

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, ASHEBORO CITY HALL
THURSDAY, FEBRUARY 10, 2022
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	)
Kelly L. Heath	)
William N. McCaskill	) – Council Members Present
Walker B. Mofftt	)
Jane H. Redding	)
Charles A. Swiers	)

John N. Ogburn, III, City Manager
Holly H. Doerr, CMC, NCCMC, City Clerk
Charles J. Garner, Code Enforcement Officer
Eddie L. Garner, Chief Building Inspector
N. Byron Hill, Police Captain
Michael L. Leonard, PE, City Engineer
Trevor L. Nuttall, Community Development Director
Michael D. Rhoney, PE, Water Resources Director
Jeffrey C. Sugg, City Attorney
Tammy M. Williams, CMC, Deputy City Clerk

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. Recognition of Guests and Citizens

Mayor Smith welcomed NextGen Professionals Network, which is a group of highly motivated, engaged, and inspiring young professionals who are committed to making Asheboro and Randolph County a great place to live and work.

The group is scheduled to meet once a month to learn from each other and about our local businesses. Session topics are designed to facilitate an educational atmosphere. The group believes that part of having a great community is making an investment in it, and they organize volunteer opportunities and sacrifice their time and resources to help local charities.

4. Public Comment Period

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

Mayor Smith then closed the public comment period and moved to the next agenda item.

5. Year-End Audit Report for Fiscal Year 2020-2021

Mr. Steve Hackett, CPA, with the firm of William R. Huneycutt, CPA, PLLC, discussed the audit report for the fiscal year that ended June 30, 2021. During his presentation, Mr. Hackett reported that the city received what is commonly referred to as a “clean audit” (also referred to as an “unmodified opinion”). A “clean audit” means the city’s financial statements are fairly presented in accordance with generally accepted accounting principles for the year ending June 30, 2021.

The council members expressed their satisfaction with the audit report and their general consent to the acceptance of the report from the auditor. A copy of the written audit report is available for inspection in the city’s finance department.

No formal action was taken by the council during this portion of the meeting.

6. Discussion of a Local Fixed Bus Route Serving Asheboro

Representatives from the Randolph County Senior Adults Association, Executive Director Mark Hensley and Transportation Director Tawanna Williams, discussed the possibility of a local fixed bus route serving Asheboro, prospectively called the Asheboro Zoo City Loop. The service would be offered as part of the Regional Coordinated Area Transportation System (RCATS). The proposed route would consist of 20 stops, including 11 residential areas and 9 commercial stops, and is anticipated to operate from 7:00 a.m. to 7:00 p.m.

The projected initial capital investment would be \$320,000.00. Afterwards, \$190,000.00 would be needed on an annual basis. The Randolph County Senior Center and the City of Asheboro are investigating federal funding to assist with covering the cost of this project.

Copies of a handout used by Mr. Hensley and Ms. Williams as a visual reference during the presentation were distributed to the governing board. A copy of this handout is on file in the city clerk’s office.

No formal action was asked of the council during this portion of the meeting, and none was taken.

7. Annual Building Inspections Department Report

Chief Building Inspector Eddie Garner presented an overview of the building inspections department’s activities during 2021. Despite the continued challenges of the pandemic, the revenue generated by the building inspections department exceeded the revenue collected during the previous year. The department’s report reflected the issuance of a total of 1,050 permits with a total of \$213,348.00 in revenue.

Significant changes that occurred in the department during the preceding year included the retirement of Randy Purvis and the hiring of Eddie Garner as the new Chief Building Inspector. New online permitting software was also implemented.

A copy of the annual report is on file in the city clerk’s office. No formal action was asked of the council during this portion of the meeting, and none was taken.

8. Annual Report on Code Enforcement Activities

Code Enforcement Officer Charles Garner utilized a slide show to provide an overview of the activities, including remedial actions, undertaken by the code enforcement office during the preceding year. Mr. Garner’s report reflected a total of 321 recorded violations for 2021. These violations included, but were not limited to, unlawful tent cities and dilapidated structures.

A copy of the slide show utilized by Mr. Garner is on file in the city clerk’s office. No formal action was asked of the council during this portion of the meeting, and none was taken.

