

**REGULAR MEETING  
ASHEBORO CITY COUNCIL  
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING  
THURSDAY, AUGUST 8, 2019  
7:00 P.M.**

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This being the time and place for a regular meeting of the Asheboro City Council, a meeting was held with the following elected officials and 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  
Robert L. Brown, Police Major  
Holly H. Doerr, CMC, NCCMC, 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

**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 recite the pledge of allegiance.

**3. Public comment period.**

Mayor Smith opened the floor for comments from the public.

Mr. Willie Gladden expressed his appreciation to the Council Members for their support of the 2019 Russell Murphy Football Camp.

Mr. Hayworth Lemonds, a representative of the Asheboro High School Class of 1970, asked the Council Members to consider establishing a memorial for the late Felix Ward, who retired from full-time employment with the city as the cultural and recreation services director and was very active in the community after his retirement from full-time employment.

Mr. Rashidi Everett expressed his gratitude for the Juneteenth celebration within the City of Asheboro.

Dr. David Stansfield asked that the city consider the construction of a dog park in the updated Land Development Plan.

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

4. **Resumption of the quasi-judicial hearing for Case No. RZ/CUP-19-09, which was continued from the July meeting, in order to obtain more evidence concerning an application to place property on the north side of Vision Drive and along Nottingham Street in a CU-I2 zoning district and to obtain a conditional use permit authorizing an industrial development with multiple uses and/or structures, including a special intensity watershed allocation.**

Mayor Smith resumed the quasi-judicial hearing for land use case number RZ/CUP-19-09 which was continued from the Council's regular July meeting.

Mr. Nuttall, who was sworn in during the public hearing in July, presented a written request from Mr. John Thompson, on behalf of the applicant, to continue the public hearing to the Council's regular September meeting. The desire for an opportunity for additional dialogue between neighbors as well as for the applicant to receive feedback from Norfolk Southern regarding a new site plan was the stated reason for the request.

Upon motion by Mr. Moffitt and seconded by Ms. Carter, the Council voted unanimously to continue the public hearing to the Council's regular September meeting that will be held on September 12, 2019. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion.

A copy of the written request presented by Mr. Nuttall is on file in the city clerk's office.

5. **Update on the collaborative effort to maintain high quality health care in Randolph County as demonstrated by the willingness of local officials such as Mayor Smith and the city manager to serve on a Randolph Health advisory committee.**

Ms. Angela Orth, who is the Chief Executive Officer of Randolph Health, updated the council members on the effort to maintain high quality health care in Randolph County. Randolph Health is in the process of creating a new model of health care within Asheboro and is striving to be a strategic partner with the City of Asheboro in this effort.

During her presentation, Ms. Orth asked that Mayor David Smith and City Manager John Ogburn serve on a subcommittee created by the Randolph Health Board of Directors, which is seeking created and diverse viewpoints to add to the collaborative effort to create this new model of health care. With no objection from the council members, Mayor Smith and City Manager Ogburn will serve as non-voting ex officio members of the subcommittee.

6. **Consent agenda.**

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

- (a) **The meeting minutes for the city council's special meeting held on July 9, 2019.**

The approved meeting 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 minutes and general account of the closed session held during the council's special meeting on July 9, 2019.**

The approved minutes and general account of the above-referenced closed session are on file in the city clerk's office. However, in compliance with the resolution approved as the next consent agenda item, the general account of the closed session is not

currently available for inspection because such an inspection would frustrate the purpose of the closed session.

- (c) **A resolution sealing the general account of the closed session held on July 9, 2019.**

RESOLUTION NUMBER 25 RES 8-19

**CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA**

**Resolution Sealing the General Account of a Closed Session Conducted during a Special Joint Meeting with the Randolph County Board of Commissioners on July 9, 2019**

**WHEREAS**, Section 143-318.10(e) of the North Carolina General Statutes provides, in pertinent part, that the “minutes or an account of a closed session conducted in compliance with G.S. 143-318.11 may be withheld from public inspection so long as public inspection would frustrate the purpose of a closed session;” and

**WHEREAS**, pursuant to Section 143-318.11(a)(1) and Section 131E-97.3 of the North Carolina General Statutes, the city council, upon unanimous adoption of a properly made and seconded motion, went into closed session on July 9, 2019, during a joint special meeting with the Randolph County Board of Commissioners, in order to discuss privileged and confidential information pertaining to competitive healthcare activities by or on behalf of Randolph Health; and

**WHEREAS**, the purpose for going into closed session on July 9, 2019, would be frustrated if the general account of the closed session were to be made available for public inspection at this time.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the general account of the closed session conducted on July 9, 2019, is hereby sealed and will remain sealed so long as public inspection of the records would frustrate the purpose of the closed session; and

**BE IT FURTHER RESOLVED** by the City Council of the City of Asheboro that the city manager is hereby authorized to act as the council’s agent with the authority to unseal these records when the purpose of the closed session would no longer be frustrated by making the records available for public inspection or when the unsealing of this general account is otherwise required by law.

