REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, ASHEBORO CITY HALL
THURSDAY, NOVEMBER 4, 2021
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)
Linda H. Carter)
Jane H. Redding) – Council Members Present
Walker B. Moffitt)
Katie L. Snuggs)
Charles A. Swiers)

Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
John L. Evans, Assistant Community Development Director
Jason A. Hanson, Police Major
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. United Way Campaign Update

Assistant Community Development Director John Evans provided an update on the city's participation in the 2021-2022 United Way Campaign. A total of 132 city employees actively participated and just under $38,000.00 was pledged.

No formal action was requested of the council, and none was taken.

4. Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association

Mayor Smith recognized Finance Director Deborah Reaves for her vital role in the city's receipt of the above-described certificate of achievement.

No formal action was requested of the council, and none was taken.

5. Public Comment Period

When Mayor Smith opened the floor for public comments, Mr. James Armstrong was the only person who asked to speak. Mr. Armstrong commented on his concerns about public safety and quality of life issues in Asheboro.

When no other comments were offered, Mayor Smith closed the public comment period. No formal action was taken by the council.

6. Consent Agenda

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

Consequently, the following items were approved/adopted without modification.

(a) City Council Meeting Minutes for October 7, 2021

The meeting minutes for the city council's regular meeting on October 7, 2021, 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 August 30, 2021, including Audited Financial Statements for FY 2020-2021

The council acknowledged the receipt of the Asheboro ABC Board's approved meeting minutes for August 30, 2021, including the board's FY 2020-2021 audited financial statements. These documents have been filed in the city clerk's office and distributed to the city's elected officials.

(c) Audit Contract Amendment

The council approved an audit contract amendment in order to move the completion date for the audit of the city's accounts from October 31, 2021, to December 31, 2021. A copy of the executed audit contract amendment is on file in the city clerk's office.

(d) Scheduling of a Legislative Hearing for December 9, 2021, on a Zoning Map Amendment Application

The council approved a request from the community development division to schedule for December 9, 2021, and to advertise, a legislative hearing on an application to rezone property at 481 and 539 Veterans Loop Road (a portion of Randolph County Parcel Identification Number 7659370575) from R10 to I2 zoning.

(e) 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

With the approval/adoption of the consent agenda items, the following resolution was adopted by reference.

RESOLUTION NUMBER 25 RES 11-21

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 2021-2022 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. $580,000.00 has been budgeted for the environmental services department to acquire three vehicles and pieces of equipment;

2. $114,000.00 has been budgeted for the facilities maintenance department to acquire three vehicles and pieces of equipment;

3. $32,000.00 has been budgeted for the fire department to acquire a vehicle;

4. $29,000.00 has been budgeted for the fleet maintenance department to acquire a vehicle;

5. $32,000.00 has been budgeted for the operations department to acquire a vehicle;

6. $394,000.00 has been budgeted for the police department to acquire twelve vehicles and pieces of equipment, inclusive of a trailer that can function as a mobile office workspace;

7. $105,000.00 has been budgeted for the recreation services department to acquire three vehicles;

8. $921,000.00 has been budgeted for the street maintenance department to acquire eleven vehicles and pieces of equipment; and

WHEREAS, 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 $2,207,000.00; 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 2021-2022 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 official intent to reimburse the General Fund for the expenditures used to purchase the needed vehicles and equipment.

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 2021-2022 and with the explicit intent of seeking reimbursement for the expenditures from installment financing proceeds, a maximum of $2,207,000.00 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 2021-2022 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; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that this Resolution adopted during the city council's regular meeting in November 2021 supersedes any previously adopted resolution declaring 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 2021-2022 fiscal year, any and all expenditures from the General Fund for the purchase during the current fiscal year of vehicles and equipment needed for 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 4th day of November, 2021.

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

ATTEST:

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

(f) Ordinance to Amend the General Fund (FY 2021-2022)

With the approval/adoption of the consent agenda items, the following ordinance was adopted by reference in order to account for the expense associated with roof repairs at the Asheboro Regional Airport.