9. Consent Agenda

Council Member Burks moved, and Council Member Heath seconded the motion, to approve/adopt the consent agenda as presented. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

(a) City Council Meeting Minutes for January 6, 2022

The meeting minutes for the city council's regular meeting on January 6, 2022, were approved and have been filed in the city clerk's office. An electronic copy of the approved document has been posted on the city's website.

(b) Asheboro ABC Board Meeting Minutes for December 6, 2021

The council acknowledged the receipt of the Asheboro ABC Board's approved meeting minutes for December 6, 2021. The meeting minutes have been filed in the city clerk's office and distributed to the city's elected officials.

(c) Scheduling of a Legislative Hearing for March 10, 2022

The council approved a request from the Community Development Division to schedule for March 10, 2022, and to advertise, a legislative hearing on an application seeking to apply city zoning district A (Airport) to the city-owned property that is currently located within the corporate limits at the Asheboro Regional Airport.

(d) A Resolution Honoring the Late Asheboro Fire Battalion Chief Christopher Allen Hoover

Fire Battalion Chief Christopher Allen Hoover passed away on January 8, 2022. As part of the governing board's recognition of the passing of this dedicated public servant, the council adopted the following resolution.

RESOLUTION NUMBER 05 RES 2-22

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**A RESOLUTION HONORING THE LATE FIRE BATTALION CHIEF
CHRISTOPHER ALLEN HOOVER WHO PASSED AWAY
ON JANUARY 8, 2022**

WHEREAS, Christopher Allen Hoover, who was promoted to the position of Fire Battalion Chief on October 1, 2016, provided honorable, skilled, and dedicated service to the City of Asheboro and its citizens since the date of his initial employment with the Asheboro Fire Department on November 8, 1998; and

WHEREAS, Chief Hoover passed away on January 8, 2022; and

WHEREAS, pursuant to and in accordance with Section 160A-294.1 of the North Carolina General Statutes, the Asheboro City Council wishes to recognize and honor this dedicated public servant by awarding to Chief Hoover's surviving spouse, Jennifer M. Hoover, the fire helmet most recently assigned to her late husband by the city; and

WHEREAS, with his passing, Chief Hoover's two gold badges, one shirt name plate with the "serving since" attachment, one coat name plate, one set of shirt collar pins, and one set of coat collar pins will no longer be used; and

WHEREAS, due to the fact that the items listed in the immediately preceding paragraph cannot be placed in the market place without creating a risk of allowing unauthorized individuals to impersonate fire department officials and thereby pose a threat to public safety, the Asheboro City Council has concluded, consistent with Section 160A-

266(d) of the North Carolina General Statutes, that the city's ability to use the listed items ended on January 8, 2022.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that, on behalf of the citizens of Asheboro, the governing board honors the memory of Chief Hoover and extends the council's sincerest condolences to Jennifer M. Hoover; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that, in consideration and recognition of Chief Hoover's dedicated service, Jennifer M. Hoover is to be awarded, at less than fair market value, ownership of the city-issued fire helmet, inclusive of the helmet shield, previously assigned to Chief Hoover; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that, in furtherance of this recognition of a valued public servant, the city staff is hereby directed to convey to Jennifer M. Hoover, effective immediately, her late husband's Asheboro Fire Department helmet and shield for a purchase price of one dollar (\$1.00); and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that the city staff is hereby directed to convey to Jennifer M. Hoover, effective immediately and without charge, her late husband's two gold badges, one shirt name plate with the "serving since" attachment, one coat name plate, one set of shirt collar pins, and one set of coat collar pins.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 10th day of February, 2022.

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

ATTEST:

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

10. Community Development Items

- (a) **Case No. RZ-22-01: Legislative Hearing on a Zoning Map Amendment Application Seeking B2 (CZ) Conditional Zoning for Two Parcels of Land (Randolph County Parcel Identification Numbers 7750955455 and 7750955360) at 1558 and 1590 Zoo Parkway**

Mayor Smith opened the legislative hearing on the above-described zoning map amendment application filed by Jamie Crumley ("the Applicant"). JBBC Properties, LLC owns the land for which B2 (CZ) General Commercial Conditional Zoning is requested is owned by JBBC Properties, LLC, and the manager of the limited liability company joined with Jaime Crumley in executing the application for the requested map amendment.

The property at 1558 and 1590 Zoo Parkway for which B2 (CZ) zoning has been requested (this property will be hereinafter referred to as the "Zoning Lot") is approximately 3.24 acres in size. When the application was filed, the Zoning Lot was in a B2 General Commercial zoning district.