**This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on August 8, 2019.**

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

**ATTEST:**

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

- (d) **The meeting minutes for the city council’s regular meeting that was held on July 11, 2019.**

The approved meeting 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.

- (e) A resolution expressing the city's commitment to partnering with the United States Census Bureau and the State of North Carolina to support the goals and ideals of the 2020 Census.

RESOLUTION NUMBER 26 RES 8-19

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**A RESOLUTION EXPRESSING ASHEBORO'S COMMITMENT TO  
A 2020 CENSUS PARTNERSHIP**

**WHEREAS**, the United States Census Bureau is required by the Constitution of the United States to conduct a count of the population; and

**WHEREAS**, this population count provides a historic opportunity to help shape the foundation of our society and play an active role in American democracy; and

**WHEREAS**, the City of Asheboro is committed to ensuring every resident is counted; and

**WHEREAS**, federal and state funding is allocated to communities, and decisions are made on matters of national and local importance based, in part, on population and housing data obtained from the census; and

**WHEREAS**, census data helps determine how many seats each state will have in the United States House of Representatives and is necessary for an accurate and fair redistricting of state legislative seats, certain local governing boards, and voting districts; and

**WHEREAS**, information from the 2020 Census and American Community Survey are vital tools for economic development and increased employment; and

**WHEREAS**, the information collected by the census is confidential and protected by law; and

**WHEREAS**, a united voice from business, government, community-based and faith-based organizations, educators, media, and others will enable the 2020 Census message to reach more of our citizens.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the City of Asheboro is committed to partnering with the United States Census Bureau and the State of North Carolina and will take the following actions in support of the 2020 Census:

1. The city will support the goals and ideals for the 2020 Census and will disseminate 2020 Census information;
2. The city will encourage all city residents to participate in events and initiatives that will raise the overall awareness of the 2020 Census and increase participation;
3. The city will provide census advocates to speak to city and community organizations;
4. The city will support census takers as they help our city and county complete an accurate count; and
5. The city will strive to achieve a complete and accurate count of all persons within our borders.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 8<sup>th</sup> day of August, 2019.

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

ATTEST:

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

- (f) A resolution declaring the official intent of the City of Asheboro to purchase municipal vehicles and equipment and to reimburse the General Fund with installment financing proceeds.

RESOLUTION NUMBER 27 RES 8-19

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**A RESOLUTION DECLARING THE OFFICIAL INTENT OF THE CITY OF ASHEBORO TO PURCHASE MUNICIPAL VEHICLES AND EQUIPMENT AND TO REIMBURSE THE GENERAL FUND WITH INSTALLMENT FINANCING PROCEEDS**

**WHEREAS**, in order to maintain a satisfactory level of municipal services, the Asheboro City Council has adopted a budget ordinance for fiscal year 2019-2020 that allocates funding for the acquisition of vehicles and equipment deemed essential for maintaining uninterrupted high-quality municipal services; and

**WHEREAS**, the following vehicles and equipment are to be acquired by city departments that receive their funding from the City of Asheboro General Fund (the "General Fund"):

1. \$319,271.00 has been budgeted for the police department to acquire twelve vehicles;
2. \$51,900.00 has been budgeted for the fire inspection department to acquire three vehicles;
3. \$441,500.00 has been budgeted for the street maintenance department to acquire three vehicles/pieces of equipment (a leaf truck, a tandem dump truck, and a 2-ton dump truck);
4. \$29,267.00 has been budgeted for the engineering department to acquire a vehicle; and
5. \$80,000.00 has been budgeted for the facilities maintenance department to acquire three vehicles.

The total budgeted amount for the purchase of the above-listed vehicles and equipment needed by the listed city departments to deliver essential municipal services is \$921,938.00; and

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

**WHEREAS**, in order to provide uninterrupted high-quality municipal services, the above-listed vehicles and equipment will be purchased and placed into service as soon as possible with available funds in the General Fund; and

**WHEREAS**, the Asheboro City Council has decided that the above-stated expenditures are to be reimbursed to the General Fund during the current fiscal year with proceeds from an installment financing agreement that will create security interests in the above-listed municipal vehicles and equipment acquired by the city during its 2019-2020 fiscal year; and

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

**WHEREAS**, in accordance with the applicable treasury regulations, one of the steps necessary to avoid jeopardizing the ability of a lender to exclude from its gross income the interest paid or payable under an installment financing agreement is for the city to declare its intent to reimburse the General Fund for the expenditures used to purchase the needed vehicles.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that, consistent with the city's budget ordinance for fiscal year 2019-2020 and with the explicit intent of seeking reimbursement for the expenditures from installment financing proceeds, a maximum of \$921,938.00 may be expended from the General Fund for the acquisition of the above-listed vehicles and equipment prior to the execution of any installment financing agreement; and

**BE IT FURTHER RESOLVED** that the City Council of the City of Asheboro does hereby formally and explicitly declare the official intent of the City of Asheboro to fully reimburse, with loan proceeds from an installment financing agreement that is to be executed prior to the end of the 2019-2020 fiscal year, any and all expenditures from the General Fund for the purchase during this fiscal year of the vehicles and equipment referenced hereinabove and that are necessary to the provision of essential municipal services.

