

REGULAR MEETING
(Due to a winter storm, this meeting was rescheduled from January 4, 2018)
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING
January 11, 2018
7:00 PM

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)
Walker B. Moffitt) – Council Members Present
Jane H. Redding)
Katie L. Snuggs)
Charles A. Swiers)

Linda H. Carter) – Council Member Absent

John N. Ogburn, III, City Manager
John L. Evans, Assistant Community Development Director
Douglas P. Kemp, Human Resources Director
Michael L. Leonard, PE, City Engineer
Mark T. Lineberry, Assistant Chief of Police
Trevor L. Nuttall, Community Development Director
Deborah P. Reaves, Finance Director
Jonathan M. Sermon, Recreation Services Director
Jeffrey C. Sugg, City Attorney
Kristen P. Terry, Human Resources Assistant
Tammy M. Williams, Deputy City Clerk

1. Call to order.

With a quorum 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. Consent agenda.

Upon motion by Mr. Burks and seconded by Mr. Bell, 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 December 7, 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 acknowledgment of the receipt from the Asheboro ABC Board of the approved meeting minutes for the board’s meeting on November 6, 2017.

The minutes of the meeting held by the Asheboro ABC Board on November 6, 2017 have been received by the city clerk, distributed to the mayor and members of the city council for review, and are on file and available for inspection in the city clerk’s office.

(c) Acknowledgment and announcement of the 15-day notice of a construction project to enhance the city’s sewer maintenance program by installing sewer service line clean-outs along the following streets: Taylor Drive, Straight Street, East Bailey Street, West Balfour Avenue, Saunders Drive, Ideal Drive, Hasty Street, Brittain Street, Honeysuckle Road and East Allred Street.

- (d) A resolution authorizing the purchase of additional land for the proposed Zoo City Park Sportsplex.

RESOLUTION NUMBER 01 RES 1-18

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

RESOLUTION AUTHORIZING THE PURCHASE OF ADDITIONAL LAND FOR THE PROPOSED ZOO CITY PARK SPORTSPLEX

WHEREAS, Pine Lake Partners, L.L.C., a North Carolina limited liability company, owns a parcel of land at the intersection of Zoo Parkway and the Old Cox Road that is 8.08 acres, more or less, in size and adjoins the city-owned land proposed for development as the Zoo City Park Sportsplex; and

WHEREAS, during the regular December 2017 meeting, the Asheboro City Council adopted a project ordinance establishing the Zoo City Park Sportsplex Fund with currently projected revenues and expenditures that included, in addition to other projected expenditures, \$250,000 for land acquisition; and

WHEREAS, the Asheboro City Council has concluded that the viability of the proposed Zoo City Park Sportsplex, in terms of initial fundraising and the long-term functionality of the proposed park, would be enhanced by the acquisition of the above-described land from Pine Lake Partners, L.L.C.;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that Mayor David H. Smith is hereby authorized and directed to offer on behalf of the City of Asheboro to purchase and contract for the acquisition of the said real property from Pine Lake Partners, L.L.C. for a purchase price of Two Hundred Fifty Thousand and No Hundredths Dollars (\$250,000.00); and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that the authorized offer to purchase and contract shall be in the form of the legal instrument attached to this Resolution as ATTACHMENT A, the said attachment is hereby incorporated into this Resolution by reference as if copied fully herein.

This Resolution was adopted by the Asheboro City Council in open session during a special meeting on January 11, 2018.

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

ATTEST:

/s/Tammy M. Williams
Tammy M. Williams, Deputy City Clerk

ATTACHMENT A

STATE OF NORTH CAROLINA

**OFFER TO PURCHASE
AND CONTRACT**

COUNTY OF RANDOLPH

The **CITY OF ASHEBORO**, a North Carolina municipal corporation, (the "**Buyer**") and **PINE LAKE PARTNERS, L.L.C.**, a North Carolina limited liability company, (the "**Seller**") mutually agree to this Offer to Purchase and Contract (the "Agreement") as of the _____ day of January, 2018.