Community Development Director Trevor Nuttall utilized a slide show to present the planning staff's analysis of the application. This analysis included the following information.

1. The Zoning Lot is located inside the city limits.
2. Zoo Parkway (North Carolina Highway 159) is a state-maintained major thoroughfare. The North Carolina Department of Transportation ("NCDOT") will require submission of a driveway permit application

and has noted that the property is within the R-5958 project area (Ridge Street/Zoo Parkway intersection improvements). Any conflict with the project will have to be resolved as part of the driveway review process. It has not been determined at this time whether roadway improvements will be required.

3. The area in which the Zoning Lot is located is characterized by a mixture of commercial, industrial, and residential uses. There is an undeveloped commercial parcel to the south of the Zoning Lot that is owned by the limited liability company which owns the Zoning Lot.
4. The requested conditional zoning district would allow manufacturing, processing, and assembly uses as well as retail uses. Manufacturing, processing, and assembly uses generally require a general industrial zoning district or a conditional zoning district authorizing a specific development plan. After conferring with planning department staff, the Applicant chose to file a conditional zoning application.
5. The B2 district is described by the zoning ordinance as “intended to serve the convenience goods, shoppers’ goods retail and service needs of the motoring public, both local and transient. This district should always be located with access directly to minor thoroughfares or higher classification streets, but never local residential streets.”
6. A stream is located on the property. The North Carolina Department of Environmental Quality (“NCDEQ”) will need to be contracted prior to any land disturbing activity that impacts the stream or its banks.

Mr. Nuttall noted that, when evaluating a rezoning application, careful consideration must be given to each goal and policy as outlined in the Land Development Plan. The following items describe the Zoning Lot in the context of the adopted comprehensive plan.

Proposed Land Use Map Designation:	Commercial
Small Area Plan:	Central
Growth Strategy Map Designation:	Primary Growth
LDP Goals/Policies Supporting the Request:	

<u>Checklist Item 1:</u>	Complies with LDP proposed land use map.
<u>Checklist Item 3:</u>	The property on which the rezoning district is proposed fits the description of the zoning ordinance.
<u>Checklist Item 5:</u>	Complies with Growth Strategy Map
<u>Checklist Items 12 and 13:</u>	12.) Property is located outside of watershed, and 13.) Property is located outside of Special Hazard Flood Area.

The only LDP Goal/Policy identified by the planning staff as not supportive of the requested zoning map amendment was Checklist Item 14. This checklist item was identified as unsupportive because of the presence of steep slopes greater than 20%.

The City of Asheboro Planning Board considered the zoning map amendment application and recommended the placement of the Zoning Lot into the requested B2

(CZ) zoning district. In making this recommendation, the planning board concurred with the planning staff's analysis, which provided as follows:

A continued commercial designation of the property complies with the proposed land use map. The project and uses proposed can be compatible with the area if thoughtfully designed and appropriate conditions considered to mitigate potential impact to nearby residential property.

The property is adjacent to a major manufacturing, processing, and assembly use that is more intensive than surrounding commercial uses. Ridge Street to the south largely serves as the line of transition between the Dixie Drive non-residential land use corridor and the residential neighborhoods further south.

Staff has reviewed the site plan for compliance with standard zoning ordinance requirements and except for the elimination of landscape buffer that usually would be required along the southern property line, the plan is code compliant. The Applicant is proposing to eliminate this buffer since the subject property and the property to the south are under common ownership. In lieu of this buffer, it is advisable that the potential for cross access to that property, if and when it develops, be investigated.

As part of the analysis, the city planning staff recommended approval of the request with the attachment of the following nine conditions.