35 ORD 11-21

ORDINANCE TO AMEND THE GENERAL FUND
FY 2021-2022

WHEREAS, the two original roofs at the NC Aviation Museum have been leaking in multiple areas, and;

WHEREAS, the City of Asheboro received three bids for repair pm September 28, 2021 and the lowest responsive bid was for $85,590 with McCrae Roofing in Asheboro NC, and;

WHEREAS, the City of Asheboro desires amend the 2021-2022 budget to incorporate this expense and to be in compliance with all generally accepted accounting principles, and;

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

That the following Revenue line items be increased:

Line Item	Description	Increase
10-399-0000	Fund Balance Allocation	$85,600

That the following Expense line items be increased:

Line Item	Description	Increase
10-650-1500	Building Maintenance and repair	$85,600

Adopted this the 4th day of November 2021.

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

ATTEST:

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

7. Legislative Hearings

(a) Zoning Map Amendment (Case No. RZ-21-13): Application to Apply B2 Zoning to Parcels of Land Identified by Randolph County Parcel Identification Nos. 7761837268, 7761837067, and 7761827912

Mayor Smith opened the legislative hearing on the zoning map amendment application filed on behalf of the property owner by an agent, H.R. Gallimore, (collectively, the "Applicant") to place approximately 1.93 acres of land into a B2 General Commercial zoning district. The 1.93 acres, more or less, of land is currently zoned R10 Medium-Density Residential and R40 Low-Density Residential.

This land (hereinafter referred to as the "Zoning Lot") is located at 1819 United States Highway 64 East and 1801 United States Highway 64 East (a portion) and is more specifically identified by Randolph County Parcel Identification Numbers 7761837268, 7761837067, and 7761827912.

The listed owners for the Zoning Lot are Phillip M. Ragsdale and Delbert G. Ragsdale Jr. The owner of the real property signed the zoning map amendment application in order to demonstrate consent to the placement of the Zoning Lot in the requested B2 zoning district.

Legal notices of this hearing were published on October 22 and 29, 2021. The prescribed legal notices were mailed on October 18, 2021.

Community Development Director Trevor Nuttall utilized a slide show to present the planning staff's analysis of the application. During his presentation, Mr. Nuttall noted the following:

1. The Zoning Lot is located beyond the city limits, but the lot is located within the city's extraterritorial planning jurisdiction.
2. United States Highway 64 East is considered a state-maintained boulevard, which is classified as a type of major thoroughfare.
3. The requested 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." The request would allow any use allowed by right in the B2 zoning district.
4. The area, including properties adjacent to the Zoning Lot, have seen a transition to primarily commercial uses.
5. The western portion of the Zoning Lot is subject to an access easement (Ragsdale Road).

6. Along with other zoning requirements (including but not limited to paving of required parking, landscaping, etc.), new commercial construction requiring a building permit and located on a street with curb and gutter generally requires the owner or developer to construct a sidewalk along the property's public street frontage.

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.

Proposed Land Use Map Designation: Commercial

Small Area Plan: East

Growth Strategy Map Designation: Economic Development

LDP Goals/Policies Supporting the Request:

Checklist Item 1: Rezoning is compliant with the LDP Proposed Land Use Map.

Checklist Item 3: The property on which the rezoning district is proposed fits the description of the zoning ordinance. (*Article 200, Section 210, Schedule of Statements of Intent*)

Checklist Item 7: The proposed rezoning is compatible with the applicable Small Area Plan.

Checklist Items 12-14: The property is located outside of the watershed area, Special Hazard Flood Area, or an area with steep slopes (>20%).

LDP Goals/Policies Which Do Not Support the Request:

2.1.5: The city will ensure development regulations provide appropriate transitional land uses, such as office and institutional, between high-intensity industrial / commercial and low-intensity residential uses.

The City of Asheboro Planning Board considered the rezoning application and recommended placement of the Zoning Lot into the requested B2 General Commercial zoning district. In making this recommendation, the planning board concurred with the planning staff's consistency statement, which provided as follows:

> The request is consistent with the Land Development Plan Proposed Land Use map's designation of the property for commercial use. The map also recommends commercial use for adjoining properties.
>
> The East Small Area plan advocates for the expansion of commercial uses on US 64 East, which have been occurring for several decades, and properties on both sides of the subject property are zoned B2 and have commercial activities occurring.
>
> Also, the designation of the property on the growth strategy map as part of an "economic development area" supports the B2 rezoning.
>
> Although ideally a transitional land use separates a heavier commercial and lighter residential use, the residentially zoned property adjacent to the property is vacant and requirement for buffers or screening between these uses and the presence of

other commercial and industrial uses in the area help mitigate compatibility concerns.

Given these factors, staff believes that the proposed zoning map amendment is reasonable and in the public interest.

