

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, OCTOBER 5, 2017
7:00 p.m.**

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 city management team members present:

David H. Smith) – Mayor Presiding

Clark R. Bell)
Edward J. Burks)
Linda H. Carter)
Walker B. Moffitt) – Council Members Present
Jane H. Redding)
Katie L. Snuggs)
Charles A. Swiers)

John N. Ogburn, III, City Manager
Jason D. Cheek, Police Captain
Timothy Edward Cockman, Deputy Fire Chief
Holly H. Doerr, CMC, NCCMC, NCCP, City Clerk/Paralegal
Michael L. Leonard, PE, City Engineer
Trevor L. Nuttall, Community Development Director
Deborah P. Reaves, Finance Director
Jeffrey C. Sugg, City Attorney
Jody P. Williams, Chief of Police

1. Call to order.

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

2. Moment of silent prayer and pledge of allegiance.

After a moment of silence was observed in order to allow for private prayer and meditation, Mayor Smith asked everyone to stand and say the pledge of allegiance.

3. Recognition of retired Master Police Officer Linda A. Garner for her dedicated service to the City of Asheboro and its citizens.

On behalf of the Asheboro Police Department, Chief Williams presented Master Police Officer Garner with a plaque that included her badge as a token of gratitude for her loyal service to the City of Asheboro. Along with her badge, Chief Williams presented Master Police Officer Garner with her service side arm that she carried at the time of her retirement.

Additionally, on behalf of Mayor Smith and the City Council, Mr. Ogburn presented Master Police Officer Garner with a retirement plaque from the municipal corporation.

4. Naming of the open space at the Eastside Park in honor of the late Coach Russell “Russ” Eugene Murphy.

Mr. Willie Gladden asked the council to adopt a resolution honoring the late Coach Russell “Russ” Eugene Murphy. Furthermore, Mr. Gladden asked that the Asheboro City Council name the open space at the Eastside Park in honor of Coach Murphy.

Upon motion by Mr. Bell and seconded by Ms. Snuggs, Council Members voted unanimously to adopt the following resolution by reference.

RESOLUTION NUMBER 32 RES 10-17

RESOLUTION HONORING COACH RUSS MURPHY

WHEREAS, Coach Murphy was a long time coach of numerous sports in the Asheboro City School System. A graduate of Winston Salem State University, he played football professionally with the Philadelphia Eagles. Coach Murphy was a very passionate person who touched many students and athletes in the 30 plus years that he lived in the Asheboro Community, and

WHEREAS, Mr. Russell Eugene Murphy, Sr. was from Wilmington, North Carolina and served in the Marines after high school. After discharge, Mr. Murphy earned a bachelor's degree from Winston-Salem State University and a master's from N.C. A&T State. His career began under legendary Coach Clarence "Bighouse" Gaines at WSSU, and

WHEREAS, Coach Murphy worked for a time as a teacher in Burlington and Roanoke Rapids schools, he came to Asheboro for the remainder of his career, teaching at North Asheboro Middle School, where he coached basketball, and served on the football staff at Asheboro High School, and

WHEREAS, Coach Murphy, who died November 15, 2005, had been inducted into the N.C. Weight Lifting Hall of Fame, the "Bighouse" Gaines Athletic Hall of Fame at Winston Salem State University and the Asheboro High School Hall of Fame. He was a charter member of the Winston Salem State University Heritage Society Club and a life member of the Winston Salem State University National Alumni Association, and

WHEREAS, Coach Murphy started his Asheboro teaching career at the old Central High School until public schools were integrated in the late 1960s. "Coach Lee J. Stone hired him as a football coach," Gladden said. "They were close friends up until the end."

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Asheboro hereby names the open space at the Eastside Park in honor of late Coach Russell "Russ" Eugene Murphy; and

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized and instructed to spread a copy of this resolution upon the city's records.

Adopted this the fifth day of October, 2017.

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

ATTEST:

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

5. Consent agenda.

Upon motion by Mr. Burks and seconded by Ms. Redding, Council voted unanimously to approve/adopt each of the following consent agenda items:

(a) The meeting minutes of the city council's regular meeting on September 14, 2017.

The approved minutes are on file in the city clerk's office, and an electronic copy of the approved minutes is posted on the city's website.

(b) The receipt of the Asheboro ABC Board's meeting minutes for September 5, 2017.

Copies of the Asheboro ABC Board's meeting minutes for September 5, 2017 are on file in the city clerk's office.

(c) The dates, along with certain associated rules, for the 2017-2018 dark geese (Canada & white-fronted geese) and duck hunting season at Lake Reese.

A copy of the recreation services superintendent's written request containing the hunting dates and rules was provided to the council members in advance of the vote to adopt the said dates and rules. A copy of this written request is also on file in the city clerk's office.

The adopted hunting season dates are as follows:

- November 16th, 18th, and 20th
- December 16th, 18th, and 28th
- January 4th, 6th, and 8th

(d) The temporary closure on October 31, 2017, from 6:30 p.m. to 8:30 p.m., of the streets indicted on the parade permit application and map for the "Trick or Treat in the Park" event sponsored by the City of Asheboro Cultural and Recreation Services Departments.

The parade permit application for the requested street closure, including a street closure map, was included in the council's materials. Copies of these items are on file in the city clerk's office. The said temporary street closure was approved as requested in the application.

(e) The temporary closure on November 5, 2017, from 3:00 p.m. to 4:00 p.m. of the streets indicated on the parade permit application and map for a horse parade.

The parade permit application for the requested street closure, including a street closure map, was included in the council's materials. Copies of these items are on file in the city clerk's office. The said temporary street closure was approved as requested in the application.

