

**REGULAR MEETING
ASHEBORO CITY COUNCIL
COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, MAY 5, 2011
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 Development Department Intern
Holly H. Doerr, CMC, City Clerk/Senior Legal Assistant
John L. Evans, Senior Planner
Casandra M. Fletcher, Marketing Specialist
R. Wendell Holland, Jr., Zoning Administrator
Olivia Luce, Special Facilities Coordinator
Justin T. Luck, Planner
R. Reynolds Neely, Jr., Community Development Director
Deborah P. Reaves, Finance Director
Jonathan M. Sermon, Recreation Services Superintendent
James O. Smith, Police Captain
James W. Smith, Fire Chief
Jeffery C. Sugg, City Attorney

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. Mr. Baker was not present to form the quorum, and he was unable to return from a business trip prior to the final vote by the Council. He did arrive prior to the adjournment of the meeting. Therefore, Mr. Baker is not recorded in these minutes as having cast any votes, even though he did attend.

2. Silent prayer and pledge of allegiance.

After a moment of silence was observed in order to allow silent prayer or meditation, 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 and recognized Mr. Adam Holland of Boy Scout Troop 525 who was in attendance as a requirement for a community and merit badge.

4. Consent agenda:

Prior to considering a motion to approve the consent agenda, Mr. Ogburn asked that consent agenda item (b), which pertained to an ordinance to amend the Economic Development Fund FY 2010-2011 for the Malt-O-Meal Company Economic Development Project, be removed from the consent agenda for further discussion. A revised ordinance was issued to the council members prior to the meeting which contained revisions since the initial agenda packets were delivered to the council members.

With the exception of consent agenda item (b), Dr. Fountain moved to approve the following consent agenda items. Ms. Carter seconded the motion, and the Council voted unanimously to approve the following consent agenda items. Council Members Bell, Burks, Carter, Fountain, Hunter, and Moffitt voted in favor of the motion.

- a. **The minutes of the City Council's regular meeting on April 7, 2011.**
- b. **An ordinance to amend the Economic Development Fund FY 2010-2011 (Malt-O-Meal Company Economic Development Project).**

As noted above, this item was removed from the consent agenda for further discussion.

- c. **Audit contract for fiscal year ending June 30, 2011.**

[A copy of this audit contract is on file in the City Clerk's office and available for public inspection.]

- d. **An ordinance to amend the tamper fee provisions found in Chapter 50 (Water and Sewers) of the Code of Asheboro.**

13 ORD 5-11

AN ORDINANCE AMENDING THE TAMPER FEE PROVISIONS PRESCRIBED BY SECTION 50.045 OF THE CODE OF ASHEBORO

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

WHEREAS, on occasion, city employees have discovered that some potential customers for bulk water have attempted to obtain water by opening, without authorization, a municipal fire hydrant for the purpose of filling a tank/container that the potential customer is using to transport water; and

WHEREAS, Section 50.045 of the Code of Asheboro expressly prohibits tampering with infrastructure connected to the municipal water system; and

WHEREAS, the Asheboro City Council has concluded that the Code of Asheboro should be updated to remove any interpretive doubt about the consequences of a potential customer opening a fire hydrant to obtain water without receiving advance authorization from the water utility;

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

Section 1. Section 50.045 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 50.045 TAMPERING WITH FIXTURES INFRASTRUCTURE PROHIBITED

(A) It shall be unlawful for any person to deface, tamper with or injure any municipal infrastructure connected with or pertaining to the water system owned and operated by the City of Asheboro, specifically including without limitation any house, reservoir, valve cock, wheel, fire plug or other fixture connected with or pertaining to the city water system, or to place any building material, rubbish or other matter or substance on any valve, stop cock, meter box, water main or service pipe, or to obstruct access to any fixture connected with the city water system, or to remove, tamper with or injure any pipe, fire plug, hydrant, valve or cock or to open any of them, except when due authority has been given therefore by the Water and Sewer Department.

(B) Tampering with any municipal infrastructure connected with or pertaining to the city water system, specifically including without limitation a fire hydrant and a water meter or any device attached thereto, is hereby expressly declared to be unlawful and will result in a charge and other enforcement actions as hereinafter set out. Within any twelve calendar month period, there will be a charge of one hundred fifty dollars (\$150.00) for the first offense, five hundred dollars (\$500.00) for the second offense, and criminal penalties, including without limitation a fine of five hundred dollars (\$500.00), shall be instituted thereafter in accordance with Section 14-4 of the North Carolina General Statutes. By way of illustration and without limitation, ~~a customer~~ a person shall be deemed to have tampered with municipal infrastructure in violation of this section if, without authorization from the Water and Sewer Department, a fire hydrant is opened or operated in any manner; a water meter is activated, operated, or manipulated if, without authorization from the Water and Sewer Department, in an effort to restore water service for any premises for which water service has been discontinued; is restored after having been turned off by order of the Water and Sewer Department, the water meter or any device attached thereto is has been damaged to any degree by an unauthorized individual attempting to manipulate or operate some physical component of or attachment to the water meter; not employed by or acting on behalf of the city while attempting to manipulate or operate some physical component of or attachment to the water meter, or

if or the water meter has been is relocated to provide service in a location other than the service address noted in the records of the Water and Sewer Department. in some manner. Nothing contained within this division shall release a person found guilty of tampering with a water meter or any other aspect of the city's water supply and distribution system from liability for so doing, and the provisions of this division shall not preclude the city from pursuing any other remedy available at law or equity for such unlawful conduct.

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

Section 3. This ordinance shall take effect and be in force from and after May 5, 2011.

This ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 5th day of May, 2011.