In light of the above-stated analysis, the planning department staff recommended approval of the map amendment application.

With the conclusion of Mr. Nuttall's presentation of the planning staff's analysis, Mayor Smith asked if there was anyone else who would like to address the council on the question of the requested rezoning. The only request to speak was on behalf of the Applicant.

Mr. H. R Gallimore offered comments in support of the application and was willing to answer any questions. When no other comments were offered, Mayor Smith transitioned to the deliberative phase of the process.

At the conclusion of the deliberations, the governing board members concurred with the analysis received from the planning staff and the planning board. With a combined motion that acted on the zoning map amendment application and adopted a consistency statement as well as a statement of reasonableness, Council Member Bell moved, and Council Member Carter seconded the motion, to ordain that the requested B2 General Commercial zoning district was approved and to adopt the following combined consistency and reasonableness statements:

1. The requested zoning map amendment is consistent with the Land Development Plan because the requested B2 zoning district is consistent with the proposed land use map, is compliant with the objectives of the growth strategy map, is compatible with the applicable small area plan, and the Zoning Lot is located outside of the watershed area, the Special Flood Hazard Area, and does not have steep slopes (> 20%); and

2. The proposed zoning map amendment is reasonable and in the public interest. As noted above, commercial land uses have been expanding on United States Highway 64 East for decades. There are properties on both sides of the Zoning Lot with B2 zoning and have commercial activities occurring. The residentially zoned property adjacent to the Zoning Lot is vacant. Buffering and screening requirements between residential and commercial uses as well as the presence of other commercial and industrial land uses in the area help mitigate compatibility concerns.

When Mayor Smith asked for a vote on the above-stated combined motion, Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes. Consequently, the zoning map amendment ordinance requested by the Applicant to apply B2 zoning to the Zoning Lot was approved by the city council for the above-stated reasons.

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

(b) Implementation of Session Law 2021-138 (Senate Bill 300)

On September 2, 2021, Governor Cooper signed into law a wide ranging criminal justice reform legislation. This legislation is found in Session Law 2021-138 (Senate Bill 300).

Part XIII of Session law 2021-138 removes the current presumption that all local ordinances may be enforced criminally. Effective December 1, 2021, local ordinances may be enforced criminally only if the unit of local government specifies within the ordinance that a violation of the ordinance is punishable as a misdemeanor or infraction.

Furthermore, the enacted legislation provides that certain types of ordinances cannot impose criminal penalties. With the exception of unsafe buildings, planning and

regulation of development ordinances adopted under Chapter 160D of the North Carolina General Statutes cannot impose criminal penalties.

Due to the fact that the city's current planning and regulation of development ordinances do impose criminal penalties, these ordinances must be amended in order to come into compliance with Session Law 2021-138. Before amending any ordinance or development regulation authorized by Chapter 160D, the city council must hold a legislative hearing.

Notice of the legislative hearing must be published in accordance with Section 160D-601(a) of the North Carolina General Statutes. In compliance with this statutory requirement, notice of the legislative hearing was published on October 22 and 29, 2021, in *The Courier-Tribune*.

Prior to the city attorney discussing the police power provisions of the Code of Asheboro that will be amended in advance of December the 1st, Community Development Director Trevor Nuttall presented an overview of the planning and regulation of development sections in the Code of Asheboro that must be amended. Mr. Nuttall's presentation was provided during the portion of the meeting designated for the legislative hearing on the question of the decriminalization of ordinances adopted under Chapter 160D.

Within the Code of Asheboro, the planning and regulation of development ordinances adopted under Chapter 160D of the North Carolina General Statutes are found in the following chapters:

- Chapter 10 (General Provisions);
- Chapter 34 (Departments, Boards, and Commissions);
- Chapter 94 (Fair Housing);
- Chapter 95 (Fire Prevention);
- Chapter 150 (Buildings);
- Chapter 151 (Housing Code);
- Chapter 152 (Nonresidential Building Maintenance Code);
- Chapter 153 (Subdivisions); and
- Chapter 154 (Zoning).

Additionally, Mr. Nuttall noted that, within the above-listed chapters, certain ordinance amendments are proposed to align city ordinance references to other recent changes in state law that were not specific to Session Law 2021-138.

The Land Development Plan generally supports keeping regulations related to land use periodically updated. In consideration of this factor and in order to comply with state law, the planning staff provided a favorable recommendation for proceeding with the proposed amendments to the Code of Asheboro.