The Buyer hereby contracts and agrees to buy the real property described herein for the purchase price stated below, and the Seller hereby contracts and agrees to sell and convey to the Buyer for the purchase price stated below 8.08 acres, more or less, of land (the "Property") that is described as follows:

Grant Township, Randolph County, North Carolina:

BEING ALL of that 8.08 acres of land, more or less, shown as the "PARCEL OF LAND PROPOSED FOR CONVEYANCE TO THE CITY OF ASHEBORO" on the plat of survey drawn under the supervision of Charles E. Morgan, Jr., Professional Land Surveyor with License Number L - 3945, and titled "BOUNDARY MAP FOR PROPOSED PURCHASE BY THE CITY OF ASHEBORO FROM PINE LAKE PARTNERS, LLC." A copy of the said plat of survey is

attached hereto as "EXHIBIT 1" and is hereby incorporated into this Agreement by reference as if copied fully herein.

The purchase price for the Property is Two Hundred Fifty Thousand and No Hundredths Dollars (\$250,000.00) to be paid in good funds by the Buyer on the date of closing.

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

1. The Buyer shall be responsible for obtaining a title examination and any other studies deemed appropriate in the sole discretion of the Buyer. If the results or findings of any such studies or examinations are not acceptable to the Buyer, written notice shall be provided to the Seller. The parties shall make a reasonable effort to resolve any unsatisfactory matters disclosed by said studies or examinations. If such unsatisfactory matters cannot be resolved prior to the closing date referenced below, the Buyer may terminate its offer without any penalty or cost to itself, and the parties will have no further rights or obligations regarding the sale of the Property.
2. The Seller shall be responsible for the cost of preparing the North Carolina General Warranty Deed and all other documents necessary to perform the Seller's obligations under this Agreement.
3. The Seller shall be responsible for the payment of any excise tax (revenue stamps) associated with the conveyance of the Property from the Seller to the Buyer.
4. The Seller shall be responsible for ad valorem taxes prorated on a calendar year basis to the date of closing.
5. All deeds of trust, liens, and other charges against the Property must be paid and cancelled by the Seller prior to or at closing.
6. Title must be delivered at closing by means of a North Carolina General Warranty Deed and must be fee simple marketable title, free of all encumbrances and exceptions other than those specifically approved by the Buyer.
7. The Buyer shall be responsible for the cost of recording the said North Carolina General Warranty Deed and for the payment of closing costs not otherwise assigned to the Seller by this Agreement. The closing costs to be paid by the Buyer specifically include the cost of any title search, title insurance, survey, and any other inspections/examinations undertaken by the Buyer.
8. Closing shall be completed on or before **January 31, 2018, TIME BEING OF THE ESSENCE WITH REGARD TO SAID DATE**. The closing shall be conducted by an attorney mutually agreeable to the parties to this Agreement.
9. This contract contains the entire agreement between the parties. There are no representations, inducements, or additional provisions other than those expressed herein. All changes, additions, or deletions hereto must be in writing and signed by both parties.

DATE OF OFFER: _____

CITY OF ASHEBORO ("BUYER"):

By: _____ **(SEAL)**
David H. Smith, Mayor

ATTEST: _____
Tammy M. Williams, Deputy City Clerk

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

Deborah P. Reaves, Finance Officer

DATE OF ACCEPTANCE: _____

PINE LAKE PARTNERS, L.L.C. ("SELLER"):

By: _____ **(SEAL)**
Stewart H. Roberts, Member/Manager

By: _____ **(SEAL)**
W. Lee Roberts, Member/Manager

By: _____ (SEAL)
W. Vance Roberts, Jr., Member/Manager

[A copy of EXHIBIT 1 that is referenced in the preceding Offer to Purchase and Contract is on file and available for inspection in the city clerk's office.]

(e) Approval to schedule for February 8, 2018, and to advertise, public hearings for the following zoning cases:

- (i) An application to rezone property located at 3418 US 220 Business South from R10 (Medium-Density Residential) to B2 (General Commercial), including Randolph County Parcel Identification Number 7659555061 and a portion of Randolph County Parcel Identification Number 7659546951.
- (ii) An application to establish initial city zoning (R10 Medium-Density Residential) on recently annexed property at 200 Foster Street.
- (iii) An application to rezone property at 1994 US Highway 64 East (including the entirety of Randolph County Parcel Identification Number 7771043085) from CU-B2 (Conditional Use General Commercial) to B2 (General Commercial).

