

**REGULAR MEETING  
ASHEBORO CITY COUNCIL  
COUNCIL CHAMBER, MUNICIPAL BUILDING  
THURSDAY, JUNE 9, 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  
Justin T. Luck, Planner  
R. Reynolds Neely, Jr., Community Development Director  
Ralph W. Norton, Assistant Chief of Police  
Deborah P. Reaves, Finance Director  
James W. Smith, II, Fire Chief  
Jeffrey 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.

Prior to considering the individual items of business on the agenda, Mayor Smith moved from behind the Council table in order to display the attire and a sample of the dance steps that he used during the 2011 Dancing with the Randolph Stars fundraising event for the Randolph Community College Foundation. By displaying his attire and dance steps that were reminiscent of performances given by the late Michael Jackson, Mayor Smith earned an additional donation from Mr. Bell for the Randolph Community College Foundation.

**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.

**4. Consent agenda:**

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

- (a) The minutes of the City Council's special meeting on May 3, 2011.**
- (b) The minutes of the City Council's regular meeting on May 5, 2011.**
- (c) The minutes of the City Council's special meeting on May 16, 2011.**

- (d) A resolution per G.S. 143-64.32 exempting the City of Asheboro from the advertisement/qualification based selection procedure to contract with Atlantic Coast Engineering and Testing, Inc. of Greensboro, NC for engineering services for soil evaluation and compaction testing at an estimated cost of \$2,600.00 for the proposed West Street Police Facility.

19 RES 6-11

**RESOLUTION EXEMPTING THE WEST STREET POLICE FACILITY PROJECT FROM THE PROVISIONS OF ARTICLE 3D OF CHAPTER 143 OF THE NORTH CAROLINA GENERAL STATUTES**

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

It is the public policy of this State and all public subdivisions and Local Governmental Units thereof . . . to announce all requirements for architectural, engineering, surveying, and construction management at risk services, to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm; and

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

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

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

**WHEREAS**, the City of Asheboro is proceeding with a project to construct a facility for the use of the Asheboro Police Department on city-owned land located along West Street; and

**WHEREAS**, the West Street Police Facility Project will require engineering services in the specific form of soil evaluation and compaction testing services; and

**WHEREAS**, Atlantic Coast Engineering and Testing, Inc. of Greensboro, North Carolina has consistently demonstrated, on previous city projects, the capability to provide the high quality, cost effective engineering services needed by the city; and

**WHEREAS**, Atlantic Coast Engineering and Testing, Inc. has offered to provide the engineering services (soil evaluation and compaction testing) needed for the West Street Police Facility Project and has advised the city to initially budget two thousand six hundred and no/100 dollars (\$2,600.00) for the professional services that will be rendered by the firm; and

**WHEREAS**, on the basis of the firm's demonstrated competence and estimated professional fee for this project, the city's public works division and engineering department have recommended, with the concurrence of the city manager, the utilization of Atlantic Coast Engineering and Testing, Inc. for the soil evaluation and compaction testing services needed for this project;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the West Street Police Facility Project is hereby exempted from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes on the basis of the demonstrated competence of Atlantic Coast Engineering and Testing, Inc. and the fact that the estimated professional fee for the needed engineering services is less than thirty thousand and no/100 dollars (\$30,000.00); and

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

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 9<sup>th</sup> day of June, 2011.

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

ATTEST:

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

- (e) A resolution per G.S. 143-64.32 exempting the City of Asheboro from the advertisement/qualification based selection procedure to contract with Atlantic Coast Engineering and Testing, Inc. of Greensboro, NC for engineering services for soil evaluation and compaction testing at an estimated cost of \$8,420.00 for proposed cul-de-sac construction on Humble Street, Carolina Avenue, Sterling Street, Quaker Drive, Brookwood Drive and Twain Drive.

20 RES 6-11

**RESOLUTION EXEMPTING THE FISCAL YEAR 2011-2012 CUL-DE-SAC CONSTRUCTION PROJECT FROM THE PROVISIONS OF ARTICLE 3D OF CHAPTER 143 OF THE NORTH CAROLINA GENERAL STATUTES**

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

It is the public policy of this State and all public subdivisions and Local Governmental Units thereof . . . to announce all requirements for architectural, engineering, surveying, and construction management at risk services, to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm; and

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

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

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

**WHEREAS**, the City of Asheboro is proceeding with a project to construct, during fiscal year 2011-2012, cul-de-sacs on Humble Street, Carolina Avenue, Sterling Street, Quaker Drive, Brookwood Drive, and Twain Drive; and

**WHEREAS**, this Fiscal Year 2011-2012 Cul-de-Sac Construction Project will require engineering services in the specific form of soil evaluation and compaction testing services; and