(f) The temporary closure on November 11, 2017, from 4:00 p.m. to 5:30 p.m., of the streets indicated on the parade permit application and map for the Veterans Day Parade.

The parade permit application for the requested street closure, including a street closure map, was included in the council's materials. Copies of these items are on file in the city clerk's office. The said temporary street closure was approved as requested in the application.

(g) An ordinance to amend the General Fund for Fiscal Year 2017-2018.

21 ORD 10-17

ORDINANCE TO AMEND THE GENERAL FUND FY 2017-2018

WHEREAS, there exist within the City of Asheboro dwellings unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents and other calamities; lack of ventilation, light and sanitary facilities; and other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health, safety and morals, and otherwise detrimental to the welfare of the residents of the City, and;

WHEREAS, in order to protect the health, safety and welfare of the residents of the city as authorized by Part 6 of Article 19, Chapter 160A of the General Statutes, minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation have been established as expressly authorized by G.S. § 160A-444, and;

WHEREAS, these minimum standards of fitness were established by legislative authority of the City Council of the City of Asheboro and are found in Title XV Chapter 151 of the Code of Asheboro, and;

WHEREAS, there exist home owners occupying dwellings in violation of Title XV Chapter 151, which create public safety concerns and negatively affect surrounding home values and neighborhood health, and;

WHEREAS, The City Council aspires to further its public purpose to safeguard public health, safety and welfare through programs and partnerships that protect property values and improve the quality of housing within the city, and;

WHEREAS, Habitat for Humanity of Randolph County provides rehabilitative assistance to homeowners in Asheboro to correct deficiencies of Title XV Chapter 151, thereby making all of Asheboro housing safer and more habitable, and;

WHEREAS, the City Council recognizes that its interest in ensuring all residents have access to quality housing aligns with Habitat for Humanity of Randolph County's interest in facilitating the provision of decent and affordable housing, and;

WHEREAS, the City Council, in light of the above-stated recognition of common interests, wishes to appropriate funds to Habitat for Humanity of Randolph County for rehabilitative assistance to correct housing deficiencies experienced by low to moderate income homeowners residing within the City of Asheboro, and;

WHEREAS, the budget needs to be amended to appropriate funding and to be in compliance with all generally accepted accounting principles, and;

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

That the following Revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
10-399-0000	Fund Balance Allocation	32,000

That the following Expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
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10-490-5600 Community Development

\$32,000

Adopted this the 5th day of October 2017.

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

ATTEST:

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

6. Community Development items:

(a) Request for approval to schedule for November 9, 2017, and to advertise, public hearings on applications for land use approvals.

Mr. Nuttall requested approval to schedule the following zoning cases for the November 9, 2017 regular city council meeting. Additionally, Mr. Nuttall requested that the meeting be held at the City of Asheboro Public Works Facility located at 1312 North Fayetteville Street in Asheboro instead of city hall.

Upon motion by Mr. Bell and seconded by Mr. Swiers, Council voted unanimously to approve the scheduling and advertising of public hearings pertaining to the following zoning cases. The hearings will be held during the November 9, 2017 regular council meeting that will be held at the City of Asheboro Public Works Facility.

- (i) Application to rezone property located at 364 and 384 N.C. Highway 42 N. (Randolph County Parcel Identification Numbers 7761413138, 7761414104, and 7761414160) from R10 (Medium-Density Residential) and M (Mercantile) zoning to B2 (General Commercial) zoning.
- (ii) Application for a special use permit allowing a special intensity non-residential allocation of built upon area within a watershed area and regarding height requirements within the airport overlay zone for property located on the north side of Pineview Street and the west side of the Norfolk Southern Railroad (Randolph County Parcel Identification Numbers 7753684191, 7753573828, 753487218, 7753781486, and 7753596125).
- (iii) Application to rezone property located at 1930/1940 Gold Hill Road (the portion of Randolph County Parcel Identification Number 7762798310 located within City of Asheboro jurisdiction) from R10 (Medium-Density Residential) zoning to CU-R40 (Conditional Use Low-Density Residential) zoning and to obtain a conditional use permit for a solar farm.
- (iv) Application to rezone property located at 1378, 1380, 1510, 1514, 1530, and 1538 Old Cedar Falls Road and the south side of E. Presnell Street (Randolph County Parcel Identification Number 7761548926) from R10 (Medium-Density Residential) zoning to CU-R40 (Conditional Use Low-Density Residential) zoning and to obtain a conditional use permit for a solar farm.
- (v) Application for a conditional use permit and subdivision sketch design approval for a residential planned unit development located north of Hub Morris Road, approximately 700 feet east of its intersection with North Fayetteville Street, and along the west side of Forest Park Drive (Randolph County Parcel Identification Numbers 7763270025, 7763275095, 7763265981, 7763265467, and 7763265562).

(b) Legislative hearing on an application to rezone property at 1119 South Cox Street and the adjoining parcel of land identified by Randolph County Parcel Identification Number 7750970713 from R7.5 (Medium-Density Residential) to OA6 (Office-Apartment) zoning.

Mayor Smith opened the public hearing, which was legislative in nature, on the request (Case No. RZ-17-07) by Branson-Coleman Properties, LLC to rezone approximately 1.04 acres of land from R7.5 (Medium-Density Residential) to OA6 (Office-Apartment).

The 1.04 acres to be rezoned are part of 1.76 acres of land owned by Branson-Coleman Properties, LLC and identified by Randolph County Parcel Identification Numbers 7750879622

and 7750970713. With the approval of the request, the entire 1.76 acres will be located within an OA6 (Office-Apartment) zoning district.