4. Presentation pertaining to the new Sunset Signature Series.

Mr. Ross Holt, Director of the Asheboro/Randolph Public Library, and Dr. Frances Jones, President of the Friends of the Library gave an overview of the new Sunset Signature Series. The Asheboro/Randolph Public Library has partnered with the City of Asheboro and the Heart of North Carolina Visitor's Bureau in order to establish the Sunset Signature Series, which is a lecture and performance series patterned after the Guilford College Bryan Series in Greensboro, North Carolina. The Sunset Signature Series will feature speaker programs featuring well-known figures in arts, humanities, and public affairs from the surrounding areas. The programs are free and open to the citizens of Asheboro.

5. Request for Council to enact an ordinance pursuant to Session Law 2017-87 (commonly known as the "Brunch Bill") authorizing the sale of alcoholic beverages beginning at 10:00 a.m. on Sundays.

On behalf of the board of directors for the Asheboro/Randolph Chamber of Commerce, Ms. Linda Brown, President of the Asheboro/Randolph Chamber of Commerce, requested that the Council consider enacting an ordinance pursuant to Session Law 2017-2087 (commonly referred to as the "Brunch Bill") authorizing the sale of alcoholic beverages beginning at 10:00 a.m. on Sundays. Ms. Brown asked the council to consider enacting an ordinance authorizing the sale of alcoholic beverages beginning at 10:00 a.m. on Sundays. According to Ms. Brown, the enactment of such an ordinance would put Asheboro in alignment with a substantial number of other cities and enhance opportunities for local retailers to generate more revenue.

Ms. Tammy O'Kelley, Executive Director of the Randolph County Tourism Development Authority, also expressed support for the Asheboro/Randolph Chamber of Commerce request.

In response, Mayor Smith asked, consistent with the consensus that emerged among the council members, for the city attorney to prepare the requested ordinance for review, debate, and potential action during the Council's regular meeting in March 2018.

6. Update on the annual United Way campaign.

On behalf of the United Way Steering Committee for 2017-2018, Mr. John Evans, Assistant Community Development Director, reported that there were approximately 136 participants in the city's United Way Campaign, with 114 being caring share donors. The city surpassed its \$31,000 goal by raising approximately \$32,051.92. Along with Mr. Evans, Ms. Kristen Terry, Human Resources Assistant, thanked everyone for participating. Without the many donations to United Way, several agencies within the community would not be able thrive and provide services as needed within the community.

7. Public Comment period.

Mayor Smith opened the floor for public comments.

Former Mayor David Jarrell presented comments and concerns in opposition to the potential enactment of "Brunch Bill" ordinance.

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

8. Community Development Items:

(a) Update on the North Carolina Department of Transportation's schedule for intersection improvements to West Presnell Street and North Fayetteville Street.

Mr. Nuttall utilized a visual presentation and presented the North Carolina Department of Transportation's (NCDOT) schedule for the intersection improvements to West Presnell Street and North Fayetteville Street. NCDOT plans to begin the project on or after March 5, 2018 with completion by August 31, 2018. The project entails the following improvements:

1. The installation of left turn lanes on eastbound and westbound Presnell Street at North Fayetteville Street; and
2. The widening of Presnell Street; and
3. The resurfacing of North Fayetteville Street at the intersection; and
4. The upgrading of the intersection signalization.

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

(b) Potential Appointments to the Asheboro Planning Board, Redevelopment Commission, and Airport Authority.

Mr. Nuttall informed the Council that Mr. David Henderson, who is a current extraterritorial planning jurisdiction member, has indicated a willingness to serve another term on the board. With the general consent of the council members, Mr. Nuttall will request that the Randolph County Board of Commissioners reappoint Mr. Henderson as an ETJ member of the Asheboro Planning Board.

Mr. Nuttall also informed the Council of vacant positions on the Asheboro Planning Board, Redevelopment Commission, and the Airport Authority. Currently, city staff has received only a limited number of applications from interested individuals for each board. City staff will continue to publicize these opportunities for service and will forward all of the applications for the vacant positions to the Council for consideration at its regular February meeting.

(c) The investigation of the potential for a city-initiated zoning map amendment of properties located along South Cox Street.

