined by the Cultural and Recreation Services Director or his designee to fall within the range of commodities or goods produced by the agricultural sector of the economies in the counties of Randolph, Alamance, Chatham, Davidson, Forsyth, Guilford, Moore, Montgomery, Richmond and Stanley
  - n. Pottery
  - o. Woodwork
  - p. Candles
  - q. General Arts & Crafts

- r. ~~Coffee and Tea served in single serve containers that are not reused on the premises.~~
- K. No low-acid canned foods such as green beans, corn, peas, carrots, etc. etc. may be sold. In addition, no canned tomato products may be sold.
- L. All products must be of top quality.
- M. All food must meet NCDA and local health regulations. Members selling prepared foods must provide verification of current NCDA inspection when submitting their application.
- N. Food items must be labeled prior to sale with at least the following information:
- Common or usual name of product.
  - Net contents, i.e.: net weight in ounces or pounds and ounces if the product is solid or semisolid; net contents in fluid ounces if the product is liquid.
  - List of ingredients in the product by decreasing order of predominance by weight of each ingredient.
  - Name, address including zip code and phone number of the person responsible for the product.
  - Date processed.
- O. Only standard canning jars with new rings and lids may be used.
- P. Home baked cakes, pies, cookies and breads may be sold except cream pies.
- Q. All products produced under certification such as organic, licensed meat, poultry, or dairy products or products requiring inspection, such as baked goods or preserves must display certification or license and have a copy on file with Staff.
- R. No live animals may be sold or given away at the market.
- S. No pets are allowed at the Farmers' Market.
- T. Any vendor selling meat, dairy, poultry, or other animal products that are regulated by the NCDA and/or USDA are responsible for satisfying any regulatory requirements prior to selling of product. Vendors must file a copy of Department of Agriculture Form MP-2 (Registration of Poultry and Meat Handlers) with the market manager and keep a copy of this license with them at all times while selling at the market. Vendors also must inform the Staff of any change in licensing status immediately upon receiving notice of a change. All products must be stored in a new or like new condition refrigerator or freezer.
- U. Scales should be the type that can be or is approved and certified by the NCDA.
- V. Any complaints, disputes, or violations of the rules shall be directed to the Staff for resolution.
- W. Neither the City of Asheboro nor its elected officials, officers, employees, agents or representatives, shall be responsible, in either an official or individual capacity, for loss through theft or otherwise of private property at the market. The Farmers' Market shall not be responsible for personal injuries or damages to individuals or personal property arising out of the actions or conduct of guests, invitees, or any type of third party not directly affiliated with the City of Asheboro.
- X. Each vendor shall be responsible for their own records, taxes, and compliance with all applicable regulations.
- Y. Without limitation as to additional enforcement actions that may be taken as deemed appropriate by city officials in light of the nature of a specific offense, the following enforcement protocols will be utilized when goods are displayed/offered for sale in violation of these rules and regulations during a particular season:
- 1<sup>st</sup> Offense = A verbal warning will be issued to the offending vendor, and the goods displayed/offered for sale in violation of the rules and regulations must be immediately removed from the view of any member of the public. Goods subject to a verbal or written removal order cannot be sold at the market facility. Any vendor who refuses to comply with an order from a city employee assigned to operate the Downtown Farmers' Market to remove goods from display will be asked to leave the premises and will be guilty of trespassing if this order to leave the premises is not obeyed within the amount of time reasonably necessary to load all of the vendor's displayed items for transport. No vendor ordered to leave the facility due to a violation of the adopted rules and regulations is entitled to a refund of any fees that he or she may have paid in order to participate in the Downtown Farmers' Market.

- b. 2<sup>nd</sup> Offense = Upon discovery of a second violation of any of the rules and regulations prescribed for the market, a vendor will be ordered to immediately leave the facility with the entirety of his or her goods. Such a vendor will not be permitted to sell any goods at the Downtown Farmers' Market for a period of three (3) consecutive market days, inclusive of the date on which the second offense was discovered.
- c. 3<sup>rd</sup> Offense = Upon discovery of a third violation of any of the rules and regulations prescribed for the market, a vendor will be ordered to immediately leave the facility with the entirety of his or her goods. Such a vendor will not be permitted to sell any goods at the Downtown Farmers' Market for the remainder of the current season.

### **SECTION 11.5 VENDOR FEEDBACK**

Farmers' Market meetings shall be held before and after the Farmers' Market season. The purpose of the meetings shall be to give Market participants the opportunity to voice their opinions and make suggestions of the operation of the market. Other meetings may be held on an as needed basis. The Cultural and Recreation Services Director ~~Parks & Recreation Director~~ shall preside at all meetings.

