AMENDED REGULAR MEETING MINUTES
ASHEBORO CITY COUNCIL
CITYC COUNCIL CHAMBER, ASEHBORO CITY HALL
THURSDAY, DECEMBER 5, 2024
7:00 P.M.

This being the time and place for a regular meeting of the Asheboro City Council, a meeting was held with the following elected officials and city management team members present:

David H. Smith) – Mayor Presiding

Clark R. Bell)
Edward J. Burks)
Kelly L. Heath)
William N. McCaskill) – Council Members Present
Walker B. Moffitt)
Charles A. Swiers)
W. Joseph Trogdon, Jr.)

John N. Ogburn, III, City Manager
Addie R. Corder, Downtown Development Manager
Alyssa R. Chapuis, Public Information Officer
Travis W. Curry, Police Captain
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
John L. Evans, Community Development Director
Douglas P. Kemp, Human Resources Director
Michael L. Leonard, PE, City Engineer
Rodney Neal, Information Technology Director
Trevor L. Nuttall, Assistant City Manager
Deborah P. Reaves, Finance Director
Michael D. Rhoney, PE, Water Resources Director
Jonathan M. Sermon, Recreation Services 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. Presentation of the Blue Comets Youth Football Teams

Ryan Patton and Ben Hughes presented the Blue Comets youth football teams.

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

4. United Way of Randolph County Annual Report

Samantha Baker, who is the Executive Director of United Way of Randolph County, highlighted the 2023 annual report. During 2023, United Way allocated $477,226 to its nonprofit partners and programs throughout Randolph County, impacting an estimated 51,000 individuals. These funds provided critical resources and services to families in need.

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

5. Downtown Asheboro, Inc. Annual Report

Downtown Development Manager Addie Corder, MPA presented the Downtown Asheboro, Inc. annual report for fiscal year 2023-2024. During her presentation, Ms. Corder reported that Downtown Asheboro, Inc. facilitated the sale of the last remaining building of the Acme McCrary Hosiery Mill Campus. This building will be rehabilitated for market rate apartments and mixed commercial use.

Additionally, Ms. Corder highlighted the success of the Zoo City StrEAT Fest that brought over 4,000 visitors to the downtown district. The Asheboro Main Street Program brought home its first ever Main Street Award of Excellence, and the Church Street Lofts project was awarded under "Best Adaptive Reuse" category.

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

6. Report on the Recent Announcement of a Land and Water Conservation Fund Financial Award

Assistant City Manager Trevor Nuttall reported on the recent announcement of a Land and Water Conservation Fund Financial Award to be used for the development of the David and Pauline Jarrell Center City Garden. The grant is for $298,720, with a required local match of $298,720.

Mr. Nuttall recommended that the council accept the award and authorize Mayor Smith and city officials to execute the necessary documents. The project will be built in phases and would not be initiated until the required match is appropriated.

Council Member Heath moved, and Council Member Bell seconded the motion to accept the award and authorized city officials to execute the necessary documents for the Land and Water Conservation Fund Financial Award. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Swiers, and Trogdon voted aye. There were no dissenting votes.

7. Public Comment Period

Mayor Smith opened the floor for comments from the public. Topaz Bott posed certain questions in regards to the opening date of the dog park located at the ZooCity Sportsplex.

When no one else asked to speak, Mayor Smith closed the public comment period.

8. Consent Agenda

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

(a) Approval of the City Council Meeting Minutes for October 29, 2024

The meeting minutes for the city council's special meeting on October 29, 2024, were approved and have been filed in the city clerk's office. An electronic copy of the approved document has been placed on the city's website.

(b) Approval of the City Council's Meeting Minutes for November 7, 2024

The meeting minutes for the city council's special meeting on November 7, 2024, were approved and have been filed in the city clerk's office. An electronic copy of the approved document has been placed on the city's website.

(c) Acknowledgement of the Receipt of the Meeting Minutes for the Asheboro ABC Board Meeting Held on October 1, 2024

The meeting minutes for the above-listed Asheboro ABC Board meeting were received and distributed to the elected officials. The document has been filed in the city clerk's office.

(d) Approval of the community development division's request to schedule and advertise for the regular January 2025 city council meeting a legislative hearing on an application to rezone property located at 207 East Pritchard Street (Randolph County Parcel Identification Number 7751966980) from OA6 Office-Apartment to M (Mercantile).

(e) Acknowledgement of the Receipt of the Monthly Report Detailing Major Subdivisions Administratively Approved.

There have been none approved.

(f) A Request to Extend the Time Allowed between Preliminary Plat and Final Plat Review for the Timber Ridge Subdivision through July 2026.

(g) Approval of a Resolution Honoring Fire Chief Willie Summers Upon His Retirement from the Fire and Rescue Department

RESOLUTION NUMBER 28 RES 12-24

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

RESOLUTION HONORING RETIRED CITY OF ASHEBORO FIRE CHIEF WILLIE SUMMERS

WHEREAS, Willie Summers, who was hired as the city's Fire Chief on October 4, 2018, has provided honorable, skilled, and dedicated service to the City of Asheboro and its citizens since the date of his employment with the Asheboro Fire and Rescue Department; and

WHEREAS, Chief Summers retired as Asheboro Fire Chief on November 15, 2024; 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 Summers, at a minimal monetary cost, the fire helmet most recently assigned to him by the city; and

WHEREAS, due to extended use of his Class A uniform, badges, name plates, "serving since" attachment to the name plates, and sets of rank insignia collar pins that cannot be placed in the market place without posing a risk of allowing an unauthorized individual to pose as a fire department official and thereby create a risk to public safety, the city council has concluded, consistent with Section 160A-266(d) of the North Carolina General Statutes, that the city's use of the listed items ended when Chief Summers concluded his city employment on November 15, 2024.