Mr. Nuttall utilized a visual presentation to summarize the planning staff's analysis of the request. The staff report noted the following:

1. South Cox Street is a state-maintained minor thoroughfare.
2. The property is in the city limits and all city services are available.
3. The property is within the Center City Planning Area (Tier 3).
4. The surrounding area is characterized by a mix of uses, including single family and multi-family residential, and offices. Some heavier commercial uses are also south of the property towards East Dixie Drive.
5. There is currently a two-family dwelling located on the property, which tax records indicate was built in 1927. This use is permitted in an OA6 zoning district.
6. The request would allow all uses permitted by the OA6 district, including residential uses described in number 5 above and non-residential uses. Permitted non-residential uses include office and institutional activities and limited service oriented commercial activities (such as barber shops, etc.), but do not include heavier commercial uses such as retail sales, restaurants, etc. Mixed uses may be located within the same structure in the OA6 district. Certain amenities, such as pedestrian infrastructure, are required for uses other than single-family residential development in the OA6 district.

The Planning Board recommended approval of the request to rezone the R7.5 portion of the property to an OA6 zoning district. This recommendation was based on the Planning Board's concurrence with the following analysis from the Community Development staff that evaluated the consistency of the requested rezoning with the adopted comprehensive plans, the reasonableness of the request, and whether the requested rezoning was in the public interest:

"The requested OA6 district complies with the Land Development Plan's designation of the property as part of the City Activity Center, which, along with the Central Small Area Plan, calls for accommodating a mix of uses that are compatible with a neighborhood's historic development pattern.

The requested OA6 district fits the longstanding transitional nature of South Cox Street by allowing different types of residential uses (single-family, two-family, and multi-family) and no residential office, institutional, and limited commercial uses permitted in the OA6 district.

Finally, the property is not impacted by flood areas, watershed areas, or areas with considerable steep slopes.

Therefore, staff believes the request is consistent with the adopted Land Development Plan and reasonable and in the public interest."

Mr. H.R. Gallimore, a real estate broker for the applicant, presented comments in support of the requested rezoning. There being no further comments and no opposition from the public, Mayor Smith transitioned to the deliberative phase of the hearing.

Upon motion by Mr. Moffitt and seconded by Mr. Burks, Council voted unanimously to approve the requested rezoning by adopting a multi-part motion that included the following actions:

1. Approval and adoption as its own by the Council of the above-stated consistency, reasonableness, and public interest analysis in support and explanation of the council's decision to grant the requested rezoning; and
2. In light of the Council's above-stated determination/analysis, the application for the requested zoning amendment was approved, without any modifications, due to the application's consistency with the adopted plans.

A copy of the visual presentation utilized by Mr. Nuttall is on file in the city clerk's office.

- (c) After taking action on the preceding land use case, Council Member Moffitt raised the issue of whether the city, independent of any rezoning applications that have been filed and are awaiting review, should undertake a large scale rezoning along the Cox Street corridor. The focus of the inquiry was whether the large scale application of OA6 zoning along this transitional corridor would be preferable to waiting for property owners to undertake filing individualized applications over an extended period of time.

After some discussion, the consensus emerged that (1) the question should be studied further and (2) no council action should be taken until the community development

division can study the area in question and compile analytical data for review/evaluation by the governing board. When the staff analysis is complete, Mr. Nuttall will report back to the mayor and council.

(d) Legislative hearing on an application to rezone property at 920 South Cox Street from CU-B2 (Conditional Use General Commercial) to R7.5 (Medium-Density Residential) zoning.

Mayor Smith opened the public hearing, which was legislative in nature, on the following request (Case No. RZ-17-08) to rezone 0.38 of an acre of land owned by Bertha Earlene Ward from CU-B2 (Conditional Use General Commercial) to R7.5 (Medium-Density Residential). The said 0.38 of an acre is part of a parcel of land (Randolph County Parcel Identification Number 7750881708) that is 0.58 of an acre in size and is located at 920 South Cox Street.

Mr. Nuttall utilized a visual presentation to summarize the analysis of Ms. Ward's application for R7.5 (Medium-Density Residential) zoning. The planning department report noted the following:

1. South Cox Street is a state-maintained minor thoroughfare.
2. The property is in the city limits and all city services are available.
3. The property is within the Center City Planning Area (Tier 3).
4. The rear portion of the parcel totaling approximately 0.20 acres more or less is currently zoned B2 (rezoned from R7.5 to B2 in 2002, Case No. RZ-03-14). A small portion of a multi-use commercial development from an adjoining parcel extends onto this portion of the property, which is not part of the rezoning request.
5. The dive shop and office that was authorized by RZ-97-40 is no longer in operation on this property.
6. The area includes a mix of residential, office, and commercial uses.
7. The requested R7.5 district allows a single-family dwelling on property with a minimum of 7,500 square feet and a two-family dwelling on property with 11,500 square feet.

The Planning Board recommended approval of the requested rezoning after concurring with the following analysis from the Community Development staff that evaluated the consistency of the requested rezoning with the adopted comprehensive plans, the reasonableness of the request, and whether the requested rezoning was in the public interest:

"The property's designation within the City Activity Center calls for accommodating a mix of uses that are compatible with a neighborhood's historic context, which includes a mix of residential uses, along with office and institutional uses and lighter commercial uses (including the current CU-B2 (Conditional Use General Commercial)).

Rezoning the property to R7.5 Medium-Density Residential will allow investment in the property for its original residential use and be compatible with single-family residential land uses in the area, including those adjacent to the property.

Finally, the property is not impacted by flood areas, watershed areas, or areas with considerable steep slopes, and residential development typically has less impervious coverage than non-residential uses with greater parking demand.

Therefore, staff believes the request is consistent with the adopted Land Development Plan, and reasonable and in the public interest."