**WHEREAS**, Atlantic Coast Engineering and Testing, Inc. of Greensboro, North Carolina has consistently demonstrated, on previous city projects, the capability to provide the high quality, cost effective engineering services needed by the city; and

**WHEREAS**, Atlantic Coast Engineering and Testing, Inc. has offered to provide the engineering services (soil evaluation and compaction testing) needed for the Fiscal Year 2011-2012 Cul-de-Sac Construction Project and has advised the city to initially budget eight thousand four hundred twenty and no/100 dollars (\$8,420.00) for the professional services that will be rendered by the firm; and

**WHEREAS**, on the basis of the firm's demonstrated competence and estimated professional fee for this project, the city's public works division and engineering department have recommended, with the concurrence of the city manager, the utilization of Atlantic Coast Engineering and Testing, Inc. for the soil evaluation and compaction testing services needed for this project;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the Fiscal Year 2011-2012 Cul-de-Sac Construction Project is hereby exempted from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes on the basis of the demonstrated competence of Atlantic Coast Engineering and Testing, Inc. and the fact that the estimated professional fee for the needed engineering services is less than thirty thousand and no/100 dollars (\$30,000.00); and

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

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 9<sup>th</sup> day of June, 2011.

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

ATTEST:

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

- (f) **A resolution per G.S. 143-64.32 exempting the City of Asheboro from the advertisement/qualification based selection procedure to contract with Atlantic Coast Engineering and Testing, Inc. of Greensboro, NC for engineering services for soil evaluation and compaction testing at an estimated cost of \$6,900.00 for the Walkability Project, which includes the construction of various sidewalks and the proposed Lanier Avenue roadway widening.**

**21 RES 6-11**

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

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

It is the public policy of this State and all public subdivisions and Local Governmental Units thereof . . . to announce all requirements for architectural, engineering, surveying, and construction management at risk services, to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm; and

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

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

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

**WHEREAS**, the City of Asheboro is proceeding with a Walkability Project that calls for the construction of various sidewalks and the widening of Lanier Avenue; and

**WHEREAS**, the proposed Walkability Project will require engineering services in the specific form of soil evaluation and compaction testing services; and

**WHEREAS**, Atlantic Coast Engineering and Testing, Inc. of Greensboro, North Carolina has consistently demonstrated, on previous city projects, the capability to provide the high quality, cost effective engineering services needed by the city; and

**WHEREAS**, Atlantic Coast Engineering and Testing, Inc. has offered to provide the engineering services (soil evaluation and compaction testing) needed for the Walkability Project and has advised the city to initially budget six thousand nine hundred and no/100 dollars (\$6,900.00) for the professional services that will be rendered by the firm; and

**WHEREAS**, on the basis of the firm's demonstrated competence and estimated professional fee for this project, the city's public works division and engineering department have recommended, with the concurrence of the city manager, the utilization of Atlantic Coast Engineering and Testing, Inc. for the soil evaluation and compaction testing services needed for this project;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the Walkability Project is hereby exempted from the provisions of Article 3D of Chapter 143 of the North

Carolina General Statutes on the basis of the demonstrated competence of Atlantic Coast Engineering and Testing, Inc. and the fact that the estimated professional fee for the needed engineering services is less than thirty thousand and no/100 dollars (\$30,000.00); and

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

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 9<sup>th</sup> day of June, 2011.

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

ATTEST:

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

- (g) **An ordinance amending Section 35.04 and Section 35.07 of the Code of Asheboro in order to clarify when overlapping ownership interests in wrecker service companies preclude the addition of a wrecker service company to the Police Department's rotation wrecker service list.**

17 ORD 6-11

**AN ORDINANCE AMENDING SECTION 35.04 AND SECTION 35.07 OF THE CODE OF ASHEBORO**

**WHEREAS**, the regulatory framework for the rotation wrecker service list utilized by the Asheboro Police Department is codified as Chapter 35 of the Code of Asheboro; and

**WHEREAS**, Section 35.04 and Section 35.07 of the Code of Asheboro prescribe certain standards for the initial issuance and subsequent renewal of a permit authorizing the inclusion of a wrecker service on the said rotation wrecker service list; and

**WHEREAS**, in response to inquiries about the criteria used to determine if wrecker services are separate and distinct entities that may be listed separately on the rotation wrecker service list, the Asheboro City Council has concluded that Section 35.04 and Section 35.07 of the Code of Asheboro should be amended in order to expressly list and make readily available the criteria utilized by police department personnel to determine whether a wrecker service seeking a Rotation Wrecker Service List Permit is a separate business from another wrecker service that is already on the rotation wrecker service list.