Mr. Nuttall reported that, on November 1, 2021, the City of Asheboro Planning Board considered the proposed text amendments to the planning and regulation of development ordinances in the Code of Asheboro. During the meeting on November 1st, the planning board concluded that the proposed amendments are consistent with the city's adopted comprehensive plan.

No one other than Mr. Nuttall asked to be recognized during the legislative hearing. With no one else wishing to be heard, Mayor Smith transitioned to the deliberative phase and asked for council action.

The council members expressed their concurrence with the recommendations offered by the planning staff and the planning board. Council Member Moffitt moved, and Council Member Bell seconded the motion, to approve the proposed text amendments by adopting a statement confirming that the proposal is consistent with the adopted comprehensive plan and its support for periodically updating the city's planning and regulation of development ordinances.

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

Due to conflicting obligations, City Attorney Jeff Sugg was unable to present the recommended amendments to certain police power ordinances when Mr. Nuttall discussed the planning and regulation of development ordinances during the legislative hearing. However, Mr. Sugg did present certain police power provisions for initial approval at the time Mayor Smith discussed items not on the agenda. Due to the fact that this discussion and council action are tightly connected to the city's compliance with Session Law 2021-138, the action taken near the closure of the regular meeting has been brought forward for discussion in this section of the meeting minutes.

The proposed amendments to existing provisions within the Code of Asheboro are as follows:

§ 10.99 GENERAL PENALTY

~~(A) Wherever in this code or in any ordinance of the city or in any rule or regulation of any officer or agency of the city, under authority duly vested in him or it, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in such code, ordinance, rule or regulation the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or misdemeanor, where no specific penalty is provided therefor, the violation of any such provision of this code or any such ordinance, rule or regulation shall be punished as provided in G.S. § 14-4 for each separate violation. Each day any violation of this code or of any ordinance, rule or regulation shall continue shall constitute a separate offense, except as may be otherwise specifically provided.~~

~~(B) If any person shall violate an ordinance of the city regulating the operation or parking of vehicles, he shall be responsible for an infraction and shall be required to pay a penalty of not more than $50.~~

(A) Where no specific penalty is otherwise provided, any act constituting a violation of the provisions within this code of ordinances or a failure to comply with any of its requirements shall subject the offender to a civil penalty of $100 for each day the violation continues. If the offender fails to pay this penalty within ten days after being cited for a violation, the penalty may be recovered by the city in a civil action in the nature of debt.

(B) In addition to the provisions of division (A) above, any provision of this code or other ordinance of the city may be enforced by any one or more of the remedies authorized by G.S. § 160A-175.

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§ 130.01 REGULATION OF USE OF FIREARMS OR ANY DEVICE DESIGNED OR USED TO PROJECT PELLETS, ARROWS, OR OTHER PROJECTILES

(A) Subject to the exceptions listed in division (B), it is unlawful for a person to discharge any pistol, rifle, gun, or other type of firearm within the city or within the boundary lines of any city-owned property that is located beyond the city limits.

(B) The prohibition listed above in division (A) does not apply to the following situations:

(1) The discharge of a firearm at a shooting gallery or range that is operating in compliance with the Asheboro Zoning Ordinance.

(2) The discharge of a firearm by a sworn law enforcement officer.

(3) The discharge of a firearm by a person in self-defense, in the lawful defense of others, in the lawful defense of property, pursuant to lawful directions of law enforcement officers, and/or pursuant to a duty established by federal, state, or local statute or ordinance, specifically including by way of illustration and

not limitation the discharge of a firearm by a duly appointed animal control officer or his or her designee.

(4) Upon receipt of written permission from the Chief of Police or his or her designee, blank cartridges may be discharged during historical reenactments, military or similar displays, or during theatrical, athletic, or like performances. Such written permission from the Chief of Police or his or her designee cannot be granted unless and until the applicant establishes that the proposed activity for which the use of blank cartridges is requested will occur with the consent of the property owner and in compliance with the city's noise ordinance and zoning ordinance.

(5) A person 21 years of age or older may use an exploding device or similar scare device for the purpose of dispersing birds, fowl, or other wildlife on the condition that the device does not have the capacity to physically harm such bird, fowl, or other wildlife and on the additional condition that the use of the device conforms with all federal and state laws as well as the regulations adopted by the North Carolina Wildlife Resources Commission. The person utilizing such a device shall exercise due care in the use of the device so as not to cause injury to persons or damage to another person's property. Prior to the utilization of such a device, the person using the device shall notify his or her adjacent property owners (or lessees) and the Asheboro Police Department of the intended use of such a device, including the location, the date, and the approximate time of day of such use. Such a device shall not be used between the hours of 11:00 p.m. and 8:00 a.m. on any day of the week.