The Applicant presented comments in support of the requested rezoning. With no further comments and no opposition, Mayor Smith transitioned to the deliberative phase of the hearing.

Upon motion by Mr. Bell and seconded by Ms. Carter, Council voted unanimously to approve the requested rezoning by adopting a multi-part motion that included the following actions:

1. Approval and adoption as its own by the Council of the above-stated consistency, reasonableness, and public interest analysis in support and explanation of the council's decision to grant the requested rezoning; and
2. In light of the Council's above-stated determinations/analysis, the application for the requested zoning amendment was approved, without any modifications, due to the application's consistency with the adopted plans.

A copy of the visual presentation utilized by Mr. Nuttall is on file in the city clerk's office.

(e) Legislative hearing on an application to rezone property on the east side of North Church Street and the south side of West Salisbury Street (a portion of Randolph County Parcel Identification Number 7751738346) from I2 (General Industrial) to RA6 (High-Density Residential) zoning.

Mayor Smith opened the public hearing, which was legislative in nature, on Acme-McCrary Corporation's request (Case No. RZ-17-09) to rezone approximately 0.85 of an acre of the corporation's land from I2 (General Industrial) to RA6 (High-Density Residential).

The 0.85 of an acre of land for which the RA6 zoning district is requested is part of a 4.35-acre parcel of land (Randolph County Parcel Identification Number 7751738346) located along the east side of North Church Street and the south side of West Salisbury Street, west of the Norfolk-Southern Railroad. Mr. Nuttall utilized a visual presentation to summarize the planning staff's analysis of the requested rezoning, which noted the following:

1. The property is inside the city limits, and all city services are available.
2. North Church Street is a state-maintained minor thoroughfare at this location. West Salisbury Street (NC Highway 42) is considered a major thoroughfare at this location.
3. The property is located within Tier 1 (Central Business Planning Area) of the Center City Planning Area. Tier 1 is described by the zoning ordinance as "established to strengthen Asheboro's Center City Planning Area by incorporating a mix of commercial, office, institutional, residential and public open space uses."
4. The property has been used for manufacturing, processing, and assembly since it was built in the mid-1920's with additions built in the 1940's. The structure is listed on the National Register of Historic Places, along with other structures on the balance of the parcel.
5. The RA6 Residential District is "intended to produce a high intensity of residential uses in close proximity to major nodes of non-residential development, characterized primarily by group housing, plus the necessary governmental and other support facilities to service that level of development. Land designated RA6 shall normally be located with access to a minor thoroughfare or higher classification street with access to local residential streets discouraged." The request would allow all uses permitted by right in the RA6 district.
6. Adaptive reuse of formerly industrial properties for commercial and residential uses has occurred in the area, especially along the Church Street corridor, in recent years.
7. The zoning ordinance has specific provisions for adaptive reuse of property and multi-family development within Tier 1 of the Center City Planning Area, including requirements for open space/impervious surface.

The Planning Board recommended approval of the requested rezoning after concurring with the following analysis from the Community Development staff that evaluated the consistency of the requested rezoning with the adopted comprehensive plans, the reasonableness of the request, and whether the requested rezoning was in the public interest:

"The proposed land use map indicates that the property is designated as part of the City Activity Center, which promotes a mix of residential uses and housing types as part of the City's primary large scale, mixed use center.

While the general RA6 district doesn't involve analysis of a specific development proposal, placing the subject property within the RA6 district allows for the possibility of its adaptive reuse which is supported by the Land Development Plan. The Central Small Area Plan also supports higher density residential uses in locations having the least negative impact on existing neighborhoods. Development of the property under RA6 requirements would have no impact on existing neighborhoods.

The Land Development Plan's goals generally support repurposing formerly industrial sites for a mix of uses, especially within the City Activity Center. Other planning efforts, such as the 2012 EPA Sustainable Design and Development Public Workshop, also reiterated the support for adaptive reuse of properties formerly used for industrial purposes, which has occurred in the area in recent years.

Additionally, known environmental factors [or their absence] (located outside of watershed, flood area, area with steep slopes) support the request.

Considering these factors, staff believes the request is consistent with the adopted Land Development Plan and other planning efforts and is therefore reasonable and in the public interest."

There being no comments and no opposition from the public, Mayor Smith transitioned to the deliberative phase of the hearing.

Upon motion by Mr. Bell and seconded by Mr. Swiers, Council voted unanimously to approve the requested rezoning by adopting a multi-part motion that included the following actions:

1. Approval and adoption as its own by the Council of the above-stated consistency, reasonableness, and public interest analysis in support and explanation of the council's decision to grant the requested rezoning; and
2. In light of the Council's above-stated determinations/analysis, the application for the requested zoning amendment was approved, without any modifications, due to the application's consistency with the adopted plans.

A copy of the visual presentation utilized by Mr. Nuttall is on file in the city clerk's office.

(f) Legislative hearing on an application to rezone property at 419 East Dorsett Avenue from R7.5 (Medium-Density Residential) to OA6 (Office-Apartment) zoning.

Mayor Smith opened the public hearing, which was legislative in nature, on Kenny Seabolt's application (Case No. RZ-17-10) to rezone a parcel of land (Randolph County Parcel Identification Number 7750878064) at 419 East Dorsett Avenue from R7.5 (Medium-Density Residential) to OA6 (Office-Apartment). This parcel of land, which is owned by Clyde Richard Seabolt, Richard Keith Seabolt, and Kenny Douglas Seabolt, is approximately 0.42 of an acre in size.