**This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 8<sup>th</sup> day of August, 2019.**

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

ATTEST:

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

- (g) **An ordinance clarifying that fines collected pursuant to Code of Asheboro Section 50.045 (Tampering with Infrastructure Prohibited) will be disbursed to the public schools.**

**ORDINANCE NUMBER 20 ORD 8-19**

**CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA**

**AN ORDINANCE TO AMEND SECTION 50.045 OF THE CODE OF ASHEBORO**

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

**WHEREAS**, Section 14-151 of the North Carolina General Statutes prescribes criminal penalties for interfering with certain components of a water utility's infrastructure; and

**WHEREAS**, actions prohibited by Section 50.045 of the Code of Asheboro also fall within the scope of the criminal offenses established by Section 14-151 of the North Carolina General Statutes; and

**WHEREAS**, in accordance with Article IX, Section 7(a) of the Constitution of North Carolina, the clear proceeds of all fines collected for any breach of the criminal laws must be distributed to the local school administrative units of the county in which the proceeds were collected; and

**WHEREAS**, Section 14-151 of the North Carolina General Statutes provides helpful text to remove licensed contractors conducting themselves in accordance with recognized customs and standards from the reach of the sanctions established by this criminal law; and

**WHEREAS**, the Asheboro City Council has concluded that Section 50.045 of the Code of Asheboro should be amended to unambiguously establish that fees charged for conduct that falls within the scope of the state's criminal laws will be distributed to the local school administrative units and to explicitly incorporate the licensed contractor exception into the city ordinance provision.

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

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

**§ 50.045 TAMPERING WITH INFRASTRUCTURE PROHIBITED.**

- (A) It shall be unlawful for any person to deface, tamper with or injure any municipal infrastructure connected with or pertaining to the water system owned and operated by the city, specifically including without limitation any house, reservoir, valve cock, wheel, fire plug or other fixture connected with or pertaining to the city water system, or to place any building material, rubbish or other matter or substance on any valve, stop cock, meter box, water main or service pipe, or to obstruct access to any fixture connected with the city water system, or to remove, tamper with or injure any pipe, fire plug, hydrant, valve or cock or to open any of them, except when due authority has been given therefor by the Water and Sewer Department.
- (B) Tampering with any municipal infrastructure connected with or pertaining to the city water system, specifically including without limitation a fire hydrant and a water meter or any device attached thereto, is hereby expressly declared to be unlawful and will result in a charge and other enforcement actions as hereinafter set out. Within any 12 calendar month period, there will be a charge of \$150 for the first offense, \$500 for the second offense, and criminal penalties, including without limitation a fine of \$500, shall be instituted thereafter in accordance with G.S. § 14-4. By way of illustration and without limitation, a person shall be deemed to have tampered with municipal infrastructure in violation of this section if, without authorization from the Water and Sewer Department, a fire hydrant is opened or operated in any manner; a water meter is activated, operated, or manipulated in an effort to restore water service for any premises for which water service has been discontinued; the water meter or any device attached thereto is damaged to any degree by an unauthorized individual attempting to manipulate or operate some physical component of or attachment to the water meter; or the water meter is relocated to provide service in a location other than the service address noted in the records of the Water and Sewer Department. Nothing contained within this division shall release a person found guilty of tampering with a water meter or any other aspect of the city's water supply and distribution system from liability for so doing, and the provisions of this division shall not preclude the city from pursuing any other remedy available at law or equity for such unlawful conduct.
- (C) Any monies collected on the basis of charges established by this section are deemed to be fines collected for a breach of the criminal laws, and the clear proceeds from these fines shall be distributed to the local school administrative units in Randolph County in accordance with the applicable laws and regulations.

(D) Nothing in this section applies to licensed contractors while performing usual and ordinary services in accordance with recognized customs and standards.

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

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

**This Ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 8<sup>th</sup> day of August, 2019.**

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

ATTEST:

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

(h) **The temporary closure of certain streets and sections of streets for Fall Festival XLVII from 12:01 a.m. on Saturday, October 5, 2019, until 11:00 p.m. on Sunday, October 6, 2019.**

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.