### **SECTION 11.6 FARMERS' MARKET FACILITY**

1. No Alcoholic beverages or drugs are permitted.
2. No pets, other than service animals, are allowed.
3. No flea market items may be sold or displayed at any time.
4. Yard Sales may not be held at the Facility.
5. Rental of the facility must be approved by the Cultural and Recreation Services Division ~~parks & recreation department~~.
6. Security deposit and rental fees shall be set by City Council.
7. Vendors requiring electricity shall provide their own extension cords properly rated to meet their electrical requirements.
8. No items may be attached to any area of the Farmers' Market structure, trees, etc.
9. Holding an event at the Farmers' Market without authorization shall subject the event to immediate termination and other enforcement actions as deemed appropriate by the Cultural and Recreation Services Director ~~Parks & Recreation Director~~.

### **13. Distribution of an ordinance amending Chapter 70 (Traffic Regulations) of the Code of Asheboro to regulate the operation of golf carts on public streets.**

Mr. Sugg presented for Council's review a draft of an ordinance amending Chapter 70 of the Code of Asheboro. This proposed ordinance would regulate the operation of golf carts on public streets and will be considered by the Council at its regular February meeting.

### **14. Overview of the application to be submitted to the U.S. Department of Justice for a Justice Assistance Grant (JAG).**

Ms. Fletcher presented an overview of the application to be submitted to the U.S. Department of Justice for a Justice Assistance Grant. This application will be posted to the city's website for public review, and the application will be submitted on January 21, 2010.

Upon motion by Ms. Carter and seconded by Mr. Burks, Council voted unanimously to approve the application.

### **15. Discussion and approval of community awards:**

Ms. Fletcher presented an overview of the proposed community awards, the Asheboro Pride Award and the Governor Samuel Ashe Award. The Asheboro Pride award would be awarded to individuals who have enhanced the beauty of the Asheboro community. The Governor Samuel Ashe Award would recognize individuals with outstanding impact and leadership.

Upon motion by Dr. Fountain and seconded by Mr. Moffitt, Council voted unanimously to approve the establishment of the aforementioned community awards.

Mayor Smith made the following appointments to the council award committees:

Asheboro Pride Award Committee

John N. Ogburn, III, Chairperson  
Clark R. Bell  
Linda H. Carter  
Stuart B. Fountain

Governor Samuel Ashe Award

Talmadge S. Baker, Chairperson  
Edward J. Burks  
Walker B. Moffitt  
Michael W. Hunter

Mayor Smith will also serve on both committees.

**16. Communication items:**

**(a) Social media policy.**

Ms. Fletcher presented to the Council a draft of a social media policy. This policy would provide guidance for the use of certain social media sites (Twitter and Facebook) that may be used by the city in the future as a communication tool for interaction with its citizens. A final draft for Council's consideration will be presented in the future.

**(b) Discussion of enhanced government usage of City's PEG Channel.**

Ms. Fletcher reported that the city is proposing to assume management of Time Warner Channel 8 and transition to a government channel in order to better communicate with the community. Managing the channel will require the purchase of an Avelin RT system at a cost of approximately \$3,951.40. A training session on the program costs \$232.50. Thus, the total cost would be \$4,183.90.

The decision as to whether or not to assume management of this channel will be considered as an action item at a later date.

**17. Notification of a special meeting of the Asheboro City Council to be held on Thursday, January 21, 2010, at 1:30 p.m.**

Mayor Smith announced that there will be a special meeting of the Asheboro City Council on Thursday, January 21, 2010 at 1:30 p.m. in the Council Chamber located in the Asheboro Municipal Building.

**18. Consideration of going into closed session pursuant to Section 143-318.11(a)(4) of the North Carolina General Statutes in order to discuss matters relating to the location or expansion of industries or other businesses, including agreement on a tentative list of economic development incentives that may be offered.**

Mayor Smith entertained a motion to go into closed session pursuant to the statutory provisions found in Section 143-318.11(a)(4) of the North Carolina General Statutes in order to discuss matters relating to the location or expansion of industries or other businesses, including agreement on a tentative list of economic development incentives that may be offered.

Upon motion by Mr. Baker and seconded by Ms. Carter, Council voted unanimously to go into closed session.

**19. Return to open session and discuss items not on the agenda.**

After returning to open session, there was no other business to bring before the Council.

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

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

s/ David H. Smith  
David H. Smith, Mayor