(6) The use of a firearm for hunting ducks and dark geese (includes Canada geese and white-fronted geese) is permitted at Lake Reese when such hunting is undertaken in compliance with Chapter 91 of the Code of Asheboro.

(C) Subject to the exceptions listed in division (D), it is unlawful for a person to shoot or project any arrow, shot, pellet, stone, rock, or other hard substance by means of a bow, air rifle, pellet gun, paintball gun, popgun, slingshot, bean shooter, or other similar type of device or contrivance within the city or within the boundary lines of any city-owned property that is located beyond the city limits.

(D) The prohibition listed above in division (C) is subject to the following exceptions:

(1) Archery is permitted at an archery range that is operating in compliance with the Asheboro Zoning Ordinance.

(2) The discharge of air rifles, pellet guns, paintball guns, and similar devices is permitted at shooting galleries or ranges that are operating in compliance with the Asheboro Zoning Ordinance.

(3) Activities undertaken by a person in self-defense, in the lawful defense of others, in the lawful defense of property, pursuant to lawful directions of law enforcement officers, and/or pursuant to a duty established by federal, state, or local statute or ordinance, specifically including by way of illustration and not limitation the use of a device that would otherwise fall within the scope of division (C) by a duly appointed animal control officer or his or her designee.

(E) A violation of this section is punishable as a misdemeanor.

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§ 130.03 CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGESIN CERTAIN LOCATIONS

(A) *Consumption of malt beverages and unfortified wine.* It shall be unlawful for any person who is not an occupant of a motor vehicle to consume a malt beverage or unfortified wine on any public street, sidewalk, or alley in the city; or on any other property owned, occupied, or controlled by the city.

(B) *Possession of open containers of malt beverages and unfortified wine.* It shall be unlawful for any person who is not an occupant of a motor vehicle to possess open container(s) of malt beverages and unfortified wines on any public street, sidewalk, or alley in the city; or on any other property owned, occupied, or controlled by the city. For the purposes of this section, an ***OPEN CONTAINER*** means a container whose seal has been broken or a container other than the manufacturer's unopened original container.

(C) *Possession of malt beverages and unfortified wines on public streets, alleys, or parking lots which are temporarily closed to regular traffic for special events.* It shall be unlawful for any person to possess any malt beverage or unfortified wine on any public street, alley, or parking lot which has been temporarily closed to regular traffic for a special event.

(D) *Possession and consumption of fortified wine, spirituous liquor, and mixed beverages.* The possession or consumption of fortified wine, spirituous liquor, or mixed beverages is hereby prohibited on property owned or leased by the city.

(E) *Exceptions.* Notwithstanding the prohibitions prescribed by the above-listed divisions of this section, the following acts shall not be deemed to be unlawful.

(1) The possession or consumption of alcoholic beverages by either a sworn law enforcement officer acting in the performance of his or her official duties or a person acting under the immediate and direct supervision of a sworn law enforcement officer discharging his or her official duties.

(2) The possession or consumption of malt beverages at McCrary Park as part of collegiate or professional baseball events hosted by legal entities with whom the City of Asheboro has entered into a lease agreement for the use of McCrary Park; provided, however, any such malt beverages found within McCrary Park must have been obtained in accordance with a sale/distribution plan developed and implemented by the hosting of legal entity in compliance with all applicable laws and administrative regulations.

(3) The possession or consumption of unfortified wine and malt beverages on the premises of the Sunset Theatre and Bicentennial Park facilities, including without limitation the Rotary Pavilion. The possession or consumption of unfortified wine and malt beverages on these premises will be lawful only if such possession or consumption is conducted in strict compliance with all applicable laws, ordinances, and regulations, specifically including without limitation the regulations adopted by the city for these facilities that are part of the municipal cultural and recreation services system, inclusive of any and all sale/distribution plans specified by the City of Asheboro Cultural and Recreation Services Policy Manual.

