

**REGULAR MEETING  
ASHEBORO CITY COUNCIL  
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING  
THURSDAY, SEPTEMBER 6, 2012  
7:00 p.m.**

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This being the time and place for a regular meeting of the Asheboro City Council, a meeting was held with the following elected officials and staff members present:

David H. Smith            ) – Mayor Presiding  
  
Talmadge S. Baker        )  
Clark R. Bell             )  
Edward J. Burks         )  
Linda H. Carter         ) – Council Members Present  
Michael W. Hunter       )  
Walker B. Moffitt        )  
Charles A. Swiers        )

John N. Ogburn, III, City Manager  
Dumont Bunker, P.E., City Engineer  
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal  
John L. Evans, Assistant Community Development Director  
Casandra M. Fletcher, Marketing Specialist  
Justin T. Luck, Zoning Administrator/Planner  
Ralph W. Norton, Assistant Chief of Police  
Trevor L. Nuttall, Community Development Director  
Deborah P. Reaves, Finance Director  
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.

**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 say the pledge of allegiance.

After the pledge of allegiance, Mayor Smith welcomed everyone in attendance and recognized a Boy Scout from Troop 518 who was in attendance as a requirement for his citizenship and communication merit badges.

**3. Employee recognition: [Agenda item number 4; the order of discussion of agenda item numbers 3 and 4 was reversed by Mayor Smith without objection from the Council Members.]**

**(a) City Clerk Holly H. Doerr's designation as a North Carolina Certified Municipal Clerk.**

Mayor Smith announced that Ms. Doerr had completed the necessary requirements for designation as a North Carolina Certified Municipal Clerk. Ms. Doerr joined the first class of municipal clerks from North Carolina to receive the state designation. This certification program, developed with the assistance of the UNC School of Government at Chapel Hill, is a five-year designation with requirements for continuing education to sustain and develop knowledge of the municipal clerk profession. Qualifications of applicants were reviewed and approved by the North Carolina Association of Municipal Clerks State Certification Committee.

**(b) Marketing Specialist Casey Fletcher's transition to a career with UNCG.**

Mr. Ogburn announced Ms. Fletcher's career transition from the City of Asheboro to UNCG. As a token of appreciation for her service to the City of Asheboro, Mr. Ogburn presented Ms. Fletcher with a piece of pottery.

**4. Presentation of a resolution honoring Chris Corsbie's service on the Planning Board. [Agenda Item Number 3]**

Mayor Smith presented Mr. Corsbie with a framed resolution signed by the Asheboro Planning Board and thanked him for his service on the Board.

**5. Consent Agenda:**

Prior to the adoption of the consent agenda, Mr. Ogburn noted that the Audited Financial Statements for the Asheboro ABC Board were received and is on file in the City Clerk's office. Additionally, Mr. Ogburn highlighted for the Council and everyone in attendance that Master Police Officer Ronald Leon Nicholson retired from employment on July 31, 2012 with approximately 20 years of service, but he was unable to attend the meeting in order to be honored.

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

- (a) The minutes of the City Council's regular meeting on August 9, 2012.**
- (b) The minutes of the City Council's special meeting on August 27, 2012.**
- (c) The findings of fact, conclusions of law, and order pertaining to the Conditional Use Permit issued under Community Development Division File Number CUP-12-07.**

Case No. CUP-12-07  
City Council  
City of Asheboro

IN THE MATTER OF THE APPLICATION OF THE STATE EMPLOYEES' CREDIT UNION FOR A  
CONDITIONAL USE PERMIT AUTHORIZING A BANK

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING THE REQUESTED  
CONDITIONAL USE PERMIT

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THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during a regular meeting of the Council that was held on August 9, 2012. Having considered all competent evidence and argument, the Council, on the basis of competent, material, and substantial evidence, does hereby make the following:

FINDINGS OF FACT

1. By and through Robert S. Hall, Senior Executive Vice President, the State Employees' Credit Union (hereinafter referred to as the "Applicant") has properly submitted a written application, including a site plan, for a Conditional Use Permit authorizing a bank.

2. The parcel of land upon which the bank is located and for which a new Conditional Use Permit is sought is located at 1036 South Park Street and is more specifically identified by Randolph County Parcel Identification Number 7750671874.

3. The said parcel of land (hereinafter referred to as the "Zoning Lot") is approximately two (2) acres in size.

4. The Zoning Lot is located in a Conditional Use B2 zoning district.

5. Section 102 of the Asheboro Zoning Ordinance provides as follows:

Within a CU District, only those uses specifically permitted in the zoning district to which the CU district corresponds (i.e. R15 and CUR15) shall be permitted, and all other requirements of the corresponding district shall be met. It is the intent of this ordinance that all requirements within a CU District be equal to or more stringent than those in a corresponding non-CU District.

6. Section 102 of the Asheboro Zoning Ordinance further provides that, within a conditional use district, "no use shall be submitted except as pursuant to a Conditional Use Permit authorized by the City Council, which shall specify the use or uses authorized."