Mr. Nuttall utilized a visual presentation to summarize the planning staff's analysis of the rezoning application. The staff report noted the following:

1. The property is inside the city limits, and all city services are available.
2. East Dorsett Avenue is a city-maintained street approximately 29' in width.
3. The area includes a mix of commercial, residential, office, and industrial uses.
4. The property is located within Tier 3 of the Center City Planning Area.
5. The property currently has a single-family dwelling, which is permitted in the OA6 district. Also permitted are two-family and multi-family residential uses, office/institutional uses, and a limited number of lighter commercial activities (i.e. banks, etc.).
6. The request would allow all uses permitted by right in the OA6 district, including residential uses described in (5) above and non-residential uses. Permitted non-residential uses include office and institutional activities and limited service oriented commercial activities (such as barber shops, etc.), but do not include heavier commercial uses such as retail sales, restaurants, etc. Mixed uses may be located within the same structure in the OA6 district. Certain amenities, such as pedestrian infrastructure, are required for uses other than single-family residential development in the OA6 district.

The Planning Board recommended approval of the requested rezoning after concurring with the following analysis from the Community Development staff that evaluated the consistency of the requested rezoning with the adopted comprehensive plans, the reasonableness of the request, and whether the requested rezoning was in the public interest:

"The City Activity Center and Central Small Area plan propose accommodation of uses that are compatible with the context of the surrounding neighborhood, including different housing types and non-residential uses (office/institutional, lighter commercial activities). The property's transitional location, which includes heavier commercial uses immediately to the south, office and institutional uses to the north, and various types of residential uses intertwined in the area, make an OA6 zoning designation appropriate and will continue to allow investment into the property for both residential and limited non-residential purposes.

Furthermore, the property does not have known, significant environmental factors that would be negative towards an OA6 zoning.

Therefore, staff believes the requested OA6 zoning amendment is consistent with adopted comprehensive plans, reasonable, and in the public interest.

Mr. Kenny Seabolt presented comments in support of the requested rezoning. There being no further comments and no opposition from the public, Mayor Smith transitioned to the deliberative phase of the hearing.

Upon motion by Mr. Moffitt and seconded by Mr. Burks, Council voted unanimously to approve the requested rezoning by adopting a multi-part motion that included the following actions:

1. Approval and adoption as its own by the Council of the above-stated consistency, reasonableness, and public interest analysis in support and explanation of the council's decision to grant the requested rezoning; and

2. In light of the Council's above-stated determinations/analysis, the application for the requested zoning amendment was approved, without any modifications, due to the application's consistency with the adopted plans.

A copy of the visual presentation utilized by Mr. Nuttall is on file in the city clerk's office.

7. Public comment period.

Mayor Smith opened the floor for public comments.

During the public comment period, Mr. James Armstrong of South Cox Street expressed his desire to make Asheboro a better place and to work on public safety issues such as the opioid crisis and improving the underlying conditions that contribute to high numbers of calls for police services. Additionally, Mr. Armstrong asked that city staff consider the construction of more sidewalks and the installation of more street lights within the eastside community.

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

8. Request for authorization to purchase a previously owned pumper truck.

Deputy Fire Chief Cockman presented and recommended adoption, by reference, of a resolution authorizing the purchase of a used pumper truck for the Asheboro Fire Department.

Upon motion by Mr. Bell and seconded by Ms. Redding, Council Members voted unanimously to adopt the following resolution by reference.

RESOLUTION NUMBER _____ 33 RES 10-17 _____

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

A RESOLUTION AUTHORIZING THE PURCHASE OF A USED PUMPER TRUCK FOR THE ASHEBORO FIRE DEPARTMENT

WHEREAS, in an effort to reconcile operational needs with fiscal constraints, the Asheboro Fire Department's management team has developed a plan to purchase a used pumper truck that will meet the fire department's operational needs in a cost-effective manner; and

WHEREAS, the Asheboro Fire Department has located a used fire truck that is in good condition and satisfies the requirements of the above-described plan; and

WHEREAS, the said used fire truck is a 1997 Pierce Dash pumper truck that is currently owned by Robbins Hose Company No. 1, of Dover, Delaware (a Delaware corporation that provides fire protection services for Dover, Delaware and that is also referred to as the Dover Fire Department); and

WHEREAS, the Dover Fire Department has offered to sell this used pumper truck to the City of Asheboro for a purchase price of \$75,000.00; and

WHEREAS, subject to the successful completion of inspection and testing requirements utilized by the Asheboro Fire Department when evaluating used equipment, the Asheboro Fire Chief and the Asheboro City Manager have recommended purchasing the said pumper truck from the Dover Fire Department; and

WHEREAS, Section 143-129(e)(10) of the North Carolina General Statutes provides for an exception to the usual competitive bidding procedures for the purchase of used apparatus or equipment; and

WHEREAS, a purchase agreement for the used pumper truck has been prepared by the city attorney; and

WHEREAS, the proposed agreement is attached to this Resolution as EXHIBIT 1 and is hereby incorporated into this Resolution by reference as if copied fully herein;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the proposed purchase of the used pumper truck in accordance with the terms and conditions found in EXHIBIT 1 is hereby approved; and

BE IT FURTHER RESOLVED that City Manager John N. Ogburn, III is hereby authorized to execute a purchase agreement that conforms to the instrument attached to this Resolution as EXHIBIT 1.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting of the governing board that was held on the 5th day of October, 2017.

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

ATTEST:

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

EXHIBIT 1

STATE OF NORTH CAROLINA

**USED FIRE TRUCK
PURCHASE AGREEMENT**

COUNTY OF RANDOLPH

THIS USED FIRE TRUCK PURCHASE AGREEMENT (the "Agreement") is entered, as of the dates indicated on the last two pages of this legal instrument, by and between the CITY OF ASHEBORO, a North Carolina municipal corporation with its principal office located in Randolph County, North Carolina at 146 North Church Street, Asheboro, North Carolina 27203, (the "Buyer" or the "City") and the ROBBINS HOSE COMPANY NO. 1, OF DOVER, DELAWARE, a volunteer fire department serving Dover, Delaware that is incorporated under the laws of the State of Delaware with a registered address of 103 South Governors Avenue, Dover, Delaware 19904, (the "Seller" or "Dover").