Mr. Nuttall utilized a visual presentation and gave an overview of the community development division staff's investigation of a potential city-initiated zoning map amendment of properties located along South Cox Street. The amendment would consist of the rezoning of South Cox Street properties that are currently zoned R7.5 to the OA6 zoning district.

During his presentation, Mr. Nuttall reported that the majority of the parcels located along South Cox Street, from East Pritchard Street to East Dixie Drive, including Greensboro Street, are commercially zoned. In terms of the adopted Land Development Plan, the corridor is largely within the center city planning area with zoning overlay development standards for non-residential and high-density residential uses. The Transportation Plan designates South Cox Street as a minor thoroughfare.

Based on his report, Mr. Nuttall proposed that city staff coordinate a public information workshop for the potentially impacted property owners. At this informal meeting, owners will be able to ask questions and offer input prior to a decision on whether or not to move forward with a potential city-initiated zoning map amendment. Once scheduled, Mr. Nuttall will provide more information about the workshop.

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

(d) The status of the Asheboro Redevelopment Commission's preparation of a Central Business District Redevelopment Plan in response to a request from the Asheboro Planning Board.

Mr. Nuttall reported on the status of the Asheboro Redevelopment Commission's preparation of a Central Business District Redevelopment Plan. During his presentation, Mr. Nuttall indicated that a Redevelopment Plan allows local governments to target a defined geographic area for

redevelopment. Once a specific area is designated, a plan may be developed and powers exercised to encourage investment and redevelopment within the area.

During October 2017, the Planning Board certified a Redevelopment Area by resolution and requested the preparation of a Redevelopment Plan.

A draft of the plan is anticipated to be reviewed by the Redevelopment Commission at its regular February meeting. Mr. Nuttall will update the Council as progress is made and more information is available. No formal action was taken by the Council.

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

9. Request for the council to award a contract for the replacement and upgrade of the HVAC system at the city-owned McCrary Gym.

City Engineer Michael Leonard, PE, reported that three (3) responsive bids were received on January 4, 2018, at 2:00 p.m., for the replacement and upgrade of the HVAC System at the city-owned McCrary Gym. He recommended the award of the contract for the project to Charlie's Tin Shop, Inc. which was the apparent lowest responsive, responsible bidder with a bid of \$336,680.00.

Based on the staff recommendation, Mr. Moffit moved, and Mr. Swiers seconded the motion, to award the said contract to Charlie's Tin Shop. Council Members Bell, Burks, Moffitt, Redding, Snuggs, and Swiers voted unanimously in favor of motion.

10. Finance items:

(a) An ordinance to amend the General Fund for the replacement and upgrade of the HVAC system at the city-owned McCrary Gym.

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

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

01 ORD 1-18

ORDINANCE TO AMEND THE GENERAL FUND FY 2017-2018

WHEREAS, The City of Asheboro has accepted bids to install an HVAC system at the McCrary Gym, and;

WHEREAS, the lowest responsive bid was from Charlie's Tin Shop Inc., and;

WHEREAS, The City Council of the City of Asheboro desires to amend the budget as required by law to adjust for these changes expenditures in comparison to the current fiscal year adopted budget, and;

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

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

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

<u>Account #</u>	<u>Revenue Description</u>	<u>Increase</u>
10-399-0000	Fund Balance Allocation	336,680

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

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>
10-620-1509	Maint. & Repair McCrary Gym	336,680

Adopted this 11th day of January, 2018.

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

ATTEST:

/s/Tammy Williams
Tammy Williams, Deputy City Clerk

(b) An ordinance to amend the General Fund for the purchase of new software and support services for the human resources department.

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

Upon motion by Mr. Bell and seconded by Ms. Redding, Council voted unanimously to adopt the following ordinance by reference. Council Members Bell, Burks, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion.