7. Pursuant to the Asheboro Zoning Ordinance's Table 200-2 (Table of Permitted Uses by District), a bank is permitted as a principal use in a B2 zoning district.

8. The State Employees' Credit Union, which is treated as a bank land use under the Asheboro Zoning Ordinance, is currently located on the Zoning Lot. The existing bank is authorized by virtue of a previous Conditional Use Permit issued under planning department file number RZ/CUP-86-32.

9. In pertinent part, Section 1013.5 of the Asheboro Zoning Ordinance provides as follows:

The Zoning Administrator is authorized to approve minor changes in the approved plans of Conditional Uses, as long as they are in harmony with action of the approving body, but shall not have the power to approve changes that constitute a modification of the approval. A modification shall require approval of the City Council and shall be handled as a new application.

10. When determining whether a proposed action is a minor change or a modification, Division C of Section 1013.5 of the Asheboro Zoning Ordinance provides that "any change in parking areas resulting in an increase or reduction of 5% or more in the number of spaces approved by the City Council shall constitute a modification."

11. The Applicant is requesting approval to add one thousand seven hundred forty-four (1,744) square feet to the west side of the existing building (facing Albemarle Road) and to add twenty-one (21) parking spaces to the existing forty-five (45) parking spaces for a new total of sixty-six (66) parking spaces on the Zoning Lot.

12. The proposed addition of twenty-one (21) parking spaces represents an increase in the previously approved parking area that exceeds the five percent (5%) threshold established in Division C of Section 1013.5 of the Asheboro Zoning Ordinance.

13. The Applicant is not proposing any change in the type of land use found on the Zoning Lot. The lot was used for a bank before this application was submitted and will continue to be used as a bank if the requested land use is approved.

14. The Zoning Lot is located within the corporate limits of the City of Asheboro, and all city services are available to the lot.

15. Currently, there are two (2) driveway cuts along South Park Street and one (1) driveway cut along Albemarle Road. No additional driveways are proposed.

16. South Park Street and Albemarle Road are state-maintained major thoroughfares.

17. The Zoning Lot is located within Tier 3 of the Center City Planning Area.

18. The Zoning Lot is located in an area that is designated on the Growth Strategy Map as a Primary Growth area, and this area is identified on the Proposed Land Development Plan Map as City Activity Center.

19. In terms of the existing land uses surrounding the Zoning Lot, office/commercial land uses are located to the north and west, school administrative offices are located to the south, and the United States Post Office along with a church are located to the east.

20. The proposed addition to the existing building and the addition of parking spaces will require the installation of a sidewalk along the segment of South Park Street in front of the parking area that currently lacks a sidewalk. The site plan submitted as part of the application does in fact show the required sidewalk as an improvement that will be constructed if the requested land use is approved.

21. The site plan reviewed during the hearing of this matter complies with the provisions of the Asheboro Zoning Ordinance.

22. Mr. Barron Thompson, Esq., who is representing the Applicant in this matter, offered uncontroverted testimony that the proposed land use, if approved, would not negatively impact the value of adjoining properties. This testimony was based on the unchallenged assertions that the same banking operations would continue as in the past with the exception of an expanded building and parking area with better traffic flow and the addition of a sidewalk in front of the parking area on South Park Street.

23. No testimony was offered in opposition to the Applicant's request for a new Conditional Use Permit.

Based on the above-recited findings of fact and conclusions of law, the Council hereby enters the following:

CONCLUSIONS OF LAW

1. The Applicant's proposed land use does involve actions that are deemed to be modifications of the previously approved land use plan. Consequently, a new Conditional use Permit must be issued if the Applicant is to lawfully proceed with the actions proposed in the submitted application, specifically including the site plan considered during the hearing of this matter.

2. The Council has concluded that the requested Conditional Use Permit will not materially endanger the public health or safety if the proposed land use is located where proposed and developed according to the plan as submitted and approved.

3. The evidence received during the public hearing established that the proposed land use does meet all of the required conditions and specifications of the Asheboro Zoning Ordinance.

4. The evidence presented during the course of the hearing of this matter established that the proposed land use will not substantially injure the value of the adjoining or abutting property.

5. The location and character of the Applicant's proposed land use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Asheboro and its environs.

Based on the above-recited findings of fact and conclusions of law, the Council hereby enters the following:

ORDER

The State Employees' Credit Union is hereby issued a Conditional Use Permit that authorizes a bank on the Zoning Lot. The site plan considered and approved during the hearing of this matter on August 9, 2012, is hereby adopted and fully incorporated into this permit by reference as if copied fully herein. The issuance of this permit and its continuing validity is hereby made expressly contingent upon the Applicant, and its successors, and assigns, complying at all times with the applicable provisions of the Asheboro Zoning Ordinance, including without limitation the site plan approved by this Order. Prior to the issuance of a Zoning Compliance Permit for the approved land use, the Applicant shall properly execute for recordation in the office of the Randolph County Register of Deeds a Memorandum of Land Use Restrictions prepared by the City Attorney for the purpose of placing notice in the chain of title for the Zoning Lot of the land use restrictions placed on the Zoning Lot by virtue of the issuance of this Conditional Use Permit.