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

**Section 1.** Section 35.04 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 35.04 Application for Rotation Wrecker Service List Permit

All applications submitted for the initial issuance or renewal of a permit shall include a properly completed and notarized application form prescribed by the chief of police or his designee. At a minimum, the applicant shall provide the following information to the city police department by means of completing the prescribed form and attaching additional supporting documentation:

(1) The wrecker service's name, the type of business association used by the wrecker service to conduct its operations, the mailing address for the wrecker service, the street address for the wrecker service's business office, the street address for the storage facility utilized by the wrecker service for storing towed vehicles, the street address for the base location from which the wrecker service's vehicle(s) will operate, and telephone numbers for contacting the wrecker service's on-duty operators at all times of the day as well as telephone number(s) for the wrecker service's office and storage facility.

(2) A description of the size and capacity of all tow trucks used by the wrecker service along with a certification that, at all times, the wrecker service's equipment will be kept in good condition and capable of performing towing services in accordance with industry standards.

(3) A description of the storage facility for towed vehicles. The storage facility must be illuminated at night and shall have a building and/or wall or fence enclosure of sufficient height and design to reasonably secure towed vehicles from unauthorized access or removal. Any wall/fence used to secure a storage facility shall be a minimum of six feet (6') in height.

(4) A certificate of insurance evidencing compliance with the insurance requirements prescribed by Section 35.05 of this chapter.

(5) A copy of the most current registration card issued by the North Carolina Division of Motor Vehicles for each wrecker service vehicle used by the wrecker service operator. Each wrecker service vehicle must be properly registered under Chapter 20 of the North Carolina General Statutes, and the vehicle registration information for each wrecker service vehicle must correspond with the identifying information required from each applicant for a permit under division (1) of this Section.

(6) A copy of a valid zoning compliance letter/certification issued by the City of Asheboro Planning Department within three (3) calendar months preceding the date of application for a Rotation Wrecker Service List Permit. Such a letter/certification must document full compliance by the applicant's vehicle towing operation and storage yard with the Asheboro Zoning Ordinance as of the date of the issuance of the zoning compliance letter/certification. No fees shall be charged by the City of Asheboro Planning Department for zoning compliance letters/certifications requested by an applicant for the sole purpose of complying with this Section.

**(7) A certification, and additional supporting documentation if requested by the chief of police or his designee, that the applicant is a separate business from any other wrecker service on the Asheboro Police Department's rotation wrecker service list. For the purpose of evaluating the sufficiency of this certification, the scope of the certification must be inclusive of all owners, officers, managers, operators, investors, general partners, limited partners, and joint venturers in the wrecker service, and the certification must expressly certify that the applicant does not share, use, combine, merge, or mix the following items with another wrecker service on the rotation wrecker service list and will not do so as long as the applicant is on the Asheboro Police Department's rotation wrecker service list:**

- (a) Building and office facilities and office equipment;**
- (b) Wreckers, dollies, or other tow equipment;**
- (c) Tow personnel and office staff or personnel;**
- (d) Vehicle storage facilities;**
- (e) Liability or owner insurance policies; and**
- (f) All other assets, accountings, invoices, income, and expenses.**

**Section 2.** Section 35.07 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 35.07 Standards for Issuance/**Renewal** of Rotation Wrecker Service List Permit

Before a permit can be initially issued or renewed, the chief of police or his designee must verify that the applicant is in compliance with the following standards:

(1) The applicant's business office, base from which wreckers will operate, and storage facility for towed vehicles must be located within the corporate limits of the City of Asheboro.

(2) Financial responsibility/insurance coverage required by the North Carolina General Statutes and this chapter must be in full force and effect.

(3) The applicant, including without limitation operators, owners, investors, general partners, limited partners, and joint venturers in the wrecker service seeking a permit, must have never been convicted of, pleaded no contest to, or received a prayer for judgment for any felony, assault, theft, or any other crime involving the taking, use, tampering with, or conversion of a motor vehicle.

(4) The applicant must only use wrecker service vehicles that are equipped with legally required lighting and other safety equipment to protect the public, and this equipment must be in good working order.

(5) The applicant must provide on-call service twenty-four (24) hours per day, seven (7) days per week.

(6) The applicant must have lawfully operating facilities, specifically including without limitation a storage facility for towed vehicles that is reasonably well illuminated at night for security purposes. The applicant's storage facility shall have a building and/or wall or fence enclosure of sufficient height and design to reasonably secure towed vehicles from unauthorized access or removal. Any wall/fence used to secure the storage facility shall be a minimum of six feet (6') in height. By way of illustration and without limitation, such a facility shall not be deemed to be lawfully operating if the applicant is unable to produce a copy of a valid zoning compliance letter/certification issued by the City of Asheboro Planning Department within three (3) calendar months preceding the date of the most recent application for a Rotation Wrecker Service List Permit.