02 ORD 1-18

ORDINANCE TO AMEND THE GENERAL FUND FY 2017-2018

WHEREAS, The City of Asheboro human resources software system is more than 20 years old and by nature is out of date technology and the software support period is about to come to an end, and;

WHEREAS, having a viable and up to date human resources software system is essential to the operation of the City of Asheboro Human Resources Department, and;

WHEREAS, the City of Asheboro Human Resources Department has diligently been evaluating new software systems this fiscal year and have found a product that has the features that will support their needs, the needs of the City, going forward, and;

WHEREAS, the cost of the new software system and to convert current detail has not been included in the current adopted budget, and;

WHEREAS, The City Council of the City of Asheboro desires to amend the budget as required by law to adjust for these changes expenditures in comparison to the current fiscal year adopted budget, and;

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

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

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

<u>Account #</u>	<u>Revenue Description</u>	<u>Increase</u>
10-399-0000	Fund Balance Allocation	86,000

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

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>
10-590-2000	Computer Programming	86,000

Adopted this 11th day of January, 2018.

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

ATTEST:

/s/Tammy Williams
Tammy Williams, Deputy City Clerk

(c) A resolution establishing the Designated Gift Fund for the Zoo City Sportsplex to be managed by the NC Community Foundation, Inc.

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

Upon motion by Mr. Bell and seconded by Mr. Swiers, Council voted unanimously to adopt the following resolution by reference. Council Members Bell, Burks, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion.

02 RES 1-18

BENEFICIARY RESOLUTION
For a Designated Gift Fund

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

BE IT FURTHER RESOLVED that the City of Asheboro hereby authorizes NCCF and its officers and agents to accept contributions to the said Designated Gift Fund on its behalf, and further authorizes its own officers to execute and deliver to NCCF any instruments or documents necessary or useful to effect the authorization, establishment, use and continued maintenance of such Designated Gift Fund and further agrees to use the distributions from the Designated Gift Fund for the purpose as set forth in the above paragraph.

ADOPTED on January 11, 2018 by the City Council of the City of Asheboro, North Carolina at a meeting duly called and held, at which a quorum was present and acting throughout.

Signed this 11th day of January, 2018.

(City Seal) /s/David H. Smith
David H. Smith, Mayor

Attest:

/s/Tammy M. Williams
Tammy M. Williams, Deputy City Clerk

11. Update on enforcement initiatives, including requested ordinance amendments, designed to support the downtown area and the positive use of recreation facilities throughout the city.

Assistant Chief of Police Mark Lineberry presented and recommended adoption, by reference, of an ordinance designed to facilitate coordinated safety measures for the City of Asheboro Cultural and Recreational Facilities. After substantive discussion, Mr. Moffitt moved to adopt the aforementioned ordinance by reference. Mr. Burks seconded the motion, and the Council voted unanimously to adopt the following ordinance by reference. Council Members Bell, Burks, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion.

ORDINANCE NUMBER 03 ORD 1-18

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

AN ORDINANCE ADOPTING COORDINATED SAFETY MEASURES FOR CITY OF ASHEBORO CULTURAL AND RECREATIONAL FACILITIES

WHEREAS, the City of Asheboro Cultural and Recreation Services Policy Manual contains the rules and regulations applicable to the city's cultural and recreational facilities; and

WHEREAS, Section 98.01 (Adoption by Reference) of the Code of Asheboro provides that the City of Asheboro Cultural and Recreation Services Policy Manual (the "Manual") has been adopted by the Asheboro City Council by reference and made a part of the Code of Asheboro; and

WHEREAS, within the Manual, Article XVIII contains miscellaneous provisions that are applicable throughout the city's cultural and recreation services system; and

WHEREAS, the Asheboro City Council has concluded that it is advisable to adopt regulations that facilitate a coordinated initiative between the city police department and the city's cultural and recreation system officials to make the city's cultural and recreational facilities as welcoming as possible by preventing repetitive criminal activities in these facilities; and

WHEREAS, the proposed regulations, which are submitted for enactment as amendments to Article XVIII of the Manual, are attached hereto as EXHIBIT 1 and are hereby incorporated into this Ordinance by reference as if copied fully herein;

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

Section 1. Article XVIII of the City of Asheboro Cultural and Recreation Services Policy Manual is hereby rewritten to provide as specified in EXHIBIT 1. All articles, sections, and provisions of the said Manual that are not expressly modified by the contents of EXHIBIT 1 shall continue in full force and effect without alteration.

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

Section 3. This Ordinance shall be in full force and effect upon and after March 1, 2018. This Ordinance was adopted by the Asheboro City Council in open session during a special meeting held on the 11th day of January, 2018.