(i) **An ordinance to amend the general fund fiscal year 2019-2020.**

21 ORD 8-19

**ORDINANCE TO AMEND THE GENERAL FUND  
FY 2019-2020**

WHEREAS, The City of Asheboro has drug forfeiture assets available for use to purchase certain equipment that are not incorporated in the annually adopted police department budget, and;

WHEREAS, the police department has identified the need and value of the following equipment to aid in their efforts to protect citizens and apprehend and prosecute criminals: a tactical response van, a tactical utility task vehicle, a blackout trailer, 50 armor plate ballistic vests, and a license plate hunter, a speed trailer / license plate reader, a new video /audio recording system to replace the current one that is breaking down, a thermal weapon scope, a SWAT robot and a drone, and;

WHEREAS, the total cost of this equipment is estimated at \$275,000, and;

WHEREAS, the Environmental Services Department has identified a need to purchase a Knuckle Boom truck to replace one that has broken down and is not able to be repaired, and;

WHEREAS, the cost of this equipment is estimated at \$154,000, and;

WHEREAS, the City of Asheboro wishes to provide some financial support for programs for the Mayor's Committee on Disabled Persons and expects personal / corporate donations to the City to offset the cost, and;

WHEREAS, the City wishes to establish a budget of \$5000 for these programs / activities, and;

WHEREAS, The City Council of the City of Asheboro desires to amend the budget as required by law to adjust for changes in revenues and 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>Expense Description</u>	<u>Increase/ Decrease</u>
10-335-1200	Miscellaneous Revenue- Contributions	\$5,000
10-399-0000	Fund Balance Appropriation	\$154,000
10-350-0200	US Justice Funds	\$222,000
10-350-0100	US Treasury Funds	53,000
		<u>\$434,000</u>

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

<u>Account #</u>	<u>Expense Description</u>	<u>Increase/ Decrease</u>
10-620-1205	Mayor's Committee on Disabled Persons	\$5,000
10-580-7400	Capital Outlay	\$154,000
10-510-7400	Capital Outlay	\$252,263
10-510-3601	Uniform/ Accessories- Bullet Proof Vests	22,737
		<u>\$434,000</u>

Adopted this 8th day of August, 2019.

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

ATTEST:

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

**7. Community Development Items:**

- (a) **Case No. SUP-19-03: A quasi-judicial hearing on an application for a special intensity watershed allocation allowing an increase in the amount of impervious coverage up to 70% within the Watershed Balance Area. The property is located at 2971 Taylor Drive and is more specifically identified by Randolph County Parcel Identification Number 7754702203.**

Mayor Smith opened the quasi-judicial hearing on the application by J. Graylen Cranford and Taylor Trogdon, agent, (collectively, the "Applicant") for a Special Use Permit authorizing a special non-residential intensity allocation ("SNIA") within a watershed balance area.

Mr. Nuttall was placed under oath and presented the planning staff's analysis of the Applicant's request that included a properly submitted site plan and building elevations for the Special Use Permit. The request pertains to approximately 11.38 acres of land owned by Custom Extrusion Inc. at 2971 Taylor Drive. Randolph County Parcel Identification Number 7754702203 more specifically identifies the property.

Mr. Nuttall stated that, in addition to publishing the required notice of this hearing, legal notices were mailed to adjoining property owners. These notices were mailed on July 23, 2019.

With the assistance of a slide show, Mr. Nuttall testified as to the following facts about the Special Use Permit application:

1. The request is for a SNIA. The existing and proposed land use of the property is manufacturing, processing, and assembly.
2. There are currently two entrances from Taylor Drive, which is a city-maintained street serving industrial uses.
3. The Norfolk Southern railroad is across Taylor Drive from the subject property.
4. The property is located within the balance of the Back Creek/Lake Lucas Watershed area. An increase of built upon area is capped at 12 percent of the land area (approximately 1.36 acres), unless a SNIA authorizing additional built-upon area, up to 70 percent, is approved. Impervious surfaces constructed prior to July 1, 1993, are not required to be included in this allocation. Available records indicate the existing facility has been in place since 1992.
5. The application seeks approval of new built-upon area equivalent to 16 percent of the property's land area.
6. Ten percent of the watershed area may be designated as a SNIA area. Within the Back Creek/Lake Lucas Watershed balance area, 193.48 acres of special allocation area currently exists. If the requested SNIA is granted, this project would use approximately 0.45 acres of the allocation area, reducing the available allocation area to 193.03 acres (179.27 acres if the SNIA under consideration with a separate pending case, Case No. CUP-19-09, is granted).
7. Approval of a SNIA has no effect on general watershed development regulations intended to protect water quality.
8. The property is surrounded entirely by industrially zoned parcels, with the exception of small portions of the adjoining properties to the north and west having residential zoning. The residentially zoned portions of these parcels are more than 1,000 feet from the subject property.

On behalf of the Applicant, Mr. Baron Thompson, Esq. was placed under oath and offered testimony in support of the request. This testimony was focused on addressing the four standards for issuance of a Special Use Permit.

As part of his testimony, Mr. Thompson express the Applicant's agreement with the following conditions that were recommended by the planning staff for attachment to the requested Special Use Permit:

1. Should the number of parking spaces required to serve the proposed development be determined to be less than the amount of parking shown on the site plan, a decrease in the amount of parking shall not be considered a modification of the project requiring council approval. The Applicant shall submit a revised site plan for review by city staff for inclusion in the file.
2. Prior to the storage of any hazardous material, a spill prevention, containment, and control plan ("SPCC") must be prepared by a professional competent in SPCC. Any SPCC-required spill containment structures must be designed by a North Carolina registered professional engineer or architect.