(7) The applicant must possess and properly maintain towing equipment that is adequate to perform the required wrecker services in a reasonably workmanlike manner that minimizes, to the degree possible and consistent with industry standards, the chance of any damage to towed vehicles. Subject to Section 20-101 of the North Carolina General Statutes, all towing equipment shall display the name, address, and

telephone number of the wrecker service on the sides of the tow vehicle in letters no less than three inches (3") in height.

(8) The applicant must be in full compliance with the entirety of the requirements prescribed by this chapter and all other applicable laws, ordinances, and regulations at the time of application.

(9) An applicant's facilities and equipment, specifically including without limitation vehicles, offices, telephone lines, office equipment, and storage facilities, may not be shared with another wrecker service that holds a Rotation Wrecker Service List Permit. If a credible allegation comes to the attention of the chief of police or his designee that an applicant is owned, in whole or in part, by an individual or an entity that has an ownership interest in a separate wrecker service on the rotation wrecker service list, the applicant shall have the burden of proving to the satisfaction of the chief of police or his designee that the applicant's wrecker service is separately insured and is a separate legal entity for all purposes, specifically including without limitation federal, state, and local tax purposes, from any other wrecker service on the rotation wrecker service list. By way of illustration and not limitation, a credible allegation that would place the above-described burden of proof on an applicant would include situations where a husband and wife or other family members are each engaged in the business of towing vehicles and wish to list their respective businesses separately on the rotation wrecker service list.

(9) (10) No applicant who has previously had a Rotation Wrecker Service List Permit revoked under the provisions of this chapter may be issued a new permit until a minimum of ninety (90) calendar days have passed since the date of the revocation.

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

**Section 4.** This ordinance shall be effective upon and after the date of adoption.

This ordinance was adopted by the Asheboro City Council in regular session on the 9<sup>th</sup> day of June, 2011.

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

ATTEST:

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

**5. Community Development Items:**

- (a) **RZ-11-07: Request to rezone from B1 (Neighborhood Commercial) to O&I (Office and Institutional).** The property of York Properties and Development, LLC is located at 419 Patton Avenue and consists of approximately 0.49 acres of land. Randolph County Parcel Identification Number 7761521129 more specifically identifies the property.

Mayor Smith opened the public hearing on the following request.

Mr. Neely presented the Community Development Division staff's analysis of the request by Mr. Clyde Foust to rezone the above-described property from B1 (Neighborhood Commercial) to O&I (Office and Institutional). The Planning Board recommended approval of the requested rezoning because the Board concurred with the analysis provided by the Community Development Division staff. The staff's analysis is as follows:

"The Land Development Plan map designates this property as neighborhood residential, which primarily emphasizes accommodating existing single-family medium-density residential use and new development of a similar nature. The designation does not encourage the expansion of high intensity commercial uses.

However, staff believes that several factors make the O&I district an appropriate zoning district for the property. The property is currently zoned B1 (Neighborhood Commercial) and is used for commercial and office purposes, and the Office and Institutional (O&I) district is appropriate for properties located in transitional areas. The property is situated between heavier commercial and industrial uses to the south and in the vicinity and (sic) residential uses to the north. Considering these factors, staff believes that zoning the property O&I (Office and Institutional) serves the intent of the goals, policies, and toolkit of the Land Development Plan and is generally within the public interest in supporting a reasonable use of property."

Mr. Clyde Foust, Jr. presented comments in support of the requested rezoning.

There being no further comments, Mayor Smith closed the public hearing.

Upon motion by Mr. Bell and seconded by Mr. Burks, Council followed the recommendation of the Planning Board and voted unanimously to approve the requested rezoning.

- (b) RZ-11-08: Request for text amendments to the Asheboro Zoning Ordinance.** An application filed by Mr. Wayne Thomas and Mr. Brian Thomas to amend Article 200A, Article 500, and Article 1100 of the Asheboro Zoning Ordinance.

Mayor Smith opened the public hearing on the following request.

Mr. Neely presented the Community Development Division staff's analysis of the request by Mr. Wayne Thomas and Mr. Brian Thomas to amend Article 200A (Center City Planning Area), and Article 500 (Sign Regulations), including Table 500-1 and the provisions entitled "Notes to Table 500-1." Additionally, the applicants requested amendments to Article 1100 regarding definitions related to canopy, awning, and marquee signs within Tier 1 of the Center City Planning Area. The applicants requested an amendment that would allow the maximum area for an awning, canopy, or marquee sign to be 100% of the vertical surface area, up to a maximum of 30 square feet per side, of the canopy, awning, or structure used for a marquee within Tier 1 of the Center City Planning Area. Without objection from the applicants, the Community Development Division staff has included with the proposed text amendment minor technical clarifications to improve the administration of the zoning ordinance.

A copy of the exact text of the proposed amendments is on file in the City Clerk's office.