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

ATTEST:

/s/Tammy M. Williams
Tammy M. Williams, Deputy City Clerk

EXHIBIT 1

ARTICLE XVIII

MISCELLANEOUS PROVISIONS

Section 19.1 Returned Checks

When a check for payment of deposits, fees, and/or charges owed to the Cultural and Recreation Services Departments are returned for insufficient funds or other reasons, there will be a charge of \$25.00 added to the amount due.

Section 19.2 Schedule of Deposits, Fees, and Charges

The amount of a deposit, fee, or any other type of charge to be collected by the Cultural and Recreation Services Departments shall be set in accordance with this manual and/or the Schedule of Deposits, Fees, and Charges Administered by the Cultural and Recreation Services Departments. This schedule shall be approved by the Asheboro City Council and maintained in the offices of the City Clerk and the Recreation Services Superintendent. In the event of a conflict between the provisions of this manual and the Schedule of Deposits, Fees, and Charges Administered by the Cultural and Recreation Services Departments, the provisions of the City of Asheboro Cultural and Recreation Services Policy Manual shall control and be determinative of the monetary sum to be collected in good funds by the Cultural and Recreation Services Departments.

Section 19.3 Coordinated Safety Measures in the City's Cultural and Recreational Facilities

As part of its efforts to support a high quality of life for the citizens of Asheboro, the city strives to provide cultural and recreational opportunities through programming and facilities that are open and inviting to everyone. If prompt action is not taken when a crime is committed within or on the premises of a city cultural or recreational facility, individuals and their families can develop safety and security concerns that prevent the beneficial use of the services offered by the city.

The creation of such fear and trepidation about the use of city cultural or recreational facilities creates an impediment to the use of these services and facilities as real as any physical barrier. The following safety measures are designed to remove, in a measured and balanced manner, any such barriers to the full use of the city's cultural and recreational programming:

- (A) *Violations of the criminal law are prohibited.* A violation of the criminal law, whether the crime is labeled a felony or misdemeanor, within the city's cultural or recreational facilities undermines the sense of safety and well-being that is needed to create a positive and supportive environment that is welcoming to everyone. A violator of the criminal law is subject to the suspension of his or her privilege to use the cultural or recreational facility where the offense occurred. When a sworn law enforcement officer develops probable cause to believe that an individual has committed a crime, whether a felonious or misdemeanor offense, on or within the premises of a city cultural or recreational facility and the individual is in fact arrested, such an offender shall be banned from the facility/premises where the offense occurred in accordance with the banning procedures provided herein.
- (B) *Banning procedures.* The city manager, recreation services director, and chief of police, and their designees, are authorized to ban individuals from specific city cultural or recreational facilities/premises when, and only when, a sworn law enforcement officer has developed probable cause to believe that the individual to be banned from the facilities/premises has committed a criminal offense in or on the facilities/premises in question and has in fact been arrested.
- (1) The ban will commence upon the violator's receipt of the city's standardized banning notice, which is also referred to as a No Entry Order/No Trespass Notice.
 - (2) The ban will only be applicable to the facilities or premises where the criminal offense(s) that caused the issuance of the ban notice(s) occurred. The banned individual will be able to use other city cultural or recreational facilities/premises in accordance with the terms of usage in place for all citizens.
 - (3) The duration of the ban indicated on the banning notice will be one of the following three periods of time: 90 days, 180 days, or 365 days.
 - (a) The city official who completes the banning notice will indicate on the form that the duration of the ban is 90 days if the banned individual is not currently subject to an active No Entry Order/No Trespass Notice.
 - (b) If the banned individual is subsequently arrested for a criminal offense at a city cultural or recreational facility/premises before the expiration of the initial 90-day ban period, a new No Entry Order/No Trespass Notice will be issued for the facilities/premises where the new offense occurred along with, if different from the location of the new offense, the facilities/premises previously listed in the active No Entry Order/No Trespass Notice. The duration of the new No Entry Order/No Trespass Notice for the listed location(s) will be 180 days.
 - (c) If another arrest for a criminal offense at a city cultural or recreational facility/premises is made before the 180-day ban period is completed, a new No Entry Order/No Trespass Notice will be issued to indicate that the duration of the ban is 365 days for all of the listed city cultural or recreational facilities/premises where the banned individual has been arrested. The maximum duration of any single ban notice is 365 days. Each subsequent arrest for a crime committed by the banned individual at a city cultural or recreational facility/premises while such an individual is subject to an active 365-day banning notice will result in the issuance of a new No Entry Order/No Trespass Notice banning the individual for another 365 days from the listed cultural and recreational facilities where he or she has been arrested.
 - (d) Regardless of the number of No Entry Orders/No Trespass Notices previously issued to an individual, the duration of a ban starts at 90 days if there are no active banning notices associated with an individual at the time of his or her arrest.
- (C) *Enforcement of banning notices.* An individual who is banned from specified cultural or recreational facilities/premises for a stated period of time by means of the issuance of a No Entry Order/No Trespass Notice will be prosecuted to the fullest extent of the law for criminal trespass if such an individual enters into or onto the facilities/premises from which he or she has been banned prior to the expiration of the No Entry Order/No Trespass Notice.
- (D) *Appeals.* Any individual who receives a No Entry Order/No Trespass Notice may request a review of such action by filing a written notice of appeal with the city's recreation services director. The following procedures will be followed in connection with such appeals:

- (1) An appeal must be made in writing and filed within 10 business days of the date of the No Entry Order/No Trespass Notice. The written appeal must be filed with the Office of the City of Asheboro Recreation Services Director at 241 Sunset Avenue, Asheboro, North Carolina 27203.
 - (2) Notice of the appeal must be filed on a form provided by the recreation services director's office. On this form, the appellant must state with particularity the grounds for the appeal, reasons for removing the ban, and an explanation of how the appellant will avoid future criminal actions at the city's cultural or recreational facilities/premises.
 - (3) The notice of appeal will be processed by the recreation services director, but the appeal will be decided by the city manager.
 - (4) Once the notice of appeal is properly filed with the recreation services director, an appeal hearing will be scheduled and conducted by the city manager as soon as is practicable. Written notice of the date, time, and location of such a hearing will be mailed to the address listed by the appellant on the notice of appeal.
 - (5) After conducting the hearing and considering the available evidence, the city manager may reverse, modify, or affirm the action taken to ban the appellant from city cultural or recreational facilities/premises. The city manager's decision is final, and there shall be no appeal from the decision of the city manager to the city council.
 - (6) The city manager shall render a decision within 5 business days of the conclusion of the hearing. The decision shall be mailed to the appellant at the address listed by the appellant in the notice of appeal.
 - (7) An appeal of a ban to the city manager stays all proceedings and actions by city officials, specifically including the filing of any trespass charges, in furtherance of the No Entry Order/No Trespass Notice. Such a stay shall be effective from the time the written notice of appeal is formally accepted by personnel within the recreation services director's office until three business days after the city manager's written decision is placed in the custody of the United States Postal Service for delivery to the appellant.
 - (8) The only exceptions to this right of appeal to the city manager are attempts to appeal an action taken by sworn law enforcement officers in compliance with a court order or to appeal an action that is pending in the criminal courts. Any appeal pertaining to a criminal case or an order from a judicial official must be addressed in accordance with laws and rules applicable to the court with jurisdiction to consider the matter for which judicial review is sought.
 - (9) A decision rendered by the city manager applies only to the specific No Entry Order/No Trespass Notice from which an appeal was taken.
- (E) *Non-exclusivity.* Nothing in this section shall limit the use by the city or any other governmental entity of any or all applicable criminal sanctions and/or civil remedies for violations of the rules applicable to a facility or for violations of federal, state, or local laws and regulations.

Additionally, Assistant Chief Lineberry presented and recommended adoption, by reference, of an ordinance to amend Section 71.99 of the Code of Asheboro in order to allow the use of North Carolina uniform citations to address certain parking enforcement concerns in the city.