- (A) Uses authorized are Manufacturing, Processing, and Assembly – Major and Retail Convenience and Shoppers Goods.
- (B) All parties involved in this request, including the owner, successors, heirs, and assigns, agree to the conditions and approved site plan.
- (C) As part of its application for a zoning compliance permit, the applicant shall submit documentation on the following:
 - (1) NCDEQ permitting approval, if required;
 - (2) NCDOT permitting approval; and
 - (3) Proposed outdoor lighting details.
- (D) Should cross access to the undeveloped B2 zoned property to the south be desired, construction of such access shall not be considered a modification of the conditional zoning district.
- (E) A minimum of 35 shrubs shall be installed in the area identified as the 25-foot street yard.
- (F) No outdoor storage is permitted unless it is done in strict compliance with the screening provisions of the zoning ordinance.
- (G) No unshielded floodlights or lamps shall be permitted within the 25-foot street yard.
- (H) Hours of operation shall be limited to 7:00 a.m. to midnight daily.
- (I) Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the owner of the Zoning Lot shall properly execute, and deliver to the Zoning Administrator for recordation in the Office of the Randolph County Register of Deeds, a Memorandum of Land Use Restrictions prepared by the City Attorney

for the purpose of placing notice of the conditions attached to this conditional zoning ordinance in the chain of title for the Zoning Lot.

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

At the conclusion of the community development director's presentation, Mayor Smith opened the floor for other parties who wished to be heard on the question of the requested zoning map amendment. The Applicant, Ms. Jamie Crumley, spoke in support of the rezoning application.

Mr. George Porpegia posed questions about outdoor storage issues. After his inquiry was addressed, he did not request the denial of the zoning map amendment application.

Ms. Crumley expressed her agreed with the conditions recommended by city staff for attachment to the requested rezoning.

After all interested parties had been heard, Mayor Smith transitioned the hearing to the deliberative phase. During their deliberations, council members expressed their concurrence with the planning staff and planning board analysis/recommendations. Council Member Bell moved, and Council Member Burks seconded the motion, to (1) adopt the plan consistency statement printed below and (2) approve the requested rezoning with the following two-part motion:

1. The Zoning Lot is already zoned for commercial use and complies with the Land Development Plan proposed land use map. Furthermore, the Zoning Lot fits the description of the B2 district that is found in the Asheboro Zoning Ordinance.

The Zoning Lot is adjacent to a major manufacturing, processing, and assembly use that is more intensive than surrounding commercial uses. Functionally, Ridge Street, which is located to the south of the Zoning Lot, serves as an effective line of transition between the Dixie Drive non-residential land use corridor and the residential neighborhoods located further south.

The conditions proposed for inclusion as part of the requested conditional zoning ordinance have been accepted by the Applicant. These conditions will mitigate the potential negative impact on nearby residential properties that might otherwise be of concern with the proposed land uses.

Based on the above-stated factors, the council has concluded that (a) the proposed zoning map amendment is consistent with the city's adopted comprehensive plan, and (b) the zoning map amendment application is reasonable and in the public interest.

2. In light of the above-stated analysis, and subject to the attachment of the agreed upon conditions printed above, the application to place the Zoning Lot in the proposed B2 (CZ) conditional zoning district is hereby approved as consistent with the adopted plan. This approval is hereby implemented with the adoption of a conditional zoning ordinance allowing the Manufacturing, Processing, and Assembly – Major and Retail Convenience and Shoppers Goods land uses on the Zoning Lot in accordance with the approved site plan.

Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

(b) CDBG-CV Grant Amendment

As a result of the award to the City of Asheboro, on December 17, 2020, of funding in the amount of \$900,000 through the Community Development Block Grant-Coronavirus Program, the city and the United Way of Randolph County executed, on August 9, 2021, a Subrecipient Agreement designed to put the grant funding to work for the intended purposes. In order to more clearly state program goals, Community Development Director Trevor Nuttall asked the council to approve the following legal instrument titled "AMENDMENT TO SUBRECIPIENT AGREEMENT."

AMENDMENT TO SUBRECIPIENT AGREEMENT

1. This amendment (the "Amendment") is made by the City of Asheboro and the United Way of Randolph County, parties to the Subrecipient Agreement executed on the 9th of August, 2021 (the "Agreement").

2. The Agreement is amended as follows:

BACKGROUND Section, Paragraph 1:

The City of Asheboro applied for and was awarded a grant in the amount of \$900,000 on December 17, 2020, through the Community Development Block Grant-Coronavirus Program ("CDBG-CV"), a program administered by the North Carolina Department of Commerce ("DOC" or "the Department"), Rural Economic Development Division ("REDD"). The purpose of the CDBG-CV is to assist communities deemed as eligible and non-entitlement by the US Department of Housing and Urban Development ("HUD") with urgent needs created by the Coronavirus Disease 2019 ("COVID-19") pandemic. The City has been awarded CDBG-CV funds to collaborate with the UWRC to form and operate the Asheboro COVID-19 Community Assistance ("ACCA") Program to provide food distribution funding to eligible organizations and temporary subsistence payments to City of Asheboro residents who qualify under HUD criteria as low- to moderate-income and are negatively impacted by the COVID-19 pandemic.