The Planning Board recommended approval of the requested amendments because the Board concurred with the analysis of provided by the Community Development Division staff. The staff's analysis is as follows:

"Tier 1 of the Center City Planning Area (Central Business Planning Area) is one of the most pedestrian oriented areas of the City's jurisdiction. Requirements for signs reflect the pedestrian scale of this area. Certain sign types (pole, pylon, and freestanding signs for example) that are permitted in other locations are not permitted in Tier 1.

However, to compensate for the limitations placed on these types of signs, additional sign types are permitted in this area that are not permitted elsewhere or that are only permitted temporarily (i.e. sandwich board/A-frame signs as long as they are not in the right-of-way or obstructing sidewalks). The underlying rationale for a different regulation in Tier 1 is to account for the building orientation and scale configured in a way to attract the attention of pedestrians compared to other areas where the building orientation (and associated signage) is at a scale that is geared more predominantly to the motoring public.

Allowing greater flexibility in reference to canopy/marquee/awning signs offers additional opportunities and options for signs in this district, while still recognizing the need for a size limitation that is in harmony with the character of Tier 1 and supports the public health, safety, and general welfare."

Mr. Brian Thomas presented comments in support of the requested amendments to the Asheboro Zoning Ordinance.

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

After discussion among the Council Members, Mr. Burks moved to follow the Planning Board's recommendation to approve the proposed amendments to the Asheboro Zoning Ordinance. Mr. Moffitt seconded the motion, and Council Members Baker, Bell, Burks, Hunter, and Moffitt voted in favor of the motion. Council Members Carter and Fountain voted no.

Subsequent to this vote, and without objection from the other Council Members, Council Members Carter and Fountain requested that Community Development Division staff members examine and be vigilant in preventing unintended negative impacts on the downtown area that could be caused by potential weaknesses in the city's sign regulations.

- (c) RZ-11-10: Request for text amendments to the Asheboro Zoning Ordinance.** An application filed by the City of Asheboro to amend Article 300A, Article 500, and Article 1100 of the Asheboro Zoning Ordinance.

Mayor Smith opened the public hearing on the following request.

Mr. Neely presented an overview of the Community Development Division staff's proposed amendments to the Article 300A, Article 500, and Article 1100 of the Asheboro Zoning Ordinance pertaining to emergency shelters, sign setback requirements, and zoning compliance permits for signs. Recent amendments for shelters included supplemental regulations that addressed the time, place, and manner in which emergency shelters may operate. The current proposed regulations are intended to add greater flexibility to the zoning ordinance in accommodating emergency shelters and to add clarity to setback requirements and permitting procedures related to signs.

A copy of exact text of the proposed amendments is on file in the City Clerk's office.

The Planning Board concurred with the following Community Development Division staff's analysis:

"Staff believes the proposed amendments will improve the clarity and administration of the zoning ordinance and better accommodate emergency facilities and enhance the administration and enforcement of zoning ordinance provisions related to signs. Considering these factors, staff believes the proposed amendments enhance public health, safety, and general welfare, and therefore recommends approval of the amendments."

Based on their approval of this analysis, the Planning Board recommended approval of the proposed text amendments.

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

Upon motion by Dr. Fountain and seconded by Mr. Baker, Council followed the recommendations of the Community Development Department staff and Planning Board and voted unanimously to approve the proposed amendments to the Asheboro Zoning Ordinance.

**(d) 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:**

- (i) 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.
- (ii) 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.
- (iii) RZ-11-04:** Site design and performance standards in the Center City Planning Area. The public hearing on this specific proposal was initially opened on April 7, 2011.
- (iv) 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.
- (v) 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. The public hearing on this specific proposal was initially opened on May 5, 2011.
- (vi) RZ-11-09:** Site design and performance standards in Residential Zoning Districts (R40 Low Density Residential; R15 Low Density Single-Family Residential Zoning District; R10 and R7.5 Medium Density Residential Zoning Districts; RA6 High Density Residential Zoning District), residential uses in the OA6 Office-Apartment Zoning District, and the creation of regulations providing for Traditional Neighborhood Developments (TNDs). 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, RZ-11-03; RZ-11-04, SUB-11-02, and RZ 11-06 that were previously presented for debate (these cases were first heard on February 10, 2011, March 10, 2011, April 7, 2011, and May 5, 2011 respectively) and to consider for the first time case RZ-11-09.

Mr. Neely presented an overview of the Community Development Division staff's proposed amendments to the Asheboro Zoning Ordinance under case/file number RZ-11-09. These text amendments are proposed to update performance requirements that relate to architectural, landscaping, and other site considerations in all residential zoning districts (R40, R15, R10, R7.5, RA6, and residential uses within the OA6 district), and to create of development standards for Traditional Neighborhood Developments (TNDs).