The foregoing findings, conclusions, and order were adopted by the Asheboro City Council in open session during a regular meeting held on the 6<sup>th</sup> day of September, 2012.

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

ATTEST:

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

**(d) Acknowledgement of the receipt of the minutes of the Asheboro ABC Board meetings on July 2, 2012 and August 6, 2012.**

**(e) The temporary closing of the following streets for a tractor parade on October 13, 2012 from 10:00 a.m. to 11:30 a.m.: Hoover Street; Davis Street; North Church Street from Hoover Street to Sunset Avenue; Sunset Avenue from Church Street to South Fayetteville Street; South Fayetteville Street from Sunset Avenue to West Academy Street; and West Academy Street from South Fayetteville Street to South Church Street.**

[A copy of the street map submitted as part of this request is on file in the City Clerk's office.]

**(f) Approval of the temporary closing of Sunset Avenue between Church Street and Fayetteville Street for the Cultural and Recreation Services Division's Halloween event ("Trick or Treat in the Park") from 6:00 p.m. to 9:00 p.m. on Wednesday, October 31, 2012.**



“Several factors support the request. Property zoned B3 is adjacent to the subject property and several properties in the vicinity have been rezoned to B3 in recent years. The conditional use permitting process offers the ability to exclude those uses that are incompatible with surrounding area. Rezoning the property to CU-B3 will allow greater flexibility in the number of uses that are permitted while still retaining a transition between the core of the center city and the residential neighborhood along Hill Street.”

The Applicant, Mr. Shaun L. Hayes, Esq., was placed under oath and addressed the four standard tests for issuance of a Conditional Use Permit. As part of his testimony, Mr. Hayes expressed his agreement with the following conditions that were recommended by the Community Development Division staff for attachment to the requested Conditional Use Permit:

1. The use approved (Commercial Development with Multiple Uses and/or Structures) prohibits the following specific uses:
  - (a) Bar;
  - (b) Brew Pub;
  - (c) Bus Terminal;
  - (d) Carwash;
  - (e) Correctional Facilities;
  - (f) Country, Racquet, Tennis, & Swim Clubs;
  - (g) Gas Station;
  - (h) Liquor Store;
  - (i) Mini-Lube;
  - (j) Nightclub/Cabaret;
  - (k) Package Store (Sales of Undistilled alcoholic beverages as a principle use); and
  - (l) Service Station.
2. Hours of operation (for activities involving customers and/or clients) shall be limited to 7:00 a.m. to 9:00 p.m.
3. The site plan identifies various trees and shrubs on the south side of the building. Existing vegetation including street trees located in the front yard of the south side of the property and the north side of the property may count towards landscaping requirements. Should any deficiency in meeting the landscaping requirements occur, additional plantings will be required.

In addition, a Type A screen consisting of evergreen shrubs placed five (5) feet apart on center shall be installed on the east side of the property and a Type D screen consisting of evergreen shrubs placed five feet apart on center and evergreen trees placed fifteen feet apart on center shall be installed on the west side of the property as indicated on the site plan.
4. Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the owner(s) of the Zoning Lot shall properly execute and deliver to the Zoning Administrator, for recordation in the Office of the Randolph County Register of Deeds, a Memorandum of Land Use Restrictions prepared by the City Attorney for the purpose of placing notice of the conditions attached to this Conditional Use Permit in the chain of title for the Zoning Lot.

No witnesses came forward in opposition to the Applicant's request to place the property in a CU-B3 zoning district and for the issuance of a Conditional Use Permit. There being no comments and no opposition from the public, Mayor Smith closed the public hearing.

With regard to the request to place the property in a different zoning district, the Council considered and took action with one motion on the issues of: (i) the district in which to place the property and (ii) the consistency of the requested zoning designation with the adopted comprehensive plans as well as the reasonableness of the request and whether granting the request is in the public interest. This motion, which was made by Mr. Bell and seconded by Mr. Baker, was approved without dissent and specifically provided that the Asheboro City Council:

- (i) Adopted the recommendation of the Planning Board and placed the above-described property in a CU-B3 Conditional Use Central Commercial zoning district; and
- (ii) Adopted the following consistency/reasonableness statement:

Property zoned B3 is adjacent to the subject property and several properties in the vicinity have been rezoned to B3 in recent years. The conditional use permitting process offers the ability to exclude those uses that are incompatible

with surrounding area. Rezoning the property to CU-B3 will allow greater flexibility in the number of uses that are permitted while still retaining a transition between the core of the center city and the residential neighborhood along Hill Street.

In light of these factors, the Conditional Use zoning designation will provide a reasonable use of the property and is consistent with the Land Development Plan. Therefore, the City Council believes approval of the request is in the public's interest.