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

ATTEST:

s/ Holly H. Doerr
Holly H. Doerr, CMC, City Clerk
City of Asheboro, North Carolina

(e) **An ordinance to amend the taximeter light provisions found in Chapter 114 (Taxicabs) of the Code of Asheboro.**

14 ORD 5-11

AN ORDINANCE AMENDING TAXIMETER PROVISIONS PRESCRIBED BY SECTION 114.51 OF THE CODE OF ASHEBORO

WHEREAS, the Asheboro City Council is authorized by Section 160A-304(a) of the North Carolina General Statutes to regulate the operation of taxicabs in Asheboro; and

WHEREAS, the city's current taxicab regulations mandate the use of an exterior dome light that is to be mounted on the top of the taxicab and connected to the vehicle's taximeter; and

WHEREAS, such an exterior dome light is difficult to maintain, and the amount of public benefit derived from the mandated exterior dome light is questionable; and

WHEREAS, the Asheboro City Council does not wish to impose on taxicab owners a cost that does not appear to produce a measurable benefit for the public;

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

Section 1. Section 114.51 of the Code of Asheboro is hereby rewritten as follows:

§ 114.51 METERS REQUIRED ON CABS; SPECIFICATIONS; INSPECTION.

(A) Every taxicab shall have affixed thereto, and the driver thereof shall use, a taximeter of a size and design approved by the City Council and which shall conform to the following specifications: Such taximeter must register upon visual counters the following items:

- (1) Total miles;
- (2) Paid miles;
- (3) Number of units;
- (4) Number of trips.

(B) Each taximeter must be furnished with a tamper-proof switch and system of electrical distribution, ~~so that when the taximeter is in the vacant or nonearning position the light on the top of the taxicab shall be lighted, and when the meter flag is thrown to an earning position the fare indicator on the taximeter will be lighted and simultaneously a tell-tale light on top of the taxicab will not be lighted during the night time so that, when the meter flag is thrown to an earning position, the fare indicator on the taximeter will be lighted.~~

(C) No certificate of convenience and necessity shall be issued for a taxicab until the taximeter attached to such taxicab shall have been inspected by the Police Department and found to be accurate.

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

Section 3. This ordinance shall take effect and be in force from and after the date of its adoption.

This ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on May 5, 2011.

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

ATTEST:

s/ Holly H. Doerr
Holly H. Doerr, CMC, City Clerk
City of Asheboro, North Carolina

(f) An ordinance to amend the civil penalty provisions found in Chapter 95 (Fire Prevention) of the Code of Asheboro.

15 ORD 5-11

AN ORDINANCE AMENDING CHAPTER 95 OF THE CODE OF ASHEBORO

WHEREAS, the City of Asheboro Fire Prevention Ordinance is codified as Chapter 95 of the Code of Asheboro; and

WHEREAS, in order to clarify potentially ambiguous text within the adopted City of Asheboro Fire Prevention Ordinance, and thereby enhance the effectiveness of the city's fire prevention regulations, the City of Asheboro Fire Prevention Bureau and the city's legal department, with the concurrence of the City Manager, have submitted for adoption by the City Council proposed amendments to Section 95.07 (Remedies and Penalties) of the Code of Asheboro that are described below; and

WHEREAS, the City Council agrees that the effectiveness of the city's fire prevention regulations will be enhanced by the adoption of the proposed amendments;

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

Section 1. Section 95.07 of the Code of Asheboro is hereby rewritten as follows:

§ 95.07 REMEDIES AND PENALTIES

(A) *Citations.* After a final notice of violation has been issued and a reinspection reveals that a violation has not been corrected, the person(s) or legal entity(ies) responsible for the violation(s) may be issued a civil penalty citation for each offense. On and after the date of the reinspection conducted subsequent to the service of the final notice of violation, the offender will be guilty of an additional and separate offense for each day that a violation continues uncorrected, and each offender that receives a civil penalty citation is subject to a cumulative penalty for each and every offense. A single civil penalty citation issued on the date of a reinspection may assess the sum of the civil penalties incurred by the violator for each day that a violation went uncorrected during the time period specified in the civil penalty citation. If the recipient of a civil penalty citation fails to pay the specified penalty within ten (10) business days of the date of service of the civil penalty citation by means of personal service or by means of certified mail, return receipt requested, the city may initiate a civil action in the nature of debt in order to recover the civil penalties assessed against the offender. The amount of the civil penalty per offense shall be calculated as follows:

- (1) *Non-Life Safety.* The civil penalty for each non-life safety offense that is uncorrected as of the date of the post final notice of violation reinspection shall be fifty dollars (\$50.00) per offense on and after the date of service of a civil penalty citation by means of personal service or certified mail, return receipt requested. This penalty of fifty dollars (\$50.00) per offense shall continue to accrue until the earlier of either the date upon which the offender notifies the Fire Prevention Bureau of the correction of the violation or the calendar day immediately preceding the date of the first reinspection conducted after the issuance of a civil penalty citation. If the violation that triggered the first civil penalty citation has not been corrected as of the date of this reinspection, the civil penalty for each continuing non-life safety offense shall be one hundred dollars (\$100.00) per offense from the date of service on the offender of a civil penalty citation reflecting the enhanced

penalty by means of personal service or certified mail, return receipt requested, to the date on which the Fire Prevention Bureau is notified of the correction of the violation.