3. Prior to the issuance of a zoning compliance permit, the Applicant shall provide the following:
  - (a) A North Carolina Department of Environmental Quality erosion control permit when required.
  - (b) Additional detail concerning proposed grade separation between the parking area adjacent to the site's northern entrance against the building. If the paved area in this location abutting the building is used for a loading dock or loading space, such use shall not be considered a modification of the project requiring Council approval. The Applicant shall submit a revised plan for review by city staff for inclusion in the file.
  
4. A stormwater management plan identifying details of the stormwater BMP to be utilized shall be submitted prior to any zoning compliance permit authorizing built-upon area to exceed 12 percent of the watershed balance area on the zoning lot. Prior to the issuance of a certificate of zoning compliance, certification from a professional engineer stating that the stormwater BMP has been installed as designed shall be provided. Any open water retention or drainage areas shall be sprayed regularly for mosquito control. The continued maintenance of all runoff control measures shall be responsibility of the property owner.

Additionally, Mr. H.R. Gallimore of REMAX Central Realty, presented testimony in support of the application.

No witness came forward in opposition to the Special Use Permit application.

In the absence of any additional testimony or evidence, Mayor Smith transitioned to the deliberative phase of the hearing.

Upon motion by Mr. Bell and seconded by Mr. Swiers, the Council voted unanimously to approve, with the staff recommended conditions, the requested Special Use Permit. A final decision document with the formal findings of fact, conclusions of law, and order authorizing the Special Use Permit will be entered by the Council during its next regular meeting on September 12, 2019. This order will reflect the conditions attached to the Special Use Permit.

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

**(b) Case No. RZ-19-10: A legislative hearing on an application to rezone property at 531 Rock Crusher Road (Randolph County Parcel Identification Number 7761658018) from B1 (Neighborhood Commercial) to M (Mercantile).**

Mayor Smith opened the public hearing on this land use case, which was legislative in nature, pertaining to the application by Benjamin A. Zenetella (the "Applicant") to rezone approximately 18.6 acres of land from B1 (Neighborhood Commercial) to M (Mercantile).

The land to be rezoned (the "Zoning Lot") is owned by Benjamin A. Zenetella, Gomez Gonzalez, and Sonia Del Carmen. The Zoning Lot is more specifically identified by Randolph County Parcel Identification Number 7761658018.

Mr. Nuttall stated that, in addition to publishing the required notice of this hearing, legal notices were mailed to adjoining property owners. These notices were mailed on July 23, 2019.

Mr. Nuttall utilized a slide show to summarize the planning staff's analysis of the rezoning application. This analysis was summarized as follows:

1. The Zoning Lot is outside of the city limits but within the city's extraterritorial planning jurisdiction.
2. East Presnell Street is a state-maintained minor thoroughfare. Rock Crusher Road is a state-maintained road.
3. The zoning ordinance describes the requested Mercantile (M) District as follows: "Intended to provide for a greater number of potential business activities than the B1 Zoning District. The Mercantile District is distinguished from the B2 General Commercial District by excluding certain uses permitted in the B2 District that are likely to create the greatest external impact (traffic, noise, lighting, etc.) and by its additional standards that address compatibility with adjoining residential neighborhoods. These districts should be located in nodes along minor thoroughfares or higher classification streets." Heavier commercial uses such as sales of motor vehicles and manufactured homes are not permitted in the M District.
4. Tax records indicate that a structure built in 1980 contains 4,838 heated square feet. The current B1 zoning district allows a maximum of 3,000 square feet for all structures on a zoning lot, rendering the current size of the structure on the property a legal non-conforming situation. The requested Mercantile (M) District allows a total of up to 6,000 square feet for all structures on a zoning lot, subject to meeting other zoning requirements.
5. Available records indicate that the Zoning Lot was last approved for use as a place of worship.
6. Other components of development such as drive through services and open storage are restricted in the Mercantile District.

The Planning Board recommended approval of the request. This recommendation was based on the Planning Board's concurrence with the following analysis from the Community Development Division staff that evaluated the consistency of the requested rezoning with the adopted comprehensive plans as well as the reasonableness of the request and whether the requested rezoning is in the public interest:

The Land Development Plan's designation of the property for commercial use and the growth strategy's designation of the property for Economic Development help support the rezoning. The East Small Area plan also discusses accommodating existing commercial uses and sites that have not been fully developed.

The requested Mercantile zoning district accommodates expansion of the existing structure, or construction of new structure(s) on the property, but also limits the size of development and restricts the most intense commercial uses. This reduces compatibility concern with the adjoining residentially zoned properties to the east and west. Limitation on the size of structures also helps mitigate the impact of development on a property which has steep slopes in excess of a 20 percent grade on portions of the Zoning Lot.

Considering these factors, staff believes that the proposed zoning map amendment is 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 public hearing.