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, 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. Hunter, Council voted unanimously to follow the recommendation from the Community Development Division staff and the Planning Board to continue the combined public hearing for all of these text amendment cases to the Council's regular meeting in September.

Copies of the draft text amendments presented under the above-referenced file numbers are available for inspection and copying in the Community Development Division.

**6. Public hearing on proposed fiscal year 2011-2012 budget.**

Mayor Smith opened the public hearing on the proposed fiscal year 2011-2012 annual budget.

Mr. Ogburn utilized a PowerPoint presentation to highlight the fund allocations for the proposed fiscal year 2011-2012 annual budget. Since the initial presentation of the budget, a mistake was discovered with the salaries appropriated for the Wastewater Treatment Plant. The correct fund allocations are as follows:

General Fund	\$22,108,190
Water and Sewer Fund	<u>\$12,428,932</u>
Total:	\$34,537,122

The recommended budget reflects no increase in the property tax rate or change in water/sewer utility rates.

There being no comments from the public, Mayor Smith closed the public hearing. Final consideration of the budget will take place during a special meeting of the Council at noon on June 28, 2011.

A copy of the PowerPoint presentation utilized by Mr. Ogburn is on file in the City Clerk's office.

**7. Public comment period.**

Ms. Donna Causey, a vendor at the Asheboro Downtown Farmers' Market, inquired about certain rules and regulations requiring vendors to put a date on their products. Ms. Causey was unsure as to the specific date that is required to be placed on the products and asked that the rule/regulation be eliminated.

In response to her inquiry and after reviewing the farmers' market rules as found in the Cultural and Recreation Services Division Policy Manual, Mr. Sugg explained that the date to be placed on the products is the date that the product was processed. Additionally, Mr. Sugg explained that the adopted rules/regulations specified the process to be used to evaluate vendor questions or concerns about the regulatory framework for the Farmers' Market. Concerns regarding the rules/regulations are addressed during pre-season and post-season vendor feedback meetings. This approach was previously adopted in order to ensure that all vendors could rely upon a stable and predictable regulatory framework that did not change multiple times during a single season.

In the meantime, Ms. Causey's issue would be forwarded to the Cultural and Recreation Services Division for further research.

Additionally, Ms. Causey was concerned about the limited amount of parking spaces located at the market and that spaces were being used by market vendors for selling their products. City staff is currently working to address the parking issues at the farmers' market.

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

**8. Public Works items:**

**(a) Consideration of a resolution of intent to close a section of Quaker Drive as requested by Malt-O-Meal Company.**

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

Mr. Paul Holzhueter of the Malt-O-Meal Company and Mr. Ben Morgan, Esq. presented comments in support of the aforementioned resolution.

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

**22 RES 6-11**

**RESOLUTION OF INTENT TO PERMANENTLY CLOSE A SECTION OF QUAKER DRIVE**

**WHEREAS**, Section 160A-299 of the North Carolina General Statutes prescribes the procedure to be followed by a city in order to permanently close a street or alley; and

**WHEREAS**, the City of Asheboro has received a request from Malt-O-Meal Company to permanently close a section of Quaker Drive that is described in Section 1 of this Resolution of Intent and is immediately adjacent to Malt-O-Meal Company property on both sides of the street; and

**WHEREAS**, the City Council of the City of Asheboro has determined that it is advisable to formally consider the permanent closure of the said section of Quaker Drive; and

**WHEREAS**, in order to properly consider the permanent closure of a public street, the city council must adopt a resolution declaring the governing board's intent to permanently close the described section of the street, and the city council must set a date for a public hearing on the question of the proposed permanent street closure.

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

**Section 1.** It is the intent of the City Council of the City of Asheboro to permanently close a section of the apparent 40-foot wide irrevocably dedicated public right-of-way used for Quaker Drive that is located within the corporate limits of the City of Asheboro and is more particularly described as follows:

Randleman Township, Randolph County, North Carolina:

BEGINNING at a ½" rebar set flush with the ground in the southern margin of the apparent 40-foot wide public right-of-way for Quaker Drive, this ½" rebar is located 548 feet, more or less, from the intersection of the southern margin of the public right-of-way for Quaker Drive with the western margin of the public right-of-way for Bank Street and is located South 88 degrees 21 minutes 55 seconds West 22.58 feet from a flat/iron located at the northwest corner of the Yarabit Vencez and Antonio M. Sanchez property described in both Deed Book 1837, Page 959, Randolph County Registry and in Plat Book 5, Page 81, Randolph County Registry; thence from the said beginning point along the southern margin of the public right-of-way for Quaker Drive the following courses and distances: South 88 degrees 21 minutes 55 seconds West 827.57 feet to a ½" rebar set flush with the ground; thence South 88 degrees 21 minutes 55 seconds West 37.66 feet to a ½" rebar set flush with the ground; thence North 01 degree 38 minutes 12 seconds West 40.24 feet across Quaker Drive to a ½" rebar set flush with the ground as a control corner in the northern margin of the public right-of-way for Quaker Drive; thence along the northern margin of the public right-of-way for Quaker Drive the following courses and distances: North 88 degrees 21 minutes 48 seconds East 423.35 feet to a control corner located at a 1½" existing iron pipe flush with the ground; thence North 88 degrees 40 minutes 08 seconds East 74.67 feet to a 2" existing iron pipe set flush with the ground; thence North 88 degrees 23 minutes 08 seconds East 319.07 feet to a ½" rebar set flush with the ground; thence across Quaker Drive in a southeasterly direction along the arc of a