- (2) *Life Safety Other Than Occupancy Violations and Blocked Exits.* Except for occupancy violations and blocked exits, the civil penalty for each life safety offense that is uncorrected as of the date of the post final notice of violation reinspection shall be one hundred fifty dollars (\$150.00) per offense on and after the date of service of a civil penalty citation by means of personal service or certified mail, return receipt requested. This penalty of one hundred fifty dollars (\$150.00) per offense shall continue to accrue until the earlier of either the date upon which the offender notifies the Fire Prevention Bureau of the correction of the violation or the calendar day immediately preceding the date of the first reinspection conducted after the issuance of a civil penalty citation. If the violation that triggered the first civil penalty citation has not been corrected as of the date of this reinspection, the civil penalty for each continuing life safety offense shall be three hundred dollars (\$300.00) per offense from the date of service on the offender of a civil penalty citation reflecting the enhanced penalty by means of personal service or certified mail, return receipt requested, to the date on which the Fire Prevention Bureau is notified of the correction of the violation.
- (3) *Life Safety – Occupancy Violations.* If an inspector discovers overcrowding of a building, or a portion thereof, on during more than one (1) inspection occasion during a rolling 12-month period, the offender with ownership/managerial responsibility for the building who grants admission to any person beyond the approved capacity of a building or portion thereof shall be subject to the immediate assessment of civil penalties. The person or entity receiving such a civil penalty citation shall be subject to the continuing immediate assessment of civil penalties for overcrowding until a 12-month time period has passed without any violations pertaining to overcrowding. The amount of the civil penalty for overcrowding shall be one hundred dollars (\$100.00) per person in excess of the posted occupancy occupant load prescribed by the North Carolina Fire Code. No civil penalty shall be assessed pursuant to this subsection unless the offender has been previously served with a written warning for overcrowding within the relevant 12-month period by means of personal service or by means of certified mail, return receipt requested. None of the provisions found within this section shall be construed or deemed to prevent an inspector in the Fire Prevention Bureau from immediately exercising any authority that he or she may possess under the applicable laws to summarily abate overcrowding.
- (4) *Life Safety – Locked, Blocked, or Obstructed Exits.* If an inspector discovers locked, blocked, or obstructed exits during on more than one (1) inspection occasion during a rolling 12-month period, the offender with ownership/managerial responsibility for the building under inspection shall be subject to the immediate assessment of civil penalties. The person or entity receiving such a civil penalty citation shall be subject to the continuing immediate assessment of civil penalties for locked, blocked, or obstructed exits until a 12-month time period has passed without any violations pertaining to exits. The amount of the civil penalty for life safety violations pertaining to exits shall be five hundred dollars (\$500.00) per locked, blocked, or obstructed exit. No civil penalty shall be assessed pursuant to this section unless the offender has been previously served with a written warning for locking, blocking, or obstructing an exit within the relevant 12-month period by means of personal service or by means of certified mail, return receipt requested. None of the provisions found within this section shall be construed or deemed to prevent an inspector in the Fire Prevention Bureau from immediately exercising any authority that he or she may possess under the applicable laws to summarily correct a locked, blocked, or obstructed exit.

(B) *Criminal Offense.* Any person who violates the provisions of the City of Asheboro Fire Prevention Ordinance, including without limitation the adopted provisions of the North Carolina Fire Code, is guilty of a misdemeanor as provided by Section 14-4 of the North Carolina General Statutes and shall be fined not more than five hundred dollars (\$500.00).

(C) *Equitable Remedy.* The City of Asheboro Fire Prevention Ordinance, including without limitation the adopted provisions of the North Carolina Fire Code, may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.

(D) *Availability of Combination of Remedies.* The City of Asheboro Fire Prevention Ordinance, including without limitation the adopted provisions of the North Carolina Fire Code, may be enforced by any one, all, or a combination of the remedies authorized and prescribed herein. No provision within the Fire Prevention Ordinance shall be construed to impair or limit the ability of a fire inspector to take any otherwise lawful enforcement or abatement action available to the inspector for the purpose of abating a situation or condition that poses an imminent threat to life and safety.

(E) *Responsible Parties.* The owner, tenant, and occupant of any building or land or part thereof and any architect, builder, contractor, agent, or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition in violation of the City of Asheboro Fire Prevention Ordinance, including without limitation the adopted provisions of the North Carolina Fire Code, may be held responsible for such violation(s) and are subject to the penalties and remedies herein provided.

(F) *Appeals.* In accordance with Section 160A-434 of the North Carolina General Statutes, an appeal from any order or decision of an inspector in the City of Asheboro Fire Prevention Bureau pertaining to the North Carolina State Building Code, which includes the North Carolina Fire Code, shall be taken within a period of ten (10) days after the issuance of the contested order or decision to the

Commissioner of Insurance or his designee or other official specified in Section 143-139 of the North Carolina General Statutes.

(G) Exceptions. Notwithstanding any other provision in this ~~section~~ Chapter, the enforcement mechanisms prescribed by this Section are subject to the following exceptions:

- (1) The city will not initiate a civil action in the nature of debt against the State of North Carolina or any of its political subdivisions in order to recover assessed civil penalties. No other remedy authorized by this section for a violation of the Asheboro Fire Prevention Ordinance is impaired or limited by this exception.
- (2) When violations discovered by an inspector in the City of Asheboro Fire Prevention Bureau are categorized as either Life Safety – Occupancy Violations or Life Safety – Locked, Blocked, or Obstructed Exits violations, the inspector may immediately issue a Civil Penalty Citation that provides the offender with a written warning or assesses a civil penalty in the amount prescribed by Section 95.07(A)(3) for occupancy violations or by Section 95.07(A)(4) for violations pertaining to the obstruction of exits. No final notice of violation or any other type of notice specified in Section 95.06 is required prior to the issuance of a Civil Penalty Citation for violating occupancy limits or obstructing exits.

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

Section 3. This ordinance shall take effect and be in force from and after the date of adoption.

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

This ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on May 5, 2011.

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

ATTEST:

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

5. An ordinance to amend the Economic Development Fund FY 2010-2011 (Malt-O-Meal Company Economic Development Project). [Consent agenda item 4(b)].

Ms. Reaves presented and recommended adoption, by reference, of an ordinance to amend the Economic Development Fund FY 2010-2011 (Malt-O-Meal Company Economic Development Project).

Upon motion by Dr. Fountain and seconded by Mr. Bell, Council voted unanimously to adopt the following ordinance by reference. Council Members Bell, Burks, Carter, Fountain, Hunter, and Moffitt voted in favor of the motion.