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

ORDINANCE NUMBER 04 ORD 1-18

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

AN ORDINANCE TO AMEND SECTION 71.99 OF THE CODE OF ASHEBORO

WHEREAS, Section 160A-296 of the North Carolina General Statutes provides that a city shall have general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits except to the extent that authority and control over certain streets and bridges is vested in the state Board of Transportation; and

WHEREAS, Section 160A-301 and Section 160A-302 of the North Carolina General Statutes specifically authorize the city to regulate, restrict, and prohibit certain on-street and off-street parking; and

WHEREAS, the city's parking regulations are found in Chapter 71 of the Code of Asheboro; and

WHEREAS, Section 71.99 of the Code of Asheboro prescribes certain penalties for violations of the city's parking regulations; and

WHEREAS, the Asheboro City Council has concluded that Section 71.99 of the Code of Asheboro should be amended in order to enable the city police department to more efficiently enforce the adopted parking regulations;

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

Section 1. Section 71.99 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 71.99 PENALTY

- (A) ~~If any person shall violate any provision of this chapter regulating the operation or parking of vehicles, he shall be responsible for an infraction and shall be required to pay a penalty of not more than \$50. (G.S. § 14-4(b))~~
- (B) ~~With the exception of handicapped vehicle parking, there shall be an established civil penalty in the amount of \$5 for each violation specified in this chapter. For unlawful parking in a handicapped space, there shall be an established civil penalty in the amount of \$50. When the city receives proper payment of a parking ticket within seven days of the issuance of the ticket, the vehicle owner's liability thereunto shall be discharged. If payment is not received within seven days of the issuance of the parking ticket, such ticket shall be considered delinquent and shall be subject to an additional penalty of \$5 plus court costs necessary to insure collection. The parking citation shall have printed upon its face a statement that "payment is due within seven days from date of issue; failure to comply will result in an additional penalty of \$5 and court costs." Acceptance and payment of the additional penalty by the vehicle's owner shall be deemed a full and final release of any and all claims or right of action arising out of the parking violation.~~
- (C) ~~Parking violations shall not constitute a criminal infraction but shall be subject only to the civil penalties stated in the preceding division and the civil remedies provided by G.S. § 160A-175. In the event that the civil penalties are not paid, the city may, through its authorized officials or their agents, initiate a civil suit to collect the penalty.~~
- (D) ~~The civil penalties collected as a result of this section shall belong to the city and shall be treated as revenues of its general fund.~~
- (A) In accordance with Section 14-4 of the North Carolina General Statutes, any person who violates an ordinance provision of this chapter regulating the operation or parking of vehicles shall be responsible for an infraction and shall be required to pay a penalty of not more than fifty dollars (\$50.00); provided, however, any person found responsible for an infraction pursuant to the prima facie rule of evidence for the enforcement of parking regulations found in Section 20-162.1 of the North Carolina General Statutes shall be subject to a penalty of not more than five dollars (\$5.00).
- (B) There shall be an established civil penalty in the amount of five dollars (\$5.00) for each violation specified in this chapter. This civil penalty may be recovered by the city in a civil action in the nature of debt if the offender does not pay the penalty within the time period prescribed by this subsection. When the city receives proper payment of a parking ticket within seven days of the issuance of the ticket, the vehicle owner's liability thereunto shall be discharged. If payment is not received within seven days of the issuance of the parking ticket, such ticket shall be considered delinquent and shall be subject to an additional penalty of five dollars (\$5.00) plus court costs necessary to insure collection. The parking citation shall have printed upon its face a statement that "payment is due within seven days from the date of issuance; failure to comply will result in an additional penalty of \$5.00 and court costs." Acceptance and payment of the additional penalty by the vehicle's owner shall be deemed a full and final release of any and all claims or right of action arising out of the parking violation.
- (C) The ordinance provisions in this chapter may be enforced by any one, all, or a combination of the remedies authorized by this section.
- (D) Each day's continuing violation of an ordinance provision in this chapter shall be a separate and distinct offense.

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

Section 3. This Ordinance shall take effect and be in force from and after March 1, 2018.

This Ordinance was adopted by the Asheboro City Council in open session during a special meeting held on the 11th day of January, 2018.

/s/David H. Smith

David H. Smith, Mayor

ATTEST:

 /s/Tammy M. Williams
Tammy M. Williams, Deputy City Clerk

12. Upcoming events and items not listed on the agenda.

Mayor Smith led a brief discussion of upcoming events occurring with the city government and the community in general. No action was taken by the city council during this portion of the meeting.

There being no further business, the meeting was adjourned at 9:12 p.m.

 /s/Tammy M. Williams
Tammy M. Williams, Deputy City Clerk

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