curve with a radius of 51.00 feet and an arc length of 67.18 feet a chord bearing and distance of South 52 degrees 05 minutes 28 seconds East 62.43 feet to the point and place of the BEGINNING, and being all of that certain 0.7629 of an acre (33,231 square feet) of land, more or less, encompassed by the preceding metes and bounds description, specifically including the entirety of the public right-of-way for the above-described section of Quaker Drive. The right-of-way to be permanently closed is shown on the plat of survey referenced below.

This description is in accordance with a plat of survey entitled "PLAT PREPARED FOR PROPOSED PERMANENT CLOSURE OF A SECTION OF QUAKER DR." that was drawn under the supervision of Glenn Lee Brown, a Professional Land Surveyor with registration number L-3663. This plat of survey, which is dated May 2, 2011, is hereby incorporated into this resolution by reference as if copied fully herein.

**Section 2.** A public hearing on the question of the proposed permanent closure of the above-described section of the irrevocably dedicated public right-of-way for Quaker Drive is hereby called and is to be held during the regular meeting of the City Council of the City of Asheboro that begins at 7:00 p.m. on July 14, 2011, in the Council Chamber of the City of Asheboro Municipal Building, which is located at 146 North Church Street in Asheboro. At this public hearing, any person may be heard on the question of whether the intended permanent closure of the above-described section of public right-of-way for Quaker Drive would be detrimental to the public interest or the property rights of any individual.

**Section 3.** The city clerk is hereby directed to cause the publication of this Resolution of Intent in *The Courier-Tribune*, a newspaper of general circulation in the City of Asheboro and Randolph County, once a week for four (4) successive weeks prior to the above-referenced public hearing.

**Section 4.** The city clerk is further directed to transmit a copy of this Resolution of Intent by registered or certified mail to each owner of property adjoining Quaker Drive. The property owners' identities are to be determined on the basis of the Randolph County Tax Department's records.

**Section 5.** The city clerk is further directed to cause the prominent posting of this Resolution of Intent in a minimum of two (2) locations along the above-described section of Quaker Drive.

This Resolution of Intent was adopted in open session during a regular meeting of the Asheboro City Council that was held on the 9<sup>th</sup> day of June, 2011.

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

ATTEST:

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

**(b) Consideration of a resolution authorizing an upset bid process for a select harvest timber sale.**

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

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

**23 RES 6-11**

**RESOLUTION AUTHORIZING AN UPSET BID PROCESS FOR A SELECT HARVEST TIMBER SALE**

**WHEREAS**, the city's consulting forester has designated approximately seventy (70) acres of land as a select cut area for a timber sale to be conducted by the City of Asheboro, and this select cut area is a portion of the city-owned property commonly known as the "Little Lakes Property" that is more specifically described by reference to the following deed books and page numbers in the office of the Randolph County Register of Deeds: Book 208, Page 423; Book 261, Page 101; and Book 1426, Page 376; and

**WHEREAS**, Section 160A-269 of the North Carolina General Statutes authorizes the city to sell real property by upset bid, after receipt of an offer for the property; and

**WHEREAS**, the city has received an offer from Chatham Lumber Company of Bonlee, North Carolina to use a select harvest operation method to harvest designated trees and timber located on the above-described city-owned lands; and

**WHEREAS**, the purchase price offered by Chatham Lumber Company consists of an advance of twenty thousand and no/100 dollars (\$20,000.00) on the timber to be purchased at the following prices for all forest products removed from the timber sale area:

<u>Product</u>	<u>Stumpage Value</u>
Shortleaf/Loblolly Pine Sawtimber 7" SED, TL 8" Cut-Up Standard Log Lengths	\$24.50/Ton
Virginia Pine Sawtimber 7" SED, TL 8" Cut-Up Standard Log Lengths	\$8.50/Ton
Grade Oak, Poplar, & Ash Logs 10" SED, 2 Sides Clear	\$38.50/Ton
Mixed Hardwood Logs All mixed hardwood species, and upper cuts of Oak, Poplar, and Ash, to 6" SED	\$21.50/Ton
Mixed Fuel Chips	\$1.00/Ton

**WHEREAS**, Chatham Lumber Company has paid the required five percent (5%) deposit on its offer;

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

**Section 1.** The sale of the above-described real property by means of the upset bid procedure prescribed by Section 160A-269 of the North Carolina General Statutes is hereby authorized.