12 ORD 5-11

ORDINANCE TO AMEND THE ECONOMIC DEVELOPMENT FUND FY 2010-2011

WHEREAS, the City of Asheboro entered into a second economic incentive agreement with Malt-O-Meal and the County of Randolph on March 14, 2011, and;

WHEREAS, in accordance with Section II of the economic incentive agreement, the City of Asheboro will distribute incentive funds upon Malt-O-Meal achieving certain performance requirements, and;

WHEREAS, incentive funds, totaling \$1,580,000, will be paid in eight (8) installments at a frequency not to exceed one installment per fiscal year, beginning in fiscal Year July 1, 2013 to June 30, 2014, and;

WHEREAS, revenue and expenditures in the Economic Development Fund need to be adjusted to account for these incentive payments, and;

WHEREAS, revenue sources currently disclosed in the Economic Development Fund budgets for various multi-year incentive obligations (Malt-O-Meal, Randolph Hospital and Hospice) have changed from originally anticipated, and;

WHEREAS, there are changes in expenses in the project fund relating to ongoing annual community support payments to various agencies that support and promote Economic Development and Quality of Life in Asheboro, and;

WHEREAS, the City of Asheboro desires 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 descriptions be changed as noted:

72-367-1014 change from GF contrib to Malt-O-Meal (10-11) to WF contrib to Malt-O-Meal (10-11)
72-367-1015 change from GF contrib to Malt-O-Meal (11-12) to contrib to Malt-O-Meal (11-12)
72-367-1016 change from GF contrib to Malt-O-Meal (12-13) to contrib to Malt-O-Meal (12-13)
72-367-1020 change from GF contribution to Hospital (10-11) to WF contrib to Hospital (10-11)
72-367-1021 change from GF contribution to Hospital (11-12) to WF contrib to Hospital (11-12)
72-367-1025 change from GF contribution to Hospice (10-11) to WF contrib to Hospice (10-11)
72-367-1026 change from GF contribution to Hospice (11-12) to WF contrib to Hospice (11-12)

Section 2: That the following revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Appropriated Amount</u>
72-367-1031	Contribution for Malt-O-Meal #7 (13-14)	\$197,500
72-367-1032	Contribution for Malt-O-Meal #8 (14-15)	\$197,500
72-367-1033	Contribution for Malt-O-Meal #9 (15-16)	\$197,500
72-367-1034	Contribution for Malt-O-Meal #10 (16-17)	\$197,500
72-367-1035	Contribution for Malt-O-Meal #11 (17-18)	\$197,500
72-367-1036	Contribution for Malt-O-Meal #12 (18-19)	\$197,500
72-367-1037	Contribution for Malt-O-Meal #13 (19-20)	\$197,500
72-367-1038	Contribution for Malt-O-Meal #14 (20-21)	\$197,500
72-367-3001	W&S Fund Contribution	\$114,500
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		\$1,694,500

Section 3: That the following expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Appropriated Amount</u>
72-860-0007	Contribution to Malt-O-Meal #7 (13-14)	\$197,500
72-860-0008	Contribution to Malt-O-Meal #8 (14-15)	\$197,500
72-860-0009	Contribution to Malt-O-Meal #9 (15-16)	\$197,500
72-860-0010	Contribution to Malt-O-Meal #10 (16-17)	\$197,500
72-860-0011	Contribution to Malt-O-Meal #11 (17-18)	\$197,500
72-860-0012	Contribution to Malt-O-Meal #12 (18-19)	\$197,500
72-860-0013	Contribution to Malt-O-Meal #13 (19-20)	\$197,500
72-860-0014	Contribution to Malt-O-Meal #14 (20-21)	\$197,500
72-840-2000	Chamber of Commerce	\$35,000
72-840-4000	Economic Development Corp	\$76,000
72-840-6000	Piedmont Triad Partnership	\$3,500
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		\$1,694,500

Adopted this the 5th day of May, 2011.

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

ATTEST:

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

6. Community Development Items: [Agenda item number 5]

Combined public hearing on the question of implementing a comprehensive update of the city's land use regulations with substantive amendments to the text of the City of Asheboro Zoning Ordinance and Subdivision Ordinance. The text amendments initiated by city staff members in the Community Development Division are grouped by the following case numbers:

- (a) **RZ-11-01:** Site design and performance standards in the B2 (General Commercial) and TH (Tourism and Hospitality) zoning districts. The public hearing on this specific proposal was initially opened on February 10, 2011.
- (b) **RZ-11-03:** Site design and performance standards in the B1 (Neighborhood Commercial), M (Mercantile), O&I (Office and Institutional) and OA6 (Office-Apartment) zoning districts. The public hearing on this specific proposal was initially opened on March 10, 2011.
- (c) **RZ-11-04:** Site design and performance standards in the Center City Planning Area and the creation of regulations for Traditional Neighborhood Developments. The public hearing on this specific proposal was initially opened on April 7, 2011.
- (d) **SUB-11-02:** Comprehensive text amendments to the Subdivision Ordinance that pertain to substantive design requirements and procedural aspects of the subdivision review process. The public hearing on this specific proposal was initially opened on April 7, 2011.
- (e) **RZ-11-06:** Site design and performance standards in the B3 (Central Commercial) zoning district and industrial (I1 Light Industrial, I2 General Industrial, I3 Limited Industrial) zoning districts. This package of proposed amendments is before the council for initial consideration.

Mayor Smith opened the public hearing in order to receive staff and public input on case file/numbers RZ-11-01, RZ11-03, RZ11-04, and SUB-11-02 that were previously presented for debate (these cases were first heard on February 10, 2011, March 10, 2011, and April 7, 2011 respectively) and to consider for the first time case RZ-11-06.