With regard to the application for a Conditional Use Permit, upon motion by Mr. Baker and seconded by Mr. Bell, Council voted unanimously to approve the requested Conditional Use Permit to allow a Commercial Development with Multiple Uses to be located on the above-described property. The issuance of this permit is based on the four standard tests being met.

The formal findings of fact, conclusions of law, and order authorizing the Conditional Use Permit will be entered by the Council during regular session on October 4, 2012. This order will reflect the conditions imposed upon this permit as a consequence of the testimony presented during the public hearing.

[An audio recording of the sworn testimony received during the above-described combined public hearing is available on the city website and in the City Clerk's office.]

**(b) Combined Public Hearing: Request to rezone property from R7.5 (Medium Density Residential) and RA6 (High Density Residential) to CU-B2 (Conditional Use General Commercial) and to issue a Conditional Use Permit authorizing retail shoppers' goods (specifically a drug store/pharmacy) on property located at 526, 534, and 542 Greensboro Street (Community Development Division File No. RZ/CUP-12-08)**

Mayor Smith opened the public hearing on the following request.

Mr. Nuttall was placed under oath and presented the Community Development Division staff's analysis of the Applicant's request that included a properly submitted site plan. This request pertains to approximately 1.152 acres of land owned by Jeff Brantley Builders, LLC, Harrish Bhaskhar, and Pugh Family, LLC. The property is more specifically identified by Randolph County Parcel Identification Numbers 7751957448, 7751957545, 7751957657, and 7751957642.

The Applicant, Jeff Brantley Builders, LLC, requested the rezoning of the above-described property from R7.5 Medium Density Residential and RA6 High Density Residential to CU-B2 Conditional Use General Commercial. In addition to having the property rezoned, the Applicant requested a Conditional Use Permit for a Health Practitioner Office and Retail Shoppers Goods Store (Drug Store/Pharmacy).

The Community Development Division staff and the Planning Board recommended approval of the rezoning based on the following analysis:

"While the Land Development Plan designates the property as 'neighborhood residential,' rezoning requests that have been approved in recent years have made the area more transitional in nature. The rezoning of properties along Greensboro Street has altered the character of the area from primarily residential to a mix of residential and office/institutional in nature and the property is contiguous to two non-residential uses. The conditional use process can help eliminate commercial uses that are not compatible with the surrounding area and allow conditions to be placed on the property that are reasonably necessary to protect the public health, safety, and general welfare and promote the objectives of the Land Development Plan."

On behalf of the Applicant, Mr. Bob Wilhoit, Esq., was placed under oath and addressed the four standard tests. In addition to posing questions to the Assistant Community Development Director, Mr. Wilhoit questioned Mr. Lee Roberts, a certified real estate appraiser, about his expert opinion on the impact of the proposed use on land values.

Ms. Evonne Hill Parks, who is the executrix of the estate of Mr. Charles Thomas Hill, Jr. (owner of the property located at 520 Greensboro Street) was sworn and posed certain questions for the applicant pertaining to property boundary lines. While Ms. Parks had concerns about whether the proposed use would encroach on other properties, she raised no objection to the type of use proposed.

On behalf of the Applicant, Mr. Wilhoit agreed with and to the conditions suggested by the Community Development Division staff for attachment to the requested Conditional Use Permit. The staff suggested conditions are as follows:

1. The use approved is health practitioner office(s) and/or retail shoppers' goods. The retail shoppers' goods use shall be limited to a drug store/pharmacy within the definition of "retail shoppers' goods." The retail shoppers' goods use (limited to a drug store/pharmacy) shall only occupy the portion of the proposed structure that is identified on the site plan and labeled "pharmacy."
2. Hours of operation shall be limited to 7:00 a.m. to 9:00 p.m.
3. A sidewalk shall be installed parallel to Greensboro Street along the entire frontage of the property. This sidewalk shall be constructed in accordance with City of Asheboro sidewalk standards.
4. The elevation drawing that was submitted to city staff identifies the building materials as "brick" on the building facades. Building materials may be any masonry building material that complies with the Design Standards of the Asheboro Zoning Ordinance.
5. Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the owner(s) of the Zoning Lot shall properly execute and deliver to the Zoning Administrator, for recordation in the Office of the Randolph County Register of Deeds, a Memorandum of Land Use Restrictions prepared by the City Attorney for the purpose of placing notice of the conditions attached to this Conditional Use Permit in the chain of title for the Zoning Lot.

There being no further comments or evidence to present, Mayor Smith closed the public hearing.

With regard to the request to place the property in a different zoning district, the Council considered and took action with one motion on the issues of (i) the district in which to place the property and (ii) the consistency of the requested zoning designation with the adopted comprehensive plans as well as the reasonableness of the request and whether granting the request is in the public interest. This motion, which was made by Mr. Bell and seconded by Mrs. Carter, was approved without dissent and specifically provided that the Asheboro City Council:

- (i) Adopted the recommendation of the Planning Board and placed the above-described property in a CU-B2 Conditional Use General Commercial zoning district; and
- (ii) Adopted the following consistency/reasonableness statement:

While the Land Development Plan designates the property as 'neighborhood residential,' rezoning requests that have been approved in recent years have made the area more transitional in nature. The rezoning of properties along Greensboro Street has altered the character of the area from primarily residential to a mix of residential and office/institutional in nature and the property is contiguous to two non-residential uses. The conditional use process can help eliminate commercial uses that are not compatible with the surrounding area and allow conditions to be placed on the property that are reasonably necessary to protect the public health, safety, and general welfare and promote the objectives of the Land Development Plan.