PURPOSE AND BUDGET Section

The purpose of this grant is to operate the Asheboro COVID-19 Community Assistance ("ACCA") Program to provide food distribution funding to eligible organizations and temporary subsistence payments to City of Asheboro residents who serve or qualify under HUD criteria as low to moderate income and are negatively impacted by the COVID-19 pandemic. These food distribution and subsistence payments are intended to improve beneficiaries' health and prevent qualifying residents from experiencing eviction from their primary residences or disconnection of essential utility services at those residences.

The budget for the ACCA Program, unless modified or amended by the DOC, shall be no more than \$920,000. No more than \$830,000 of this amount shall be used for food distribution and subsistence payments as previously described. No more than \$90,000 of this amount shall be used to reimburse the UWRC for necessary, proper, and documented administrative expenses incurred in performing its duties as Subrecipient. If there are not adequate grant funds to cover these administrative expenses, that shall in no way alter or lessen the UWRC's duties and responsibilities under these Grant Documents.

SUBRECIPIENT'S DUTIES – ADMINISTRATION AND RECORDKEEPING Section

The UWRC shall provide intake services and collect applications for food distribution funding and subsistence payments. It shall review applications for eligibility under the CDBG-CV and ACCA programs, and forward eligible applications to the City as Payment Requests. Payment Requests are further subject to the procedures and restrictions detailed in Part 7 of this Subrecipient Agreement.

The UWRC shall comply with the Recordkeeping Requirements summarized in the Grant Agreement, Part 9, including meeting state and federal requirements and responsibilities set forth in: 4 NCAC 19L.0911, 24 CFR 570.490, 24 CFR 570.506, and 24 CFR 85.42, as each may be modified by the DOC or HUD. Consistent with those requirements, the UWRC shall keep clear, detailed, and organized records of:

- ☐ All applications, and for subsistence assistance, including the names, addresses, and demographic information of all applicants, and their supporting documentation
- ☐ The types and amounts of assistance requested by each applicant
- ☐ The types and amounts of assistance approved for each applicant; if assistance is denied or reduced, the grounds for denial or reduction shall be specified (e.g., “applicant requested assistance over maximum,” “applicant could not demonstrate qualifying income,” “applicant could not demonstrate qualifying residency, applicant organization not physically located within the City of Asheboro,” etc.)
- ☐ The types and amounts of subsistence assistance paid, the direct recipient of assistance payments (e.g., the applicant’s landlord or utility provider), and records of the checks or electronic fund transfers used
- ☐ The types and amounts of food distribution funding paid, the direct recipient of assistance payments (e.g., the organization), and records of the checks or electronic fund transfers used
- ☐ Administrative expenses incurred and necessary to perform its duties as provided in the Grant Documents.

The UWRC shall further provide any duly authorized representative of the City, DOC, the State of North Carolina, HUD, and other authorized state and/or federal parties reasonable access to all documents relating to this grant for five years following the completion of all close-out procedures. Original files shall be maintained at the City’s offices for access purposes.

To help meet its responsibilities defined in the preceding paragraph, the UWRC shall also obtain and retain releases or waivers from project applicants allowing for authorized individuals’ and parties’ review of personal, income-related, financial, tax and/or other information related to determining eligibility for CDBG assistance.

PAYMENT REQUESTS Section

a. A cover letter signed by the UWRC’s executive director. The cover letter shall state: the total amount of funds requested; the number of households that would receive subsistence payments or is anticipated to benefit from the food distribution funding provided through the Payment Request, if funded; and the total administrative expense claimed, if any. The cover letter shall also affirm the UWRC has diligently reviewed all applicants to verify eligibility without duplication of benefits, that the Payment Request contains a true and accurate summary of their information that establishes eligibility, and that UWRC officials have complied with all relevant provisions of this Subrecipient Agreement and the other Grant Documents.