Mr. Neely presented an overview of the Community Development Division staff's proposed amendments to the Asheboro Zoning Ordinance under case/file number RZ-11-06. These text amendments are proposed to update performance requirements that relate to architectural, landscaping, and other site considerations in the Industrial (I1, I2, and I3) zoning districts. Additionally, these amendments are proposed to address site design and performance standards in the B3 (Central Commercial) zoning district, which is encompassed by Tier 1 of the Center City Planning Area.

The Community Development Division staff and the Planning Board recommended a continuance of the public hearing on these requests based on the following:

"Staff recommends continuing the request to enable staff to address comments that were made during the public information session on March 29, 2011, and to allow additional time for public review and comment concerning proposed text.

Additionally, the groups of zoning text amendments that have been presented to date build on each other as well as other portions of the zoning ordinance. Therefore, staff recommends continuing this request so that the proposed amendments presented to date, additional related text amendments, and the companion Subdivision Ordinance text can be consolidated into a comprehensive package for consideration at an upcoming Planning Board meeting(s) and City Council public hearing(s)."

Upon motion by Mr. Bell and seconded by Mr. Burks, Council voted unanimously to follow the recommendation from the Planning Board and to continue the combined public hearing for all of these text amendment cases to the Council's regular June meeting. Council Members Bell, Burks, Carter, Fountain, Hunter, and Moffitt voted in favor of the motion.

7. Public comment period. [Agenda item number 6]

Mr. Jeff Marotto of 1200 Skyline Drive and Ms. Ashley Pritchett of 1178 Skyline Drive presented comments and concerns in regards to the continuing noise levels at Shake night club located on Dixie Drive. Mr. Marotto and Ms. Pritchett reported that they are still seeking a long term, sustainable solution to the disruption caused by the noise at the night club. They asked if the city

could implement an ordinance pertaining to such noise levels. Mr. Keith Pritchett presented similar concerns.

City staff is currently researching certain noise regulations that may be implemented in order to address these types of noise issues within the city. However, staff members are concerned about variables and unintended consequences for which satisfactory answers have not been found. The research into this matter is on-going.

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

8. Consideration of an ordinance amending the swimming pool provisions found in the City of Asheboro Cultural and Recreation Services Division Policy Manual. [Agenda item number 7]

As a follow up to his swimming pool operations discussion with the Council during the regular meeting in April, Mr. Sermon presented and recommended adoption, by reference, of an ordinance amending the Cultural and Recreation Services Division Policy Manual.

Upon motion by Mr. Moffitt and seconded by Mr. Hunter, Council voted unanimously to adopt the following ordinance by reference. Council Members Bell, Burks, Carter, Fountain, Hunter, and Moffitt voted in favor of the motion.

16 ORD 5-11

AN ORDINANCE AMENDING THE CITY OF ASHEBORO CULTURAL AND RECREATION SERVICES DIVISION POLICY MANUAL

WHEREAS, pursuant to Section 98.01 of the Code of Asheboro, the City of Asheboro Cultural and Recreation Services Division Policy Manual has been adopted by reference as part of the Code of Asheboro; and

WHEREAS, Article IX of the City of Asheboro Cultural and Recreation Services Division Policy Manual prescribes regulations for the division's operation of the city-owned swimming pools; and

WHEREAS, city staff members with operational responsibility for the city-owned swimming pools have recommended certain changes in pool operations in order to enhance the quality and cost effectiveness of the services delivered by the aquatic program; and

WHEREAS, in order to implement these recommendations, the Cultural and Recreation Services Director and the City Manager have submitted to the City Council proposed amendments to the City of Asheboro Cultural and Recreation Services Division Policy Manual that are described herein; and

WHEREAS, the City Council concurs with the recommendation received from the Cultural and Recreation Services Division and has decided to adopt the proposed amendments;

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

Section 1. The text of Article IX of the City of Asheboro Cultural and Recreation Services Division Policy Manual that was in effect prior to the adoption of this ordinance is hereby deleted, and Article IX of the said manual is hereby rewritten to provide as follows:

ARTICLE IX. SWIMMING POOLS

Section 9.1 Operation and Control

The city-owned swimming pools, including the entirety of facilities/premises in and upon which the pools are located, (hereinafter collectively referred to as the "Pools") shall be administered by the City of Asheboro Cultural and Recreation Services Division in a manner that will provide the citizens of Asheboro and Randolph County with an opportunity to participate in a high quality, comprehensive aquatic program.

The Cultural and Recreation Services Director shall designate an employee within the Cultural and Recreation Services Division to operate and manage the Pools in compliance with all applicable laws and regulations and in the best interest of the City of Asheboro. In order to be designated as the employee with operational responsibility for the Pools, an individual must be a Certified Pool Operator (CPO) and a certified Water Safety Instructor (WSI). Lifeguard instructor certification is preferred, but the absence of such certification will not disqualify an employee from consideration for designation as the employee with operational responsibility for the Pools. The Cultural and Recreation Services Division employee with operational responsibility for the Pools shall report to the Recreation Services Superintendent.

Section 9.2 Fees

All user fees and charges shall be set by the Asheboro City Council and will be incorporated into the Schedule of Deposits, Fees, and Charges Administered by the Cultural and Recreation Services Division.

Section 9.3 Hours of Operation

The Pools shall be open for operation each year during designated periods of time that begin during the month of May and extend into the month of August. The Cultural and Recreation Services Director will establish the hours of operation for the Pools during each summer season and will adjust, in his/her discretion, the published operational hours on an as-needed basis during the course of a summer season. Prior to the seasonal opening of the Pools, the Cultural and Recreation Services Director, in concert with the City Manager, shall provide written notice to the Asheboro City Council of the operational hours proposed for the Pools. The proposed operational hours are subject to amendment, in the sole discretion of the Asheboro City Council, by means of the adoption of a resolution by the City Council that establishes a final schedule of operational hours for the Pools. If no action is taken by the Asheboro City Council after its receipt of notice from the Cultural and Recreation Services Director of the proposed operational hours, the Director's proposed schedule shall be deemed to be the schedule in effect for the duration of the ensuing summer season.