WITNESSETH:

WHEREAS, the City is seeking to purchase for its municipal fire department a previously owned pumper truck; and

WHEREAS, Dover has a 1997 model year Pierce Dash pumper truck that will meet the needs of the Asheboro Fire Department; and

WHEREAS, Dover is willing to sell this used pumper truck for \$75,000.00;

NOW, THEREFORE, in consideration of the terms and conditions set forth herein, specifically including the proposed transfer to the City of the unencumbered title to the said pumper truck in consideration of the payment by the City of the \$75,000.00 purchase price, the City and Dover, intending to be legally bound, hereby agree as follows:

ARTICLE 1. Purchase of Fire Apparatus

1.01 In accordance with the terms and conditions specified in this Agreement, Dover will sell its 1997 model year Pierce Dash pumper truck with vehicle identification number 4P1CT02S7VA000654 (the "Pumper Truck"), and the City will purchase the said Pumper Truck.

1.02 The total purchase price to be paid by the City for the Pumper Truck is \$75,000.00.

ARTICLE 2. Delivery and Acceptance of the Pumper Truck

2.01 Prior to the payment of any monetary consideration by the City, Dover is to deliver the Pumper Truck, within 14 calendar days of the execution by both parties of this Agreement, to Atlantic Emergency Solutions, 121 Patriot Drive, Middletown, Delaware 19709 for pre-purchase vehicle/equipment inspections to be conducted at the City's sole and exclusive expense.

2.02 As a condition precedent to the City's obligation to complete the purchase contemplated by this Contract, the Pumper Truck must pass, without exception or deviation, the pre-purchase vehicle/equipment inspections listed below. The said inspections to be performed at Atlantic Emergency Solutions will consist of the following checklist of items that must be successfully passed, without any exception or deviation, in order to confirm the conformance of the Pumper Truck to the Buyer's minimum requirements and, thereby, satisfy the condition precedent to any obligation on the part of the City to complete the purchase of the Pumper Truck:

- (A) The Pumper Truck must be fully operational. In order to demonstrate the required operational readiness, the following criteria must be satisfied:
- (1) The Pumper Truck must have fully operational emergency traffic sound and lighting devices;
 - (2) The Pumper Truck must meet all of the minimum requirements found in the applicable federal and North Carolina statutory law and administrative regulations for the use of the said truck on federal and state highway systems;

- (3) The Pumper Truck must have an unexpired, valid FMCSA (Federal Motor Carrier Safety Administration) annual vehicle inspection sticker; and
 - (4) As part of these pre-purchase inspections, the Pumper Truck must receive annual preventative maintenance service work and inspections, including without limitation oil/fluid analysis and a pump test, that confirm the absence of any condition/defect that would call into question the operational reliability or suitability of the said truck for service as contemplated by the command staff in the City's fire department.
 - (5) The Pumper Truck must have on file a current annual NFPA (National Fire Protection Association) pump test record that conforms to the applicable standards.
- (B) The Pumper Truck must have a diesel engine with a minimum of 450 HP and an automatic transmission.
- (C) At the time of the pre-purchase inspections, the Pumper Truck must fully conform to all NFPA 1901 Chapter 3 (Pumper Fire Apparatus, 1996 Edition) specifications and equipment; provided, however, the City's fire department will supply the minor equipment listed in Section 3 – 8 of the referenced chapter.

2.03 The City, by and through Asheboro Fire Chief Roy Wright, will provide written notification of the results of the said pre-purchase vehicle/equipment inspections as soon as is practicable. This notification will be sent to Dover Fire Chief Carleton Carey, Jr. by means of mutually acknowledged on-going electronic mail transmissions between the two fire chiefs.

2.04 If and when notice of the successful completion of the above-described pre-purchase vehicle/equipment inspections, including any needed repairs or corrective actions that must be authorized by Dover in order to successfully complete the inspection process, is given by the City's fire chief, the above-stated condition precedent to the purchase of the Pumper Truck shall be deemed to be satisfied. Upon the satisfaction of the said condition precedent, the City will be deemed to have accepted the delivery of the Pumper Truck at Atlantic Emergency Solutions, 121 Patriot Drive, Middletown, Delaware 19709.

2.05 The said pre-purchase vehicle/equipment inspections and the final written notification as to whether the condition precedent for the acceptance of the Pumper Truck has been satisfied shall be accomplished within 60 business days of the receipt of the Pumper Truck at Atlantic Emergency Solutions. If the Pumper Truck does not pass the above-described inspections, or if the inspection process, inclusive of any needed repairs/corrective actions that must be authorized by Dover in order for the Pumper Truck to pass the said inspections, are not completed within 60 business days of the receipt of the truck by Atlantic Emergency Solutions, the proposed purchase of the Pumper Truck by the City shall be deemed to be canceled.

2.06 In the event the contemplated purchase of the Pumper Truck is cancelled because the above-stated condition precedent is not satisfied in a timely manner, neither party shall owe any fees, damages, monetary payments, or charges of any kind to the other party, and title to the Pumper Truck shall remain with the Seller. Furthermore, so long as, and only so long as, Dover removes the Pumper Truck from the premises of Atlantic Emergency Solutions within five business days of the receipt of notification that the condition precedent for the purchase of the said truck has not been satisfied, the City will pay for all charges associated with or arising out of the inspections conducted at Atlantic Emergency Solutions. Any storage fees or charges of a similar kind that are charged or accrue after five business days from the date of the cancellation of the purchase of the Apparatus shall be the sole and exclusive responsibility of Dover.