(4) The possession of unfortified wine on the premises of the Downtown Farmers' Market facility. The possession of unfortified wine on these premises will be lawful only if such possession occurs as part of the retail sale by an approved Downtown Farmers' Market vendor of unfortified wine for off-premise consumption. The retail sale of unfortified wine shall be conducted in strict compliance with all applicable laws, ordinances, and regulations, specifically including without limitation the regulations prescribed for the Downtown Farmers' Market in the City of Asheboro Cultural and Recreation Services Policy Manual.

(5) The possession or consumption of unfortified wine and malt beverages on the premises leased to the nonprofit North Carolina Aviation Museum and Hall of Fame, Incorporated (these premises are shown as Hangar G and Hangar L on Schedule C of the Asheboro Regional Airport) during events conducted by the nonprofit corporation. The sale or service of wine and malt beverages must be conducted in strict compliance with all applicable laws, ordinances, and regulations, specifically including without limitation any laws and regulations pertaining to either alcoholic beverage control or the operation of the airport by the Asheboro Airport Authority.

(F) ~~*Penalties.* Any person who violates the prohibitions prescribed by divisions (A), (B), and (C) above shall be guilty of a misdemeanor in accordance with G.S. § 14-4.~~ A violation of this section is punishable as a misdemeanor.

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§ 130.05 AGGRESSIVE SOLICITATION PROHIBITED

(A) *Definitions.* For purposes of this section:

(1) ***AGGRESSIVE MANNER.*** Includes:

(a) Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;

(b) Following the person being solicited, if that conduct is: intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession: or is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

(c) Continuing to solicit within five feet of the person being solicited after the person has made a negative response, if continuing the solicitation is: intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or, is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

(d) Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's Constitutional right to picket or legally protest, and acts authorized by a permit issued pursuant to Chapter 97 of the Code of Asheboro shall not constitute obstruction of pedestrian or vehicular traffic;

(e) Intentionally or recklessly using obscene or abusive language or gestures: intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or, words intended to or reasonably likely to intimidate the person into responding affirmatively to the solicitation; or

(f) Approaching the person being solicited in a manner that: is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or, is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

(2) ***AUTOMATED TELLER MACHINE.*** A device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

(3) ***AUTOMATED TELLER MACHINE FACILITY.*** The area comprised of one or more automatic teller machines, and any adjacent space which is made available to banking customers after regular banking hours.

(4) ***PUBLIC AREA.*** An area to which the public or a substantial group of persons has access and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks, and streets

open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing them.

(5) ***SOLICIT.*** To request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written, or printed word, or by other means of communication.

(B) *Prohibited acts.* It shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services:

(1) In an aggressive manner in a public area;

(2) Within 15 feet of any entrance or exit of any bank or within 15 feet of any automated teller machine during the hours of operation of such bank or automated teller machine without the consent of the owner or other person legally in possession of such facilities. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility; or

(3) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property.

~~(C) *Penalty.* If any person shall violate this section, he or she shall be guilty of a Class 3 misdemeanor and shall be fined not more than $500 in accordance with G.S. § 14-4.~~

(C) A violation of this section is punishable as a misdemeanor.

(D) *Construction and severability.*

(1) Severability is intended throughout and within the provisions of the section. If any sentence, clause, or phrase of this section is held invalid or unconstitutional by a court of competent jurisdiction, then such judgment shall in no way affect or impair the validity of the remaining portions of this section.

(2) This section is not intended to ~~prescribe~~ proscribe any demand for payment for services rendered or goods delivered.

(3) This section is not intended to create a result through enforcement that is absurd, impossible or unreasonable. The section should be held inapplicable in any such cases where its application would be unconstitutional under the Constitution of the State of North Carolina or the Constitution of the United States of America.

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§ 130.06 PUBLIC URINATION AND DEFECATION PROHIBITED

(A) Except in designated water closets or toilet facilities, it shall be unlawful for any person to urinate or defecate on any public place, sidewalk, street, alleyway or right-of-way, or in any public building, or on private property. Having the permission of the owner or person in lawful possession of the real property shall constitute an affirmative defense to the charge of urinating or defecating on private property. Any person who violates this section shall be guilty of a Class 3 misdemeanor and shall be fined not more than $500.

(B) A violation of this section is punishable as a misdemeanor.

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§ 130.99 PENALTY

Any violation of a section of this chapter that is specifically designated as a misdemeanor shall be a Class 3 misdemeanor punishable as provided in G.S. § 14-4, with a maximum fine of no more than $500.00.