Section 9.4 Swim Lessons

As part of its comprehensive aquatic program, the Cultural and Recreation Services Division will offer swimming lessons for youth and adults.

- A. Group Swimming Lessons: Three (3) to four (4) sessions of group swimming lessons will be offered each season. Classes will be offered in parent/child aquatics for ages from six (6) months to three (3) years, preschool aquatics for ages from four (4) to five (5) years, and in the learn to swim program for ages from six (6) years to adulthood. Participants in the parent/child aquatics and the preschool aquatics program will receive a minimum of four (4) hours of instruction time per session. Participants in the learn to swim program will receive a minimum of six (6) hours of instruction time per session.
- B. Private Swimming Lessons: Three (3) to four (4) sessions of private swimming lessons will be offered each season. Classes will be offered in parent/child aquatics for ages six (6) months to three (3) years, preschool aquatics for ages from four (4) to five (5) years, and in the learn to swim program for ages from six (6) years to adulthood. Participants in the parent/child aquatics and the preschool aquatics program will receive a minimum of two and one-half (2.5) hours of instruction time per session. Participants in the learn to swim program will receive a minimum of five (5) hours of instruction time per session. Minimum instruction time is less for private lessons due to the increased one-on-one interaction between student and instructor.
- C. Registration for Swimming Lessons: Registration will begin each year on the first Monday of May. Day care centers may reserve a maximum of one-half ($\frac{1}{2}$) of the allotted class space for an individual class. Additional spaces may be added if available. When a daycare makes a reservation, payment in full is required for the number of spaces reserved for the anticipated participants regardless of whether the individuals for whom reservations are made ultimately participate in the class.

Section 9.5 Rules and Regulations

- A. The following conduct is prohibited within the Pools, and, in addition to any potential criminal and civil liability, individuals engaging in the prohibited conduct listed in this subsection will be subject to immediate and long-term expulsion from the Pools:
 1. Possession of alcoholic beverages, regardless of whether the container is open or closed, and the possession of any controlled substance for which the individual in possession of the controlled substance does not have a valid prescription.
 2. Engaging in criminal conduct, including by way of illustration and not limitation gambling, fighting, disorderly conduct, or larceny, and any other improper or offensive noncriminal conduct that intimidates or otherwise prevents other members of the public of all ages and backgrounds from utilizing the Pools. Such improper or offensive noncriminal conduct includes by way of illustration and not limitation the use of profane or vulgar language.
 3. Interfering with the operation and administration of the Pools.
 4. Destroying, damaging, or defacing any real or personal property located at the Pools.
- B. In addition to the prohibited conduct listed above, the following rules govern the use of the Pools by patrons. Depending on the severity and frequency of the non-compliance, individuals who fail

to comply with these rules are subject to enforcement actions that range from a warning to immediate expulsion from the Pools:

1. All patrons must shower before entering the Pools.
2. Glass is prohibited at the Pools.
3. Coolers, large bags, etc. are allowed at the Pools on the condition that the patron wishing to bring these types of container(s) onto the premises must consent to the search of such container(s) in order to ensure that prohibited materials such as glass and/or alcoholic beverages are not present.
4. Noise making devices such as whistles, horns, etc. are prohibited.
5. Individuals with a communicable skin disease, open sores, rashes, or any bandages are not allowed to enter the water.
6. No one is allowed to enter the water until the lifeguards have signaled that such entry is permissible.
7. In furtherance of the city's interest in meeting the varied needs of a diverse clientele, patrons shall promptly comply with signals given by Lifeguards to exit the water in order to allow specific activities to safely and efficiently occur. For example, a signal will be given every hour, at ten (10) minutes before the hour, for individuals who have not reached the age of seventeen (17) to exit the water and allow other patrons to conduct water activities such as swimming laps.
8. Only authorized personnel are allowed to enter the filter room and storage areas.
9. With the exception of service animals, pets are prohibited in the facilities.
10. Foods or beverages are prohibited in the water or within five feet (5') of the edge of the water.
11. Smoking is not permitted at the Pools, unless signage designating a specific portion of the premises away from the water as a smoking area is posted.
12. The use of chewing tobacco, snuff, etc. within the facilities is prohibited.
13. Chewing gum is prohibited in the water.
14. Running within the facilities at the Pools is prohibited.
15. Swimmers must be in bathing suits. No cut-off jeans, sports bras, underwear, etc. are allowed as substitutes.
16. No horseplay of any kind is allowed.
17. With the exception of individuals who are entering the facilities for the sole purpose of supervising minors, everyone who enters the facilities at the Pools must pay the admission fee. The above-stated exception for an individual who enters the facilities for the sole purpose of supervising minors does not apply if such an individual engages in any act of sunbathing or swimming.
18. Regardless of whether an admission fee has previously been paid by an individual, any person who leaves the facility without first obtaining an appropriate hand stamp from an authorized city employee must pay the admission fee to re-enter.
19. No refunds or rain checks will be issued.
20. The only flotation devices automatically allowed in the water are flotation devices approved by the United States Coast Guard, and these flotation devices are not permitted beyond the safety line in five feet (5') of water. Any other types of flotation devices as well as toys, balls, masks, fins, and snorkels must be approved by city employees with managerial authority prior to use in the pool and are subject to removal in the sole discretion of the city employees with managerial responsibility at the Pools.
21. Squirt guns are prohibited.
22. Talking to lifeguards while they are on duty is prohibited.
23. Patrons are hereby expressly required to obey instructions and warnings issued by lifeguards and staff members responsible for the safe operation of the Pools.
24. While at the Pools, children of diaper age must wear diapers approved for swimming pool use.
25. Patrons utilizing the diving boards must comply with the following regulations:
 - (a) Before going off the diving boards, a swim test is required. Wristbands will be issued daily to those who successfully pass the swim test, and these wristbands must be worn by those patrons who wish to utilize the diving boards.
 - (b) Only one (1) person may be on the board, including the ladder, at a time.
 - (c) When waiting to dive, a diver must wait until the immediately preceding diver has surfaced and cleared the area. A diver will not be deemed to have "cleared the area" until he or she has made physical contact with a diving well ladder.
 - (d) Running is prohibited on the diving boards.
 - (e) Divers must jump/dive straight off of the board.
 - (f) When on the diving board, only one (1) bounce is permitted.
 - (g) Swimming under the diving boards is prohibited.
 - (h) No gainers or back dives.
 - (i) Exit the diving well by ladders only.
 - (j) Flotation devices, masks, goggles, etc. are prohibited on the diving boards or in the diving well.