The city council concurred with the staff and planning board analysis of the consistency of the request with the land development plan. Council Member Moffitt

moved, and Council Member Bell seconded the motion, to adopt a plan consistency statement and to approve the requested rezoning with the following 2-part motion:

1. City Council Analysis of the Requested Map Amendment: The Land Development Plan's designation of the property for commercial use and the growth strategy map's designation of the property for Economic Development support the rezoning. The East Small Area plan also discusses accommodating existing commercial uses and sites that have not been fully developed.

The requested Mercantile zoning district accommodates expansion of the existing structure, or construction of new structure(s) on the property, but also limits the size of development and restricts the most intense commercial uses. These limitations and restrictions reduce compatibility concerns with the adjoining residentially zoned properties to the east and west. The limitation on the size of structures also mitigates the impact of development on a property which has steep slopes in excess of a 20 percent grade on portions of the Zoning Lot.

Considering these factors, the city council has concluded that the zoning map amendment application is consistent with the adopted comprehensive Land Development Plan and is reasonable and in the public interest.

2. In light of the above-stated analysis, the requested zoning map amendment to place the Zoning Lot in the Mercantile (M) zoning district is approved as consistent with the adopted plan.

Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes. Consequently, the above-stated motion was adopted unanimously.

A copy of the slide show used by Mr. Nuttall is on file in the city clerk's office.

**(c) A request for approval of a proposed engineering services agreement with Wetherill Engineering in the amount of \$69,585.44 for design work on NCDOT TIP Project EB-5862 (Industrial Park Avenue Sidewalk Improvements).**

Mr. Nuttall presented and recommended the approval of a proposed engineering services agreement with Wetherill Engineering in the amount of \$69,585.44 for professional engineering services for design work needed for the Industrial Park Avenue Sidewalk Improvement Project.

Upon motion by Mr. Bell and seconded by Ms. Carter, the Council voted unanimously to approve the above-described engineering services agreement with Wetherill Engineering. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion.

A copy of the above-referenced agreement is on file in the city clerk's office.

**(d) Discussion of the process to appoint a steering committee to lead the upcoming Land Development Plan update.**

Mr. Nuttall reported that city staff will begin soliciting applications from citizens for participation on a steering committee to lead the upcoming Land Development Plan update. The applications from candidates for appointment will be presented during the Council's next regular meeting on September 12, 2019, for action by the Council.

- (e) **Consideration of a resolution in support of improvements to McDowell Road (SR 1150) and New Century Drive (SR 1245).**

Mr. Nuttall presented and recommended adoption, by reference, of a resolution in support of the improvements to McDowell Road and New Century Drive as proposed by the North Carolina Department of Transportation.

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

**RESOLUTION NUMBER 28 RES 8-19**

**CITY OF ASHEBORO RESOLUTION IN SUPPORT OF PROPOSED NCDOT IMPROVEMENTSD TO MCDOWELL ROAD (SR 1150) AND NEW CENTURY DRIVE (SR 1245)**

**WHEREAS, the North Carolina Department of Transportation (NCDOT) is considering improvements to McDowell Road and New Century Drive that are intended to enhance intersection safety and reduce congestion; and**

**WHEREAS, the City of Asheboro concurs that the contemplated project will both enhance safety and reduce congestion at this important intersection; and**

**WHEREAS, NCDOT has requested the City of Asheboro consider a resolution in support of the proposed project.**

**NOW, THEREFORE, BE IT RESOLVED that the City of Asheboro supports a request for statewide project funds to improve McDowell Road and New Century Drive.**

**ADOPTED during regular session on this the 8<sup>th</sup> day of August, 2019.**

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

**ATTEST:**

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

**8. Engineering items:**

- (a) **An Asheboro Airport Authority recommendation to delegate short-term hangar leasing authority to the city manager.**

City Engineer Michael Leonard presented and recommended adoption, by reference, of a resolution delegating short-term hangar leasing authority at the Asheboro Regional Airport to the city manager.

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

RESOLUTION NUMBER 29 RES 8-19

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**RESOLUTION DELEGATING SHORT-TERM HANGAR LEASING AUTHORITY AT  
THE ASHEBORO REGIONAL AIRPORT TO THE CITY MANAGER**

**WHEREAS**, some city-owned hangar space at the Asheboro Regional Airport is, for certain intervals of time, unoccupied and not needed by the city; and

**WHEREAS**, Section 160A-272 of the North Carolina General Statutes authorizes the Asheboro City Council to delegate to the city manager the authority to determine that specific city-owned property is temporarily surplus to the city's needs and to lease such property for up to one year; and

**WHEREAS**, on July 16, 2019, the Asheboro Airport Authority recommended enabling the city manager to authorize the lease of unused city-owned hangar space for a lease period of up to one year; and

**WHEREAS**, the Asheboro City Council concurs with this recommendation.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the city manager is authorized to designate specific city-owned hangar space at the Asheboro Regional Airport as temporarily surplus to the city's needs and to enter, upon such conditions as the city manager shall determine are appropriate and are consistent with the adopted rules and regulations for the Asheboro Regional Airport, into leases of the surplus city-owned hangar space for periods of up to one year; and

**BE IT FURTHER RESOLVED** by the City Council of the City of Asheboro that the city manager shall transmit written notice of the city's entry into such a short-term hangar lease to the airport authority and the city council at each board's first meeting following the exercise of this delegated leasing authority; and

**BE IT FURTHER RESOLVED** by the City Council of the City of Asheboro that the delegation of leasing authority granted by this Resolution is effective immediately.