ARTICLE 3. Assignment and Warranty of Title

3.01 Once notice has been given by the City of the successful completion of the pre-purchase vehicle/equipment inspections, the satisfaction of the condition precedent to the purchase of the Pumper Truck, and the resulting acceptance of the delivery of the truck to the City at Atlantic Emergency Solutions, 121 Patriot Drive, Middletown, Delaware 19709, the City shall have ten business days to make conclusive arrangements for the delivery to Dover, at a mutually agreed upon location, by the City's authorized representative(s) of a certified bank check payable to Robbins Hose Company No. 1, Inc. in the amount of \$75,000.00.

3.02 Contemporaneously with the delivery of good funds for the purchase of the Pumper Truck, an assignment and warranty of title must be signed in the presence of a Notary Public so as to effectively convey to and vest in the City title to the Pumper Truck in accordance with Delaware and North Carolina law.

3.03 The Seller warrants to the City that the Seller is the owner of the Pumper Truck, the Seller is selling the Pumper Truck to the City free from all encumbrances and liens of any kind, and the Seller has good right and lawful authority to sell the Pumper Truck in accordance with the terms and conditions found in this Agreement.

3.04 The Seller further warrants to the City that the Pumper Truck has not been involved in a collision or other occurrence to the extent that the cost to repair the damage exceeds 25% of the fair market value of the truck, the Pumper Truck is not a flood vehicle, the Pumper Truck is not a reconstructed vehicle, and the Pumper Truck is not a salvage vehicle.

ARTICLE 4. Taxes

4.01 The City is exempt from federal excise tax. However, under North Carolina law, the City is not exempt from state and local sales tax.

4.02 Sales tax is not included in the above-stated \$75,000.00 purchase price. If Dover is required under Delaware law to collect sales tax from the City, the tax must be invoiced as a separate item with details as to the identities of the taxing authorities and the amount of the tax collected for each taxing authority. The exact amount of the taxes to be paid in addition to the purchase price must be provided to the City at the time arrangements are made with the City's fire chief to exchange the payment of good funds for title to the Pumper Truck. Any applicable sales tax for which the City is invoiced will be added to the certified bank check used to pay the \$75,000.00 purchase price for the Pumper Truck.

ARTICLE 5. Miscellaneous

5.01 The City acknowledges and agrees that upon the successful completion of the pre-purchase vehicle/equipment inspections, the satisfaction of the condition precedent to the purchase of the Pumper Truck, and the acceptance of the delivery of the truck to the City at Atlantic Emergency Solutions, 121 Patriot Drive, Middletown, Delaware 19709, **the sale of the Pumper Truck is an "as is" sale without any warranty other than the warranty of title described in Article 3 of this Agreement.**

5.02 The City and Dover each acknowledge and represent that they are duly organized, validly existing, and in good standing and have the right, power, and authority to enter into this Agreement and bind themselves hereto through the officials set forth below as the signatories for the respective parties.

5.03 **Time shall be of the essence of this Agreement** and each and every term and condition thereof.

5.04 The captions and section numbers appearing in this Agreement are inserted only as a matter of convenience and do not define, limit, construe, or describe the scope of such paragraphs or sections of this Agreement or in any way affect this Agreement.

5.05 This Agreement may be executed in several counterparts, any of which shall be regarded for all purposes as an original, and all of which constitute but one and the same instrument.

5.06 This Agreement sets forth the entire contractual understanding of the parties with respect to the subject matter of the purchase agreement and supersedes all prior arrangements and communications between the parties. This Agreement may be amended from time to time only by written agreement duly authorized and executed by the parties hereto.

5.07 Each party agrees that it will execute any and all documents or other instruments and take such other action as may be necessary to give effect to the terms and conditions of this Agreement so long as such actions are not inconsistent with the terms and conditions of this Agreement.

5.08 The representations and warranties contained herein shall survive the termination of this Agreement.

5.09 This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

5.10 No waiver by either party of any term or condition of this Agreement will be deemed to constitute a waiver of any subsequent breach whether of the same or of a different section, subsection, paragraph, clause, phrase, or other provision of this Agreement. Making payments pursuant to this provision during the existence of a dispute shall not be deemed to and shall not constitute a waiver of any of the claims or defenses of the party making such payment. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted the waiver.

5.11 The parties agree and acknowledge that they have jointly participated in the negotiation and drafting of this Agreement. In the event of an ambiguity or if a question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumptions or burdens of proof shall arise favoring any party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. If any party has breached any representation, warranty, or covenant contained herein in any respect, the fact that there exists another representation, warranty, or covenant relating to the same subject matter (regardless of the relative levels of specificity) which the party has not breached shall not detract from or mitigate the fact that the party is in breach of the first representation, warranty, or covenant.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives on the dates indicated below.

THE CITY OF ASHEBORO,
a North Carolina municipal corporation

By: _____ (SEAL)
John N. Ogburn, III
City Manager of the City of Asheboro

Date: _____

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

Deborah P. Reaves
Finance Officer
City of Asheboro, North Carolina

**ROBBINS HOSE COMPANY NO. 1,
OF DOVER, DELAWARE,**
a Delaware corporation

By: _____ (SEAL)
(Authorized Official's Signature)

(Authorized Official's Printed or Typed Name)

(Authorized Official's Printed or Typed Title)

(Date Signed by Authorized Official)

A copy of the visual presentation utilized by Deputy Chief Cockman is on file in the city clerk's office.

9. Engineering Department items:

(a) Consideration of awarding a contract for the City Hall roof replacement project.