Council Member Bell moved, and Council Member Burks seconded the motion, to approve the first reading of the above-stated ordinance amendments relating to police power provisions within the Code of Asheboro. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

8. McCrary Baseball Park Renovation Project

(a) Design Services Contract with CPL Architects and Engineers, PC

City Engineer Michael Leonard, PE, reported that the Request for Qualifications (RFQ) process was advertised in connection with the need for an architectural and engineering firm for the McCrary Baseball Park Renovation Project. Responses were received by October 21, 2021.

After evaluating the responses, the engineering department recommended the award of the design services contract for the project to CPL Architects and Engineers, PC. The design services contract negotiated with the firm was provided to the council and has been filed in the city clerk's office.

Council Member Bell moved, and Council Member Swiers seconded the motion, to award the recommended contract to CPL Architects and Engineers, PC. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

(b) Selection of Rogers Builders, Inc. as the Construction Manager at Risk

City Engineer Michael Leonard, PE reported that the Request for Qualifications (RFQ) process was advertised for selecting a Construction Manager at Risk (CMR) for the McCrary Ballpark Renovation Project. Responses were received by October 18, 2021.

After evaluating the responses, the engineering department selected Rodgers Builders, Inc. as the first choice for the project. The firm has completed multiple ballpark projects, including BB&T Ballpark (Charlotte Knights Stadium).

Mr. Leonard reported that city staff will negotiate a contract with Rogers Builders, Inc. for the entire project (all phases). When a contract is ready for award, the contract will be brought to the city council for approval.

At this time, no action was requested of the council, and none was taken.

9. Engineering Services at the Asheboro Regional Airport

City Engineer Michael Leonard, PE reported that, after conducting a Request for Qualifications (RFQ) process, W.K. Dickson & Company, Inc. had been selected, with the concurrence and recommendation of the Asheboro Airport Authority, as the first choice to provide engineering services for improvements at the Asheboro Regional Airport for the next five years.

With this selection, the engineering department and the airport authority recommended the award of a negotiated contract to the above-listed engineering firm. A copy of the recommended contract has been filed with the city's engineering department.

Based on the recommendation of city staff and the airport authority, Council Member Moffitt moved, and Council Member Burks seconded the motion, to award the

recommended design services contract to W.K. Dickson & Company, Inc. to provide engineering services for improvements at the Asheboro Regional Airport for the next five years. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

10. Crosswalk Improvements in the Downtown Area

City Engineer Michael Leonard, PE utilized a slide show presentation in order to update the council on the proposed downtown area crosswalk improvements. These improvements are part of the city's placemaking project. During his presentation, Mr. Leonard presented an example of elephant foot prints for the sidewalk located at the Worth Street and Cox Street Intersection near the Randolph County Public Library.

This presentation was provided for informational purposes. No formal action was asked of the council during this portion of the meeting, and none was taken.

11. Special City Council Meeting on Thursday, November 18, 2021

Mayor Smith announced that a special meeting of the city council will be held on November 18, 2021 at 7:00 pm for the purpose of receiving additional engineering study information on the proposed Newbern Avenue storm sewer improvements.

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

12. Schedule for Regular City Council Meetings during 2022

Mayor Smith led a discussion of the council's regular meeting schedule for the 2022 calendar year. Due to the Independence Day holiday, the July meeting will be scheduled for July 14, 2022. No other scheduling changes were proposed.

An ordinance setting the schedule for regular meetings during the 2022 calendar year will be presented for adoption during the City Council's next regular meeting on December 9, 2021.

13. Upcoming events and items not on the agenda

An action item that was not on the agenda was the temporary closure of certain portions of streets in downtown Asheboro for the Veterans Day parade. The parade route will start at a staging area on Church Street near Wainman Avenue and proceed north on Church Street; then east on Sunset Avenue to Fayetteville Street; north on Fayetteville Street to Worth Street; and then east on Worth Street to the area in close proximity to the new courthouse.

In order to accommodate the needs of the parade organizers, the public works division needs authority to temporarily close the portions of streets in downtown Asheboro needed for the above-described parade route between 3:00 p.m. and 6:00 p.m. on November 11, 2021. In response to this request, Council Member Burks moved, and Council Member Bell seconded the motion, to approve the requested temporary street closure.

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

Mayor Smith then led a discussion of upcoming events within the city government and the community in general. No formal action was taken during this discussion.

There being no further business, the meeting was adjourned at 8:20 pm.

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