**Section 2.** The city clerk shall cause a notice of the proposed sale to be published. The notice shall describe the property and the amount of the offer, and shall state the terms under which the offer may be upset.

**Section 3.** Any person may submit a qualifying upset bid to the office of the city clerk within ten (10) days of the date of publication of the notice of sale. Once a qualifying higher bid has been received within the prescribed time period, that bid will become the new offer.

**Section 4.** If a qualifying higher bid is received, the city clerk shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received. At that time, the amount of the final high bid shall be reported to the Asheboro City Council.

**Section 5.** In order to be deemed a qualifying higher bid, the following requirements must be satisfied:

- (a) The offeror must expressly offer in writing to execute and abide by the terms established by the city's consulting forester in the TIMBER SALE AGREEMENT negotiated with Chatham Lumber Company. This TIMBER SALE AGREEMENT is available for inspection, during the city's normal business hours, in the office of the city clerk at 146 North Church Street in Asheboro, North Carolina;
- (b) The offeror must raise the existing offer by not less than ten percent (10%) of the first one thousand and no/100 dollars (\$1,000.00) of each component of the existing offer (the components of the existing offer consist of the advance and each of the listed prices for the respective forest products) and five percent (5%) of the remainder of each component of the existing offer; and
- (c) The offeror's upset bid must be accompanied by a deposit in the amount of five percent (5%) of the advance to be paid to the city. This deposit may be paid in cash, cashier's check, or certified check. The city will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset if a qualifying higher bid is received.

**Section 6.** The city reserves the right to withdraw the property from sale at any time before the final qualifying high bid is accepted, and the city also reserves the right to reject any and all bids at any time.

**Section 7.** If no qualifying upset bid is received after the initial public notice, the offer from Chatham Lumber Company that is set forth above is hereby accepted. The appropriate city officials are

authorized to execute the instruments necessary to convey the above-described timber to Chatham Lumber Company.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held of the 9<sup>th</sup> day of June, 2011.

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

ATTEST:

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

- (c) **Consideration of a recommendation received from the Asheboro Airport Authority to approve a request by Dr. Thomas Osteen for termination of his lease for Hangar J, and to approve a lease agreement with Mr. Chris Price for Hangar J using the same terms and conditions as the current lease.**

Mr. Bunker reported that the Asheboro Airport Authority has recommended the approval of a request by Dr. Thomas Osteen for termination of his lease for Hangar J at the Asheboro Regional Airport and that the city enter into a lease agreement with Mr. Chris Price for Hangar J using the same terms and conditions as the current lease. The new lease between the city and Mr. Price would expire on August 6, 2028.

Upon motion by Mr. Moffitt and seconded by Mr. Hunter, Council voted unanimously to authorize city staff to publish an advertisement in the newspaper reflecting the proposed long term lease agreement between the City of Asheboro and Mr. Chris Price for Hangar J at the Asheboro Regional Airport.

**9. Consideration of amending the Cultural and Recreation Services Division's Schedule of Deposits, Fees, and Charges.**

Mr. Ogburn presented the proposed amendments to the Cultural and Recreation Services Division's Schedule of Deposits, Fees, and Charges. Said schedule was amended to include, effective June 9, 2011, the following fees:

	<u>Rec Card Fees</u>	<u>Non-Resident Fees</u>
<i>Public Lap Swim</i>	\$1.00	\$1.75
<i>Swimming Lessons (private)</i>	\$50.00	\$60.00

Upon motion by Dr. Fountain and seconded by Ms. Carter, Council voted unanimously to adopt the above-referenced amendments to the Cultural and Recreation Services Division's Schedule of Deposits, Fees, and Charges.

A copy of the schedule is on file in the City Clerk's office and in the Cultural and Recreation Services Division.

**10. Acknowledgement of the receipt of the Asheboro ABC Board's budget message and proposed budget for fiscal year 2011-2012.**

Mayor Smith acknowledged the receipt of the Asheboro ABC Board's budget message and proposed budget for fiscal year 2011-2012 as well as the minutes for the April 4, 2011 and May 2, 2011 ABC Board meetings.

**11. Upcoming events:**

- Randolph County Economic Development Corporation's Annual Meeting – June 23, 2011 at 8:00 a.m. at AVS.
- Special meeting of the City Council for consideration of the adoption of the budget for fiscal year 2011-2012 – June 28, 2011 at noon.

**12. Discussion of items not on the agenda:**

- Council Member Fountain announced that he will not be a candidate for another term on the City Council during the election in November 2011.