**This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 8<sup>th</sup> day of August, 2019.**

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

ATTEST:

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

**(b) A status report on the permitting process for the Zoo City Sportsplex.**

Mr. Leonard presented a completed plan for the Zoo City Sportsplex. The procurement process for work needed for the project will begin in the near future.

No action was requested of the Council at this time, and none was taken.

**(c) A petition from Mr. Leonard Latham requesting the contiguous annexation of a parcel of land at 1126 Oakland Avenue.**

(i) **Consideration of a resolution directing the city clerk to investigate the annexation petition.**

After receiving City Engineer Michael Leonard's overview of the annexation petition submitted by Leonard Latham, Council Member Carter moved to adopt the following resolution by reference, and Council Member Swiers seconded the motion. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion and thereby approved the following resolution.

**RESOLUTION NUMBER 30 RES 8-19**

**CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA**

**RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE THE SUFFICIENCY OF THE ANNEXATION PETITION SUBMITTED BY LEONARD LATHAM**

**WHEREAS**, Leonard Latham has submitted a petition requesting the annexation into Asheboro of his parcel of land at 1126 Oakland Avenue, Asheboro, North Carolina 27203; and

**WHEREAS**, the parcel of land for which annexation has been requested (the "Annexation Parcel") is more specifically identified by Randolph County Parcel Identification Number 7751660777 and is approximately 35,422.877 square feet (0.813 of an acre), more or less, in size; and

**WHEREAS**, the Annexation Parcel is contiguous to Asheboro's primary city limits; and

**WHEREAS**, Section 160A-31 of the North Carolina General Statutes provides that the sufficiency of the petition shall be investigated by the city clerk before further annexation proceedings may take place; and

**WHEREAS**, the Asheboro City Council has decided to proceed with the statutorily prescribed voluntary annexation process.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the city clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify to the council the results of her investigation.

**This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 8<sup>th</sup> day of August, 2019.**

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

**ATTEST:**

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

In anticipation of the council's above-stated action, the city clerk prepared the following certification in advance of the council meeting and submitted this certificate for the council's review.

**CERTIFICATE OF SUFFICIENCY**  
**(Annexation Petition Received from Leonard Latham)**

**TO:** The City Council of the City of Asheboro, North Carolina

I, Holly H. Doerr, am the City Clerk for the City of Asheboro. I hereby certify that, with the assistance of staff members in various city departments, I have investigated the annexation petition submitted by Leonard Latham. I further certify that the following paragraphs accurately state the information obtained during the course of my investigation of the annexation petition.

The petition submitted by Mr. Latham requests the annexation into Asheboro of his approximately 35,422.877-square foot (0.813 of an acre) parcel of land at 1126 Oakland Avenue, Asheboro, North Carolina 27203. The parcel of land for which the petitioner has requested annexation (the "Annexation Parcel") is more specifically identified by Randolph County Parcel Identification Number 7751660777.

On the basis of my investigation, I have concluded that all of the owners of the real property lying in the Annexation Parcel have signed the prescribed petition. The petition appears to be sufficient to satisfy the provisions of Section 160A-31 of the North Carolina General Statutes.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of the City of Asheboro in order to make this certification effective as of the 8<sup>th</sup> day of August, 2019.

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

**(ii) Consideration of a resolution directing the city clerk to investigate the annexation petition.**

In light of the preceding council action and the submittal of the city clerk's certification document, Mr. Leonard then presented, for the council's consideration, a resolution setting the date for a hearing on the question of the requested annexation. Council Member Burks moved to adopt the following resolution by reference, and Council Member Bell seconded the motion. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted in favor of the motion and thereby approved the resolution.

**RESOLUTION NUMBER 31 RES 8-19**

**CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA**

**RESOLUTION SETTING THE DATE FOR A PUBLIC HEARING ON THE  
QUESTION OF THE REQUESTED ANNEXATION OF  
LAND OWNED BY LEONARD LATHAM**

**WHEREAS**, Leonard Latham properly submitted a petition requesting the annexation into Asheboro of his approximately 35,422.877-square foot (0.813 of an acre) parcel of land at 1126 Oakland Avenue, Asheboro, North Carolina 27203; and

**WHEREAS**, the parcel of land for which annexation has been requested is more specifically identified by Randolph County Parcel Identification Number 7751660777; and

**WHEREAS**, pursuant to a previously adopted resolution, the city clerk investigated the sufficiency of the annexation petition; and

**WHEREAS**, the city clerk certified the sufficiency of the petition for proceeding with setting the date for a public hearing on the question of the requested annexation pursuant to Section 160A-31 of the North Carolina General Statutes.