26. Patrons utilizing the drop slides must comply with the following regulations:

- (a) Before going down the slide, a swim test is required. Wristbands will be issued daily to those who successfully pass the swim test, and these wristbands must be worn by those patrons who wish to utilize the drop slides.
- (b) One (1) rider at a time, and a rider must wait until the landing area is clear before entering the slide.
- (c) Riders must slide in either a sitting position or on the back.
- (d) The acts of stopping, changing positions, and/or forming "chains" are prohibited.
- (e) Do not attempt to stop on the slide.
- (f) After completing a slide, riders must leave the landing area immediately.
- (g) Riders are hereby warned that the water depth is four and one-half feet (4½') deep.
- (k) Flotation devices, masks, goggles, etc. are prohibited on the slide or in the landing area.

Section 9.6 Miscellaneous

- A. The granting of permission to enter the facilities at the Pools is revocable, and such permission may be revoked by city employees indefinitely or for a specified period of time when patrons do not comply with the rules and regulations adopted for the Pools. Regardless of whether an individual is able to utilize the facilities during the entirety of the posted hours of operation, the fees and/or charges paid to enter and utilize the facilities are non-refundable. By way of illustration and not limitation, an individual who is asked to leave the premises because of a violation of the above-stated rules and regulations is ineligible for a refund of any of the fees/charges paid to access and utilize the facilities.
- B. The City of Asheboro assumes no responsibility for lost or stolen articles.

Section 2. Except as provided in Section 1 of this ordinance, all articles and provisions of the City of Asheboro Cultural and Recreation Services Division Policy Manual shall continue in full force and effect without alteration.

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

Section 4. This ordinance shall be in full force and effect upon and after the date of adoption.

This ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 5th day of May, 2011.

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

ATTEST:

s/ Holly H. Doerr
Holly H. Doerr, CMC, City Clerk
City of Asheboro, North Carolina

Additionally, Mr. Sermon presented for Council's consideration, the 2011 proposed swimming pool hours. (A copy of the proposed schedule is on file in the City Clerk's office and is available through the Cultural and Recreation Services Division.)

Upon motion by Mr. Bell and seconded by Ms. Carter, Council voted unanimously to adopt the 2011 swimming pool hours presented by Cultural and Recreation Services Division Staff members. Council Members Bell, Burks, Carter, Fountain, Hunter, and Moffitt voted in favor of the motion.

9. Consideration of a resolution to establish the Retiree Attraction Committee. [Agenda item number 8]

Ms. Fletcher presented and recommended adoption, by reference, of a resolution to establish the Retiree Attraction Committee with the addition of Mr. Mike Holder, who was not listed in the initial draft of the resolution prepared by city staff.

Upon motion by Dr. Fountain and seconded by Ms. Carter, Council voted unanimously to adopt the following resolution, which reflects the Council's amendment of the resolution initially prepared by staff members. Council Members Bell, Burks, Carter, Fountain, Hunter, and Moffitt voted in favor of the motion.

A RESOLUTION OF THE ASHEBORO CITY COUNCIL TO ESTABLISH THE RETIREE ATTRACTION COMMITTEE

WHEREAS, the Asheboro 2020 Strategic Plan recommended that the City of Asheboro create “a culture using our environment, location and medical resources to recruit and develop a retirement industry” as an economic development strategy; and

WHEREAS, with the enactment of Article 10, Part 2K of Chapter 143B of the North Carolina General Statutes, the North Carolina General Assembly established the North Carolina Certified Retirement Community Program in order to encourage retirees and those planning to retire to make their homes in North Carolina; and

WHEREAS, the North Carolina Certified Retirement Community Program may allow the City to achieve the goal of becoming a retirement destination; and

WHEREAS, during a special meeting held on March 22, 2011, the City Council authorized Mayor Smith to proceed with appointing a committee to enable the city to successfully participate in the North Carolina Certified Retirement Community Program; and

WHEREAS, after receiving guidance from the Mayor and City Council, city staff members promoted the creation of the desired committee by means of soliciting applications through local newspapers and the internet; and

WHEREAS, a significant number of resumes were submitted by qualified individuals with an interest in serving on the proposed committee; and

WHEREAS, after reviewing the resumes that were submitted to city staff members, Mayor Smith concluded that the individuals listed below have the expertise and experience to successfully serve on the proposed committee; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the Retiree Attraction Committee is hereby established with the Mayor of the City of Asheboro to serve as chair of the committee; and

BE IT FURTHER RESOLVED that the Retiree Attraction Committee is to perform the following duties:

- a) Conduct a retiree desirability assessment analyzing the community with respect to each of the factors identified by the Department of Commerce, and submit a report of the analysis to that Department;
- b) Send a representative of the Retiree Attraction Committee to attend state training meetings conducted by the 21st Century Communities program during the certification process;
- c) Raise funds necessary to run the certified retirement community program, organize special events, and promote and coordinate the program with local entities;
- d) Establish a community image, evaluate target markets, and develop a marketing and public relations plan designed to accomplish the purpose of the program;
- e) Develop a system that identifies and makes contact with existing and prospective retirees, provides tour guides when prospects visit the community, responds to inquiries, logs contacts made, invites prospects to special community events, and maintains continual contact with prospects until the prospect makes a retirement location decision;
- f) Conduct other activities as directed by City Council in order to achieve the goal of becoming a retirement destination; and

BE IT FURTHER RESOLVED that, in addition to the chair of the committee, the following individuals initially appointed by Mayor Smith are hereby confirmed as charter members of the Retiree Attraction Committee:

Waynette Araj
Deborah Bain
Janet Blakley
David Caughron
Jim Culberson
Neal Griffin
Janet Harllee
Mike Holder
Ross Holt
Bill Hoover
William (Duffy) Johnson
Gail Moore
Candie Rudzinski

Derrick Sides
Glenn Thaler
Wayne D. Thomas
Freddy Wehunt

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 5th day of May, 2011.

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

ATTEST:

s/ Holly H. Doerr
Holly H. Doerr, CMC, City Clerk,
City of Asheboro, North Carolina

- 10. Amendment No. 1 to the Agreement between the Owner and Architect for the Sunset Theater Renovation Project as requested by Architect S.W. Cofer, PLLC to increase the total fee by \$30,350.00 to \$193,028.37 for changes requested by the State Historic Preservation Office and other unanticipated changes/conditions in the scope of work. [Agenda item number 9]**

Mr. Bunker presented a request from Architect S.W. Cofer, PLLC to amend the Agreement Between the Owner and Architect for the Sunset Theater Renovation Project reflecting an increase in the total fee by \$30,350.00 in order to reflect changes requested by the State Historic Preservation Office and other unanticipated changes/conditions in the scope of work. The total fee would be increased to \$193,028.37.

Upon motion by Ms. Carter and seconded by Mr. Burks, Council voted unanimously to approve the above-referenced Amendment No. 1 to the Agreement Between the Owner and Architect for the Sunset Theater Renovation Project. Council Members Bell, Burks, Carter, Fountain, Hunter, and Moffitt voted in favor of the motion.

A copy of the request and amendment submitted by Architect S.W. Cofer, PLLC is on file in the City Clerk's office.

- 11. Consideration of the bids received for the Tot Hill Farm/Asheboro Airport Water and Sewer Improvements Project. [Agenda item number 10]**

- (i) A bid in the amount of \$268,405.00 submitted by Terry's Plumbing and Utilities, Inc. for Contract A – Airport Water and Sewer Improvements appears to be the lowest responsive and responsible bid (contingent upon NCDOT Division of Aviation approval).**

Mr. Bunker presented the bid summary for the airport water and sewer improvements. Five (5) bids were received on April 28, 2011. The bid submitted by Terry's Plumbing and Utilities, Inc. was the lowest responsive bid at \$268,405.00. Mr. Bunker reported that approval by the NCDOT Division of Aviation has been received.

Upon motion by Mr. Moffitt and seconded by Mr. Burks, Council voted unanimously to accept the bid by Terry's Plumbing and Utilities, Inc. in the amount of \$268,405.00. Council Members Bell, Burks, Carter, Fountain, Hunter and Moffitt voted in favor of the motion.

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

- (ii) A bid in the amount of \$777,865.99 submitted by Terry's Plumbing and Utilities, Inc. for Contract B – Sewage Pump Station/Force Main appears to be the lowest responsive and responsible bid.**

Mr. Bunker presented the bid summary for the airport sewage pump station/force main project. Seven (7) bids were received on April 28, 2011. The bid submitted by Terry's Plumbing and Utilities, Inc. was the lowest responsive bid at \$777,866.00. Mr. Bunker noted that Terry's Plumbing and Utilities, Inc. included a \$0.01 deduction from his total bid if both contracts were awarded to the company. This deduction brought the bid for Contract B to \$777,865.99.

Upon motion by Mr. Hunter and seconded by Mr. Burks, Council voted unanimously to accept the bid by Terry's Plumbing and Utilities, Inc. in the amount of \$777,865.99.

Council Members Bell, Burks, Carter, Fountain, Hunter, and Moffitt voted in favor of the motion.

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

12. Submittal of the proposed budget for fiscal year 2011-2012. [Agenda item number 11]

Mr. Ogburn introduced the proposed annual budget for the city for the fiscal year 2011-2012. The overall budget for the fiscal year 2011-2012 is balanced at \$35,051,988.00. The fund allocations are as follows:

General Fund	\$22,108,190
Water and Sewer Fund	<u>\$12,943,798</u>
Total:	\$35,051,988

The recommended budget reflects no increase in the property tax rate. It remains at \$0.55 per \$100 valuation.

The recommended annual budget will be discussed again during a budget workshop tentatively scheduled during a special meeting on May 16, 2011. A public hearing on the budget will be conducted during the Council's regular meeting on June 9, 2011, and final consideration of the budget will take place during a special meeting of the Council at noon on June 28, 2011.

13. Announcement of Centennial Celebration for the Asheboro Fire Department. (May 22, 1911 – May, 22, 2011) [Agenda item number 12]

Chief Smith announced that a dinner celebrating 100th anniversary of the Asheboro Fire Department will be held on May 24, 2011 from 6:00 p.m. until 8:00 p.m. at AVS. Former fire chiefs and their families are invited to attend along with retired personnel and current firefighters of the Asheboro Fire Department. Tickets will be sold for \$10.00.

14. Discussion of items not on the agenda.

- Upcoming Events:

Art-May-Ham – May 7, 2011 at 9:00 a.m. in Bicentennial Park.

There being no further business, the meeting was adjourned at 8:32 p.m.

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

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