After considering the above factors, Council believes the Conditional Use zoning process will allow a reasonable use of the property and ensure consistency with the Land Development Plan and Comprehensive Pedestrian Transportation Plan. Therefore, the Council has concluded that the request is reasonable and in the public interest.

With regard to the application for a Conditional Use Permit, upon motion by Mr. Bell and seconded by Mrs. Carter, Council voted unanimously to approve the requested Conditional Use Permit to allow a Health Practitioner Office(s) and Retail Shoppers Goods (Drug Store/Pharmacy) to be located on the above-described property. The issuance of this permit is based on the four standard tests being met.

The formal findings of fact, conclusions of law, and order authorizing the Conditional Use Permit will be entered by the Council during regular session on October 4, 2012. This order will reflect the conditions imposed upon this permit as a consequence of the testimony presented during the public hearing.

[An audio recording of the sworn testimony received during the above-described combined public hearing is available on the city website and in the City Clerk's office.]

**(c) Public Hearing: Request for a Special Use Permit authorizing a school on property located at 1627 Browers Chapel Road (Community Development Division File No. SUP-12-02)**

Mayor Smith opened the quasi-judicial hearing on the following request.

Mr. Nuttall was placed under oath and presented the Community Development Division staff's analysis of the Applicant's request that included a properly submitted site plan. The property in question is approximately 20.579 acres of land located at 1627 Browers Chapel Road. This property is owned by Agape Christian Academy of Asheboro and is more specifically identified by Randolph County Parcel identification Number 7760854660.

Under file number SUP-08-01, a Special Use Permit was issued in 2008 for Agape Christian Academy of Asheboro as a private elementary school (K-8) with an enrollment of up to 60 students. On behalf of Agape Christian Academy of Asheboro, Ms. Karen C. Buhman has filed an application for a new Special Use Permit because of modifications that have been requested for the school.

The modifications requiring a new Special Use Permit are as follows:

- a. Two modular classrooms have been added, and the school wants to keep those classrooms in excess of eighteen months.
- b. A new library/storage facility and changes to the recreation facilities area are also proposed.
- c. Furthermore, the current request is to authorize an enrollment of up to 140 students.

On behalf of the Applicant, Mr. Ben Morgan, Esq. was placed under oath and addressed the four standard tests. Mr. Morgan also agreed on behalf of the Applicant with the following conditions suggested by the Community Development Division staff:

1. The school shall have a maximum enrollment of one hundred forty (140) students.
2. Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the owner(s) of the Zoning Lot shall properly execute and deliver to the Zoning Administrator, for recordation in the Office of the Randolph County Register of Deeds, a Memorandum of Land Use Restrictions prepared by the City Attorney for the purpose of placing notice of the conditions attached to this Special Use Permit in the chain of title for the Zoning Lot.

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

Upon motion by Mr. Bell and seconded by Ms. Carter, Council voted unanimously to approve with the suggested conditions, the requested Special Use Permit. This approval is based on the four standard tests being met.

The formal findings of fact, conclusions of law, and order authorizing the Special Use Permit will be entered by the Council in regular session on October 4, 2012. This order will reflect the conditions imposed upon this permit as a consequence of the testimony presented during the hearing of this matter.

[An audio recording of the sworn testimony received during the above-described public hearing is available on the city website and in the City Clerk's office.]

**7. Annexation petitions**

**(a) Consideration of a petition received from Celia M. Wright requesting contiguous annexation of 0.15 of an acre of land located at 617 Glovinia Street.**

**(i) Public hearing**

Mayor Smith opened the public hearing on the request for contiguous annexation of 0.15 acres of land located at 617 Glovinia Street.

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

**(ii) Ordinance to extend the corporate limits of the City of Asheboro**

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

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

**Ordinance Number 23 ORD 9-12**  
**ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE**  
**CITY OF ASHEBORO, NORTH CAROLINA**  
**(A Total of 0.15 of an Acre of Land Located at 617 Glovinia Street)**

**WHEREAS**, pursuant to Section 160A-31 of the North Carolina General Statutes, a petition requesting annexation by the City of Asheboro of the territory described in Section 1 of this ordinance was presented to the Asheboro City Council on August 9, 2012; and

**WHEREAS**, this petition for annexation was signed by the owner of all of the real property for which annexation was requested; and

**WHEREAS**, by means of a duly adopted resolution (Resolution Number 33 RES 8-12), the Asheboro City Council directed the City Clerk to investigate the sufficiency of the petition, and the Clerk has certified the sufficiency of the said petition; and