City Engineer Michael Leonard, PE reported that four (4) bids were received on September 18, 2017, at 2:00 p.m., for the City Hall Roof Replacement Project. He recommended the award of the contract for the roof replacement project to Allied Roofing Co., Inc., which was the lowest responsive, responsible bidder with a bid of \$127,663.00.

Based on the staff recommendation, Mr. Bell moved to award the contract to Allied Roofing Co., Inc. Ms. Carter seconded the motion, and the motion was adopted unanimously. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion.

A copy of the bid tabulation presented by Mr. Leonard is on file in the city clerk's office.

(b) Consideration of an ordinance to reduce the speed limit on Vision Drive (SR2269) from 55 miles per hour to 45 miles per hour.

Mr. Leonard presented and recommended adoption, by reference, of an ordinance authorizing a speed limit of 45 miles per hour on North Carolina Secondary Road 2269 (Vision Drive).

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

ORDINANCE NUMBER _____ **22 ORD 10-17**

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**AN ORDINANCE AUTHORIZING A SPEED LIMIT OF 45 MILES PER HOUR ON NORTH CAROLINA
SECONDARY ROAD 2269 (VISION DRIVE)**

(i) Consideration of awarding a contract for industrial rail spur track construction.

Mr. Leonard reported that bids were received on Thursday, September 28, 2017 for the re-bid of the Industrial Rail Spur Tracks, City of Asheboro-Technimark CDBG Project. A total of three (3) bids were received. A summary of the bids is as follows:

	<u>Contractor</u>	<u>Bid Total</u>
1.	HGnS, Inc. dba Dirtworks of the Carolinas	\$613,990.00
2.	Civil Works Contracting, LLC (Non-Responsive Bid)	\$769,940.00
3.	Zoladz Construction Co., Inc.	\$782,450.00

Based on the review of the bids, Mr. Leonard recommended that the contract for the industrial rail spur track construction be conditionally awarded to the lowest responsive, responsible bidder, HGnS, Inc. dba Dirtworks of the Carolinas. The recommendation for a conditional award of the contract is due to the fact that, at this stage of the process, the council's action represents a preliminary determination, and no legally binding acceptance of the bid or offer occurs until the city has executed a written agreement. More specifically, the contract award is subject to HGnS, Inc. dba Dirtworks of the Carolinas providing all bonds, insurance, and other required documentation along with properly executing a contract in a form acceptable to the city.

Upon motion by Mr. Bell and seconded by Mr. Burks, Council voted unanimously to adopt the city engineer's recommendation and to conditionally accept the lowest responsive, responsible bid submitted on September 28, 2017, and, therefore, to conditionally award the contract to HGnS, Inc. dba Dirtworks of the Carolinas.

(ii) Consideration of an ordinance to amend the economic development fund.

As a consequence of the preceding conditional contract award, Mr. Leonard presented and recommended adoption, by reference, of an ordinance to amend the economic development fund.

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

23 ORD 10-17

ORDINANCE TO AMEND THE ECONOMIC DEVELOPMENT FUND FY 2017-2018

WHEREAS, The City of Asheboro received notification from the NC Rural Economic Development Division, which is a component of the North Carolina Department of Commerce, that the City of Asheboro was awarded a Community Development Block Grant in the amount of \$490,000 to assist in providing rail to serve Technimark and that Technimark has pledged to create 41 full-time jobs and invest \$30,000,000 as a result of this project, and;

WHEREAS, the City Council approved the execution of the Grant agreement for this project (grant No. 14-E-2673) on October 6, 2016, and;

WHEREAS, The City Council of the City of Asheboro amended the Economic Development Fund budget to adjust for changes in revenues and expenditures based on the initial projected budget for the project on November 10th, 2016, and ;

WHEREAS, formal bids were received for the rebid of the Industrial Rail Spur project on September 28, 2017 and the bids submitted requires a revision of the proposed construction cost in the budget updating the construction expense from an estimated cost of \$490,000 to an estimated cost of \$613,990, and;

WHEREAS, the City Council of the City of Asheboro desires to amend the Economic Development Fund budget as required by law to adjust for changes in revenues and expenditures from the current adopted budget and to be in compliance with all generally accepted accounting principles, and;

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

Section 1: That the following revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
72-374-0003	City of Asheboro Contribution	123,990

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

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
72-920-0004	Construction	123,990

Adopted this the 5th day of October, 2017

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

ATTEST:

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

(b) Consideration of a resolution in support of NCDOT improvements associated with SouthCorr, LLC.

Mr. Leonard presented and recommended adoption, by reference, of a resolution in support of NCDOT improvements associated with SouthCorr, LLC.

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

RESOLUTION NUMBER 34 RES 10-17

CITY OF ASHEBORO RESOLUTION IN SUPPORT OF NCDOT IMPROVEMENTS ASSOCIATED WITH SOUTHCORR, L.L.C.

WHEREAS, the City of Asheboro supports Project Echo (the SouthCorr economic development project) and the potential creation of 22 new jobs, with the retention of an additional 98 jobs, and the capital investment of approximately \$6.7 million dollars; and

WHEREAS, Project Echo involves transportation and cooperation with the North Carolina Department of Transportation; and

WHEREAS, Project Echo will have both statewide and regional implications from transportation networks.

NOW, THEREFORE, BE IT RESOLVED that the City of Asheboro adopts this resolution requesting the North Carolina Department of Transportation to fund and construct the necessary improvements to support Project Echo.

ADOPTED during regular session on this the 5th day of October, 2017.

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

ATTEST:

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

11. Upcoming events.

Mayor Smith led a discussion of upcoming events occurring with the city government and the community in general.

There being no further business, the meeting was adjourned at 8:31 p.m.

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

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