PAYMENT REQUESTS Section, Final Paragraph

In the event the City defers a portion of a Payment Request, or requires a pause in submission of Payment Requests, as described above, the UWRC may, in its sole discretion, use its available funds to fund subsistence and food distribution payments found “eligible” by the City. If the UWRC does so, it shall document and notate those payments in the summary spreadsheet, and the City shall reimburse the UWRC for those payments, subject to receipt of necessary funds from DOC.

3. Except as set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms. If there is conflict between this amendment and the Agreement or any earlier amendment, the terms of this amendment will prevail.

[Editorial Note: The signature blocks on the AMENDMENT TO SUBRECIPIENT AGREEMENT have been omitted from the city council's meeting minutes.]

In response to Mr. Nuttall's explanation of the requested action, Council Member Heath moved, and Council Member Swiers seconded the motion, to approve and authorize the execution of the "AMENDMENT TO SUBRECIPIENT AGREEMENT" printed above. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

11. Lake Reese Raw Water Pump Station 600 KW Generator System Project

Water Resources Director Michael Rhoney, PE discussed the City of Asheboro Lake Reese Raw Water Pump Station 600 KW Generator Project and the need to purchase equipment in furtherance of the project. Currently, Lake Reese does not have a backup power source to ensure continuous operation of the pump station in the event of a power loss at the site. In order to install an adequate backup power source, the city needs to purchase a 600 KW standby generator, a 4kV Automatic Transfer Switch, and a 4kV Transformer.

Caterpillar, Inc. and Cummins Corporation both have contracts through a group purchasing program, Sourcewell Cooperative Purchasing, which is compliant with the state's purchasing and procurement statutes. Through the group purchasing program, quotes were obtained for the above-stated equipment. The equipment listed in the quotes conformed to the equipment specifications obtained from the city's consultant, Sturgill Engineering PA.

The lowest quote obtained through this process, and the quote recommended by Mr. Rhoney for award, was a quote from Carolina CAT in the amount of \$386,770.00. A copy of this quote is on file in the city clerk's office.

Based on the water resources director's recommendation, Council Member Moffitt moved, and Council Member Burks seconded the motion, to award the contract for the above-specified equipment to Carolina CAT for a total contract price of \$386,770.00. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

12. Annexation Petition – 1417 East Salisbury Street

Mayor Smith opened the public hearing on the question of the annexation petition submitted by Crystal and Charles Coldiron in connection with their property at 1417 E. Salisbury Street. As part of the public hearing, City Engineer Michael Leonard, PE presented the staff's analysis of the annexation petition.

Mayor Smith then invited comments from the public, but none were offered. In the absence of any additional testimony, Mayor Smith transitioned to the deliberative phase of the hearing.

Council Member Bell moved, and Council Member Heath seconded the motion, to adopt the following annexation ordinance by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

[The remainder of this page has been intentionally left blank. The adopted annexation ordinance is reproduced on the following pages.]

ORDINANCE NO. 05 ORD 2-22

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**AN ORDINANCE EXTENDING THE ASHEBORO CITY LIMITS BY ANNEXING
APPROXIMATELY 29,593 SQUARE FEET OF LAND CONTIGUOUS TO THE
EXISTING PRIMARY CITY LIMITS AT 1417 EAST SALISBURY STREET**

WHEREAS, in accordance with Section 160A-31 of the North Carolina General Statutes, Crystal P. McClelland Coldiron and Charles Coldiron (the “Petitioners”) petitioned the Asheboro City Council (the “Council”) to annex into the Asheboro primary city limits a parcel of land (Randolph County Parcel Identification Number 7761523176) owned by the Petitioners at 1417 East Salisbury Street; and

WHEREAS, the territory proposed for annexation is more specifically described by metes and bounds in Section 1 of this Ordinance; and

WHEREAS, on January 6, 2022, by means of a duly adopted resolution (Resolution Number 03 RES 1-22), the Council directed the city clerk to investigate the sufficiency of the petition submitted by the Coldirons, and the city clerk has in fact certified the sufficiency of their annexation petition; and

WHEREAS, pursuant to Asheboro City Council Resolution Number 04 RES 1-22, a legal notice was published on January 20, 2022, in *The Courier-Tribune*, a newspaper with general circulation in the City of Asheboro, announcing that a public hearing to consider the adoption of an ordinance annexing the described territory into the City of Asheboro would be held during the Council’s next regular meeting, which was scheduled to begin at 7:00 p.m. on February 10, 2022, in the council chamber on the second floor of Asheboro City Hall, 146 North Church Street, Asheboro, North Carolina 27203; and

WHEREAS, the public hearing was held, as advertised, on February 10, 2022; and

WHEREAS, the Council has determined that the annexation petition meets the requirements of Section 160A-31 of the North Carolina General Statutes.