**WHEREAS**, pursuant to Asheboro City Council Resolution Number 34 RES 8-12, notice was published to the public on the 23<sup>rd</sup> day of August, 2012, in *The Courier-Tribune*, a newspaper having general circulation in the City of Asheboro, setting forth that a public hearing would be held during the Asheboro City Council's regular meeting at 7:00 o'clock p.m. on the 6<sup>th</sup> day of September, 2012, in the Council Chamber at Asheboro City Hall, to consider the adoption of an ordinance annexing the said area into the City of Asheboro; and

**WHEREAS**, the said public hearing was in fact held on the 6<sup>th</sup> day of September, 2012; and

**WHEREAS**, the Asheboro City Council has determined that the petition meets the requirements of Section 160A-31 of the North Carolina General Statutes;

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

**Section 1.** By virtue of the authority granted in Section 160A-31 of the North Carolina General Statutes, the following described area is hereby annexed and made part of the City of Asheboro, North Carolina:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a computed point that is located on both the existing primary corporate limits line for the City of Asheboro and on the southern boundary line for the Celia M. Wright property (for which annexation has been requested) that is described in Deed Book 813, Page 33, Randolph County Public Registry, this beginning point is located the following courses and distances from City of Asheboro Monument # 103 that is itself located by means of the North Carolina Coordinate System at the coordinates of North 715,918.921 feet and East 1,760,603.013 feet (NAD 27): South 80 degrees 20 minutes 05 seconds East 2,681.55 feet to a computed point; thence North 3 degrees 26 minutes 46 seconds East 257.00 feet to an axle that is up 12" and is at the southwest corner of the said Celia M. Wright property; thence South 86 degrees 37 minutes 54 seconds East 22.87 feet along the southern boundary line of the said Wright property to the beginning point that is on the existing primary corporate limits line that crosses the Wright property; thence from the said beginning point following

the existing primary corporate limits line North 19 degrees 00 minutes 46 seconds West 52.42 feet across the Wright property to a computed point on the northern boundary line of the Celia M. Wright property; thence departing from the existing primary corporate limits line and proceeding along the said northern boundary line South 86 degrees 04 minutes 38 seconds East 145.95 feet to a ½-inch rebar that is down 1" at the northeast corner of the Wright property and on the western margin of the public right-of-way for Glovinia Street (North Carolina Secondary Road 2317); thence following the western margin of the public right-of-way for Glovinia Street the following course and distance: South 1 degree 45 minutes 45 seconds West 47.08 feet to a bent ¾-inch existing iron pipe that is down 2" at the southeast corner of the said Celia M. Wright property; thence departing from the margin of the right-of-way for Glovinia Street and proceeding along the southern boundary line of the said Wright property the following course and distance: North 86 degrees 37 minutes 54 seconds West 127.30 feet to the point and place of BEGINNING, and containing 0.15 of an acre (6,519 square feet) of land, more or less, to be annexed.

The above-listed description is in accordance with a plat of survey entitled "Annexation Plat for City of Asheboro(;) Property of Celia M. Wright(;) 617 GLOVINIA STREET." This plat was drawn under the supervision of Thomas Scaramastra, Professional Land Surveyor with License Number L-4421, from an actual survey made under his supervision. The job number listed on the plat is 12022. The said plat of survey is dated July 30, 2012.

**Section 2.** Upon and after September 6, 2012, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Asheboro and shall be entitled to the same privileges and benefits as other parts of the City of Asheboro. Said territory shall be subject to municipal taxes according to Section 160A-58.10 of the North Carolina General Statutes.

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

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

**Section 5.** This ordinance shall be in full force and effect upon and after the 6<sup>th</sup> day of September, 2012.

This ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 6<sup>th</sup> day of September, 2012.

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

ATTEST:

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

Approved as to form:

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

**(b) Consideration of a petition received from Walter L. Ward and Earlene V. Ward requesting contiguous annexation of 11.68 acres of land located at 1634 and 1636 East Dixie Drive (Mid-State Toyota).**

**(i) Public hearing.**

Mayor Smith opened the public hearing on the request for contiguous annexation of 11.68 acres of land located 1634 and 1636 East Dixie Drive (Mid-State Toyota).

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

(ii) **Ordinance to extend the corporate limits of the City of Asheboro.**

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

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

**Ordinance Number 24 ORD 9-12**  
**ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE**  
**CITY OF ASHEBORO, NORTH CAROLINA**  
**(A Total of 11.68 Acres of Land Located at 1634 and 1636 East Dixie Drive)**

**WHEREAS**, pursuant to Section 160A-31 of the North Carolina General Statutes, a petition requesting annexation by the City of Asheboro of the territory described in Section 1 of this ordinance was presented to the Asheboro City Council on August 9, 2012; and

**WHEREAS**, this petition for annexation was signed by the owners of all of the real property for which annexation was requested; and

**WHEREAS**, by means of a duly adopted resolution (Resolution Number 35 RES 8-12), the Asheboro City Council directed the City Clerk to investigate the sufficiency of the petition, and the Clerk has certified the sufficiency of the said petition; and