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

**Section 1.** A public hearing on the question of annexing the territory described in Section 2 of this Resolution will be held in the council chamber on the second floor of Asheboro City Hall at 146 North Church Street, Asheboro, North Carolina 27203 during a regular meeting of the Asheboro City Council that will begin at 7:00 p.m. on September 12, 2019.

**Section 2.** The territory proposed for annexation is described by metes and bounds as follows:

*Asheboro Township, Randolph County, North Carolina:*

*BEGINNING on the existing City of Asheboro primary city limits line at a 1" existing iron pipe that is flush with the ground at the northwest corner of the Leonard Latham property described in Deed Book 2357, Page 1609, Randolph County Registry (this property is a single parcel of land identified by Randolph County Parcel Identification Number 7751660777 that consists of Lots 64-65 of the Forest Hills Subdivision, Addition 6, as shown on a plat of survey recorded in Plat Book 6, Page 55, Randolph County Registry; the Leonard Latham property described herein is the sole parcel of land for which annexation is requested and will be referred to as the "Annexation Parcel"), the beginning point is a control corner located by means of the North Carolina Coordinate System at the coordinates of North 716,976.26 feet and East 1,756,107.29 feet (NAD 83 (2011)); thence from the beginning point and departing from the existing City of Asheboro primary city limits line by following the proposed City of Asheboro primary city limits line along the Annexation Parcel's northern boundary line, which runs with the southern margin of the 50-foot public right-of-way for Oakland Avenue (North Carolina Secondary Road 1483), South 89 degrees 51 minutes 37 seconds East 120.02 feet to a 5/8" existing iron rod that is 1" above ground at the northeast corner of the Annexation Parcel; thence continuing to follow the proposed City of Asheboro primary city limits line by departing from the southern margin of the public right-of-way for Oakland Avenue and following the Annexation Parcel's eastern boundary line along the Kenneth Thomas property described in Deed Book 1038, Page 178, Randolph County Registry South 00 degrees 25 minutes 40 seconds West 296.28 feet to a 1-1/4" existing iron pipe that is 3" above ground at the southeast corner of the Annexation Parcel; thence continuing to follow the proposed City of Asheboro primary city limits line by departing from the Annexation Parcel's eastern boundary line and proceeding the following courses and distances along the Annexation Parcel's southern boundary line that is shared with the Peter Carignan property described in Deed Book 2069, Page 2147, Randolph County Registry: North 89 degrees 17 minutes 35 seconds West 59.77 feet to a 3/4" existing iron pipe that is 6" above ground; thence North 89 degrees 18 minutes 40 seconds West 59.81 feet to a 1" existing iron pipe in concrete and 3" above ground at the Annexation Parcel's southwest corner that is on the existing City of Asheboro primary city limits line, this corner is a control corner located by means of the North Carolina Coordinate System at the coordinates of North 716,681.15 feet and East 1,756,105.53 feet (NAD 83 (2011)); thence departing from the Annexation Parcel's southern boundary line and following the existing City of Asheboro primary city limits line along the Annexation Parcel's western boundary line North 00 degrees 20 minutes 32 seconds East 295.12 feet to the point and place of BEGINNING, and containing a total of 35,422.877 square feet (0.813 of an acre) of land, more or less, to be annexed.*

*The above-stated legal description is in accordance with a plat of survey drawn under the supervision of William C. Burrow, Professional Land Surveyor with License Number L-2497. The plat of survey is titled "ANNEXATION SURVEY FOR CITY OF ASHEBORO(:) LEONARD LATHAM" and is identified as Project No. 5438.*

**Section 3.** Notice of the public hearing scheduled by Section 1 of this Resolution shall be published in *The Courier-Tribune*, which is a newspaper having general circulation in the City of Asheboro, at least ten (10) days prior to the date of the public hearing.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 8<sup>th</sup> day of August, 2019.

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

ATTEST:

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

**9. Discussion concerning the naming of the proposed arboretum.**

Mayor Smith introduced this agenda item pertaining to the project previously referred to as the proposed Asheboro Arboretum. As part of this discussion, Mayor Smith recognized Owen George, who is the President of Trees NC.

Mr. George recommended naming the proposed project the “David and Pauline Jarrell City Center Garden.” In addition to making this recommendation, Mr. George reported that the individuals who volunteered to raise funding for the project were supportive of the proposed project name.

After some discussion, the council members concurred with Mr. George’s recommendation.

Council Member Bell moved, and Council Member Swiers seconded the motion, to name the arboretum project the “David and Pauline Jarrell City Center Garden.” Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

**10. Upcoming events.**

Mayor Smith led a brief discussion of upcoming events occurring within 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 8:18 p.m.

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

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