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

Section 1. By virtue of the authority granted in Section 160A-31 of the North Carolina General Statutes, the following described contiguous territory is annexed, attached to, and hereby becomes part of the City of Asheboro:

Asheboro Township, Randolph County, North Carolina:

BEGINNING on the existing Asheboro primary city limits line at a 5/8-inch existing iron rod down 6 inches in the ground in the northern margin of the 60-foot public right-of-way for East Salisbury Street (North Carolina Secondary Road 2237) at the southeast corner of the Crystal P. McClelland Coldiron and Charles Coldiron property described in the Office of the Register of Deeds for Randolph County, North Carolina (the “Randolph County Registry”) in Deed Book 1633 at Page 1074 (the real property described in Deed Book 1633, Page 1074, Randolph County Registry (this property is shown as Lots 4A, 5A, 6A, 7A, 8A, 9A, and portions of Lots 10A and 11A on a plat of survey recorded in Plat Book 4, Page 16, Randolph County Registry) is the tract of land for which Crystal P. McClelland Coldiron and Charles Coldiron have requested annexation into the City of Asheboro, and this tract or parcel of land will be hereinafter referred to as the “Annexation Tract”), the described beginning point is located by means of the North Carolina Coordinate System at the coordinates of North 712,124.13 Ground US Survey Feet and East 1,765,530.57 Ground US Survey Feet (NAD 83 (2011)); thence, from the beginning point, following the northern margin of the public right-of-way for East Salisbury Street along the existing Asheboro primary city limits line North 85 degrees 46 minutes 49 seconds West 149.51 feet to an existing axle at the southeast corner of the Charles Morris Ridley property described in Deed Book 2748, Page 2762, Randolph County Registry and shown in Plat Book 170, Page 46, Randolph County Registry; thence departing from the

northern margin of the public right-of-way for East Salisbury Street and following the existing Asheboro primary city limits line along the shared boundary line between the Charles Morris Ridley property and the Annexation Tract North 00 degrees 33 minutes 27 seconds West 200.66 feet to a 5/8-inch existing iron rod flush with the ground at the northwest corner of the Annexation Tract; thence departing from the existing Asheboro primary city limits line in order to follow the proposed Asheboro primary city limits line South 84 degrees 50 minutes 23 seconds East 148.52 feet along the boundary line shared by the Annexation Tract with the Daniel Thomas property described in Estate File 09E-483 in the Office of the Randolph County Clerk of Superior Court (the Daniel Thomas property is shown as Lots 12A-14A on a plat of survey recorded in Plat Book 4, Page 16, Randolph County Registry and is described in a prior deed recorded in Deed Book 420, Page 77, Randolph County Registry) to a 1-inch existing iron pipe down 2 inches in the ground at the northeast corner of the Annexation Tract; thence departing from the northern boundary line of the Annexation Tract and the proposed Asheboro primary city limits line in order to follow the eastern boundary line of the Annexation Tract and the existing Asheboro primary city limits line South 00 degrees 54 minutes 27 seconds East 198.32 feet along the Kenneth P. Gallimore and Bridget F. Gallimore property described in Deed Book 2501, Page 305, Randolph County Registry and shown in Plat Book 131, Page 80, Randolph County Registry to the point and place of BEGINNING, and containing a total of 0.679 of an acre (29,593 square feet 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 Dan W. Tanner, II, Professional Land Surveyor with License Number L-4787. The plat of survey is titled "Annexation Survey For: Crystal P. McClelland Coldiron (and) Charles Coldiron."

The plat of survey referenced in the immediately preceding paragraph is recorded in Plat Book _____ 174 _____, Page _____ 5 _____, Randolph County Registry.

Section 2. Upon and after February 10, 2022, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Asheboro and shall be entitled to the same privileges and benefits as other parts of the City of Asheboro. The above-described territory shall be subject to municipal taxes according to Section 160A-58.10 of the North Carolina General Statutes.

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

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

Section 5. This Ordinance shall be in full force and effect upon and after February 10, 2022.

This Ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on February 10, 2022.

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

ATTEST:

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

Approved as to form:

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

13. Grant Agreement with the North Carolina Department of Transportation

City Engineer Michael Leonard, PE discussed and recommended approval of a grant agreement between the city and the North Carolina Department of Transportation (“NCDOT”). This grant agreement pertains to a corporate hangar (design/bid) project at the Asheboro Regional Airport.

The grant is in the amount of \$76,366.00. The eligible project costs are \$84,852.00. The city will be responsible for a 10 percent match.

After considering the city engineer’s recommendation, Council Member Burks moved, and Council Member Bell seconded the motion, to approve and authorize the city’s execution of the above-described grant agreement with NCDOT. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding and Swiers voted aye. There were no dissenting votes.

A copy of the grant agreement is on file in the city clerk’s office.

14. Closed Session

In response to a request from Mayor Smith, Council Member Burks moved, and Council Member Bell seconded the motion, to go into closed session in order to discuss with the city attorney a matter that falls within the attorney-client privilege. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

With the adoption of this motion, the council went into closed session at approximately 8:55 p.m. A separate general account of the closed session with the city attorney has been prepared and filed in the city clerk’s office.

15. Return to Open Session – Council Action Concerning Randolph Health

After returning to open session at approximately 9:20 p.m., Mayor Smith entertained a motion to approve the city’s entry into a legal instrument titled “Amended and Restated Asset Purchase Agreement by and among Randolph Hospital, Inc., d/b/a Randolph Health, Randolph Specialty Group Practice, and MRI of Asheboro, LLC, d/b/a Randolph Health MRI Center (as Sellers) and American Healthcare System, LLC (as Buyer).” The identified agreement (hereinafter referred to as the “Asset Purchase Agreement”) was originally presented by Robert Wilson, Esq. during the regular council meeting in January 2022.

The next three provisions in the Asset Purchase Agreement are pertinent to the action requested of the city council and are found in the Asset Purchase Agreement as follows:

Provision A:

The City of Asheboro joins in the execution of this Agreement for the purpose of enforcing Buyer’s obligations under Section 3.3 of this Agreement on behalf of Sellers or any successors thereto.

Provision B:

3.3 Operational Commitments. *In addition to the Purchase Price and Deposit noted above, the parties acknowledge and agree that the following is additional consideration for this Agreement:*

- (a)** *Buyer intends to, and will make commercially reasonable efforts to, operate Randolph licensed as a North Carolina acute care hospital with the complement of health care clinical services and service lines*

reasonably appropriate for a similarly situated hospital, for a period of at least ten (10) years subsequent to the Closing Date.

- (b) Buyer intends to, and will make commercially reasonable efforts to, dedicate reasonably necessary ongoing capital and operating resources to ensure the continuation and advancement of the clinical service lines, programs, and other health care activities provided by Sellers in Sellers' service area prior to the Closing.*
- (c) Buyer intends to, and will make commercially reasonable efforts to, make capital investments in the Hospital, and in its core service lines.*

Recovery for any breach of the obligations set forth in this Section 3.3 shall be limited to the assets of Buyer, except as otherwise specifically provided in this Section 3.3.

Provision C:

11.14 No Third Party Beneficiaries. *Nothing expressed or referred to in this Agreement will be construed to give any person other than the parties to this Agreement any legal or equitable right, remedy, or claim under or with respect to this Agreement or any provision of this Agreement, except such rights as shall inure to a successor or permitted assignee pursuant to this Agreement; provided that the City of Asheboro shall be an express third-party beneficiary hereof solely for the purpose of enforcing Buyer's obligations under Section 3.3 of this Agreement on behalf of Sellers or any successors thereto. Such enforcement shall be acted upon only by the decision of the Asheboro City Council.*

After discussion with the city attorney and amongst the elected officials, Council Member Moffitt moved, and Council Member Bell seconded the motion, to approve the city's entry into the Asset Purchase Agreement and to authorize Mayor Smith to execute the above-described legal instrument. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

16. Upcoming Events

Mayor Smith led a brief discussion of upcoming events within the city government and the community in general. No formal action was requested of the council during this portion of the meeting, and none was taken.

There being no further business, the meeting was adjourned at 9:40 p.m.

Holly H. Doerr, CMC, NCCMC, City Clerk

David H. Smith, Mayor