**WHEREAS**, pursuant to Asheboro City Council Resolution Number 36 RES 8-12, notice was published to the public on the 23<sup>rd</sup> day of August, 2012, in *The Courier-Tribune*, a newspaper having general circulation in the City of Asheboro, setting forth that a public hearing would be held during the Asheboro City Council's regular meeting at 7:00 o'clock p.m. on the 6<sup>th</sup> day of September, 2012, in the Council Chamber at Asheboro City Hall, to consider the adoption of an ordinance annexing the said area into the City of Asheboro; and

**WHEREAS**, the said public hearing was in fact held on the 6<sup>th</sup> day of September, 2012; and

**WHEREAS**, the Asheboro City Council has determined that the petition meets the requirements of Section 160A-31 of the North Carolina General Statutes;

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

**Section 1.** By virtue of the authority granted in Section 160A-31 of the North Carolina General Statutes, the following described area is hereby annexed and made part of the City of Asheboro, North Carolina:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a 1½" existing iron pipe that is 4" tall and set in the southern margin of the 150-foot public right-of-way for East Dixie Drive (United States Highway 64) at the northeast corner of the Walter L. Ward and Earlene V. Ward property (the submitted petition requests the annexation of an approximately 9.65 acre portion of the overall tract of land) that is described in the following deed books in the Randolph County Public Registry: Deed Book 1113, Page 182; Deed Book 1135, Page 165; Deed Book 1176, Page 1724; the said beginning point is located on the existing satellite corporate limits line for the City of Asheboro, and this beginning point is itself located by means of the North Carolina Coordinate System at the coordinates of North 712,361.76 feet and East 1,768,475.74 feet (NAD 27); thence from the said beginning point proceeding along the satellite corporate limits line and the eastern boundary line of the said Ward property the following course and distance: South 02 degrees 10 minutes 37 seconds West 1,110.02 feet to a computed point; thence departing from the boundary line and the satellite corporate limits line to go across the said Ward property, without proceeding along any recorded lot line, the following course and distance: North 89 degrees 10 minutes 52 seconds West 491.84 feet to a computed point on the Ward property's western boundary line that is also the location of the existing primary corporate limits line for the City of Asheboro; thence North 00 degrees 49 minutes 08 seconds East 557.90 feet along the existing primary corporate limits line to a ¼" new iron rod that is flush with the ground and set in the southern margin of the public right-of-way for East Dixie Drive; thence proceeding along the existing primary corporate limits line by going across East Dixie Drive and along the northern margin of the public right-of-way for East Dixie Drive the following courses and distances: North 53 degrees 45 minutes 07 seconds West 148.19 feet to a computed point located by means of the North Carolina Coordinate System at the coordinates of North 711,905.029 feet and East 1,767,830.247 feet (NAD 27); thence North 42

degrees 37 minutes 52 seconds East 373.49 feet to a computed point; thence North 42 degrees 37 minutes 52 seconds East 227.90 feet to a computed point; thence departing from the existing primary corporate limits line and going back across East Dixie Drive the following course and distance: South 44 degrees 58 minutes 56 seconds East 157.62 feet to a computed point in the southern margin of the public right-of-way for East Dixie Drive; thence North 45 degrees 13 minutes 39 seconds East 178.56 feet along the southern margin of the public right-of-way for East Dixie Drive to the point and place of BEGINNING, and containing a total of 508,728 square feet or 11.68 acres of land, more or less, to be annexed (Within the overall annexation area, 420,293 square feet or 9.65 acres of land, more or less, are located within the Ward property, and 88,435 square feet or 2.03 acres of land, more or less, are located within the public street right-of-way.).

The above-listed description is in accordance with a plat of survey entitled "ANNEXATION PLAT – CITY OF ASHEBORO(;) PROPERTY OF WALTER L. WARD & EARLENE WARD (MID-STATE TOYOTA)." This plat was drawn under the supervision of Timothy B. Duncan, Professional Land Surveyor with License Number L-4253, from an actual survey made under his supervision. The job number listed on the plat is S-01612ANNX. The said plat of survey is dated April 5, 2012.

**Section 2.** Upon and after September 6, 2012, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Asheboro and shall be entitled to the same privileges and benefits as other parts of the City of Asheboro. Said territory shall be subject to municipal taxes according to Section 160A-58.10 of the North Carolina General Statutes.

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

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

**Section 5.** This ordinance shall be in full force and effect upon and after the 6<sup>th</sup> day of September, 2012.

This ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 6<sup>th</sup> day of September, 2012.

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

ATTEST:

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

Approved as to form:

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

**8. Public comment period.**

Mayor Smith opened the floor for comments from the public, and none were offered.

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

**9. Consideration of a resolution exempting the Process and Energy Audit for the Water Treatment and Wastewater Treatment Facilities Project from the selection procedure found in Chapter 143, Article 3D of the North Carolina General Statutes.**

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

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

**RESOLUTION EXEMPTING AN ENERGY AUDIT 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 Asheboro City Council concurs with the recommendation of the City Manager to conduct a process and energy audit of the City of Asheboro water treatment and wastewater treatment facilities; and

**WHEREAS**, The Wooten Company has offered to provide the engineering services needed to properly conduct such an audit in consideration of the payment of a professional services fee that is not to exceed seventeen thousand six hundred and no hundredths dollars (\$17,600.00); and

**WHEREAS**, on the basis of the firm's demonstrated competence and estimated professional fee for this project, the city's professional staff has recommended the utilization of The Wooten Company to provide the engineering services needed to complete the Process and Energy Audit for the Water Treatment and Wastewater Treatment Facilities Project;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the Process and Energy Audit for the Water Treatment and Wastewater Treatment Facilities 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 The Wooten Company and the fact that the professional fee for the needed engineering services is less than thirty thousand and no hundredths 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 The Wooten Company for the provision of the engineering services needed to successfully complete the Process and Energy Audit for the Water Treatment and Wastewater Treatment Facilities Project.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 6<sup>th</sup> day of September, 2012.

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

ATTEST:

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

**10. Consideration of a resolution declaring the official intent of the City of Asheboro to reimburse the General Fund and the Water and Sewer Fund with installment financing proceeds.**

Ms. Reaves presented and recommended adoption, by reference, of the aforementioned resolution.

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

**41 RES 9-12**

**RESOLUTION DECLARING THE OFFICIAL INTENT OF THE CITY OF ASHEBORO TO REIMBURSE THE GENERAL FUND AND THE WATER AND SEWER FUND WITH INSTALLMENT FINANCING PROCEEDS**

**WHEREAS**, in order to maintain a satisfactory level of municipal services for the citizens of the City of Asheboro, the Asheboro City Council adopted, on June 28, 2012, a budget ordinance for fiscal year 2012-2013 that allocated the funding stated hereinbelow for the following vehicles and equipment deemed essential for maintaining uninterrupted municipal services:

General Fund Expenditures

20 Motor Vehicles – Police  
1 Fire Truck/Apparatus – Fire  
1 Trailer – Fleet Maintenance  
2 Road Tractors – Environmental Services  
5 Trailers – Environmental Services  
1 Garbage Truck – Environmental Services  
1 Greens Mower – Facilities Maintenance  
1 Spray Truck – Facilities Maintenance  
1 Service Truck – Facilities Maintenance  
1 Service Truck – Public Works Operations

Water and Sewer Fund Expenditures

1 Full Size Truck – Water Meter Operations  
1 Service Truck – Water Maintenance  
1 Trailer – Water Maintenance  
1 Full Size Truck – Wastewater Maintenance  
1 Vacuum Tanker Truck – Systems Maintenance

The total budgeted amount of expenditures from the General Fund for the above-listed motor vehicles and equipment is one million four hundred thirty-seven thousand two hundred fifty and no hundredths dollars (\$1,437,250.00), and the total budgeted amount of the expenditures from the Water and Sewer Fund for the above-listed vehicles and equipment is three hundred eighty-one thousand four and no hundredths dollars (\$381,004.00) with the sum of the expenditures from both funds not to exceed one million eight hundred eighteen thousand two hundred fifty-four and no hundredths dollars (\$1,818,254.00); and

**WHEREAS**, Section 160A-20 of the North Carolina General Statutes authorizes the city to finance the purchase of personal property by means of installment financing that creates a security interest in the purchased property to secure payment of the purchase price to the entity supplying financing for the purchase transaction; and

**WHEREAS**, in order to continue to provide high quality municipal services at their present level, the above-listed vehicles and equipment will be purchased and placed into service as soon as is feasible by utilizing funds that are currently available in the General Fund and the Water and Sewer Fund; and

**WHEREAS**, the Asheboro City Council has decided that the above-stated expenditures are to be reimbursed to the respective funds during the current fiscal year with the proceeds from any installment financing agreement(s) that create security interests in the said municipal vehicles and equipment acquired during the city's 2012-2013 fiscal year; and

**WHEREAS**, more favorable financing terms can be obtained if the city takes the steps necessary to allow the lending institution(s) from whom financing is ultimately obtained to exclude the interest paid or payable under an installment financing agreement with the city from the gross income of the lending institution(s); and

**WHEREAS**, in accordance with the applicable Treasury Regulations, one of the steps necessary to avoid jeopardizing the ability of a lender to exclude from its gross income the interest paid or payable under an agreed upon installment financing agreement is for the city to declare its intent to reimburse the General Fund and the Water and Sewer Fund for the expenditures to be used to purchase the needed vehicles and equipment;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that, prior to the execution of any installment financing agreement and consistent with the city's budget ordinance for fiscal year 2012-2013, a maximum of one million four hundred thirty-seven thousand two hundred fifty and no hundredths dollars (\$1,437,250.00) may be expended from the General Fund for the vehicles and equipment listed hereinabove and a maximum of three hundred eighty-one thousand four and no