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 extends its sincere thanks and appreciation to Chief Summers for his public service; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that, in consideration and recognition of his dedicated service, Willie Summers is to be awarded, at less than fair market value, ownership of his city-issued fire helmet, inclusive of his helmet shield; 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 Chief Summers, on or after the date of the adoption of this Resolution, his 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 city staff is hereby directed to convey to Chief Summers, on or after the date of the adoption of this Resolution, and without charge, his Class A uniform, badges (a quantity of two), name plates (a quantity of two), the "serving since" attachment to the name plates, and rank insignia collar pin sets (a quantity of two).

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on December 5, 2024.

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

ATTEST:

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

(h) Approval of a Resolution Expressing the City Council's Concurrence with Revisions Designed to Incorporate the Most Recent Federal and State Laws/Regulations into the City of Asheboro Employee Policies and Procedures Manual

RESOLUTION NUMBER 29 RES 12-24

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

RESOLUTION EXPRESSING CONCURRENCE WITH REVISIONS TO THE EMPLOYEE POLICIES AND PROCEDURES MANUAL AND AMENDING THE CODE OF ETHICS PREVIOUSLY ADOPTED BY THE ASHEBORO CITY COUNCIL

WHEREAS, the City of Asheboro Employee Policies and Procedures Manual (formerly known as the City of Asheboro Personnel Policies and Procedures Manual and sometimes referenced in this Resolution as the "Manual") was originally promulgated by the city manager and approved by resolution of the Asheboro City Council on March 4, 2004; and

WHEREAS, the Asheboro City Council adopted by resolution a Code of Ethics for the governing board on December 9, 2010, and

WHEREAS, the North Carolina General Assembly has enacted a new statute, Section 143-805 of the North Carolina General Statutes that requires the city to adopt a usage policy prohibiting the viewing of pornography on the city's networks and devices; and

WHEREAS, at the federal level, the Pregnant Workers Fairness Act ("PWFA") has been enacted, and this legislation, in essence, tells employers to treat pregnancy-related conditions as temporary disabilities that qualify for accommodations; and

WHEREAS, the city's professional staff has recommended amending both the City of Asheboro Employee Policies and Procedures Manual and the above-referenced Code of Ethics to ensure compliance with the referenced state and federal enactments; and

WHEREAS, the amendments to the City of Asheboro Employee Policies and Procedures Manual recommended by the city's professional staff to comply with the PWFA and state legislation pertaining to viewing pornography on the city's networks and devices are attached to this Resolution as EXHIBIT 1, which is hereby incorporated into this instrument by reference as if copied fully herein; and

WHEREAS, the Code of Ethics text amendments recommended by the city's professional staff in order to comply with the above-referenced state legislation has been attached to this Resolution as EXHIBIT 2, which is hereby incorporated into this instrument by reference as if copied fully herein; and

WHEREAS, the Asheboro City Council agrees with the recommendations received from city staff.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the governing board hereby concurs with the entirety of the text amendments found in EXHIBIT 1 and EXHIBIT 2 and authorizes, effective January 1, 2025, the updating of the City of Asheboro Employee Policies and Procedures Manual and the Code of Ethics to reflect the text amendments found in the attached exhibits; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that all articles, sections, and provisions contained within the Manual and the Code of Ethics that are not clearly and unmistakably referenced by this instrument and the attached exhibits are unaffected by this Resolution and remain, without alteration, in full force and effect.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on December 5, 2024.

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

ATTEST:

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

EXHIBIT 1

ARTICLE I: UNIFIED HUMAN RESOURCES SYSTEM

Section 10. Pregnant Workers Fairness Act

The City of Asheboro is committed to complying with all applicable provisions of the Pregnant Workers Fairness Act ("PWFA"). The PWFA requires the city to provide reasonable accommodations for a worker's known temporary limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an undue hardship. An undue hardship is defined as causing significant difficulty or expense. In terms of the confidentiality of medical information, the city adheres to guidance from the Equal Employment Opportunity Commission that confidentiality provisions associated with the Americans with Disability Act are equally applicable to the PWFA. Consequently, these same restrictions on access to confidential medical information will apply in situations where employees provide documentation related to pregnancy, childbirth, or associated medical conditions under the PWFA's interactive process. Employees should contact the City of Asheboro Human Resources Department with any questions or requests for accommodation(s).

Section ~~10~~ 11. Employment of Relatives

The city prohibits the hiring of relatives within the same department; however, related persons may work for the city in different departments. When an issue pertaining to the employment of relatives within the same department arises subsequent to the hiring process, the permissibility of related persons working within the same department will be evaluated on a case-by-case basis. While not expressly prohibited, such a situation is discouraged. An employee may not serve as a direct supervisor for a related employee under any circumstances.

For the purpose of this section, relatives shall include spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren, plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.

Seasonal recreational and part-time employees in the Cultural Services or the Recreation Services departments are exempted from the prohibition specified in this section.

Section ~~11~~ 12. Whistleblower Policy

The City of Asheboro requires its employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. Employees must practice honesty and integrity in fulfilling responsibilities and must comply with all applicable city policies, and all applicable laws and regulations.

Reporting Responsibility

This policy is intended to encourage and enable employees and others to raise serious concerns internally so that the City of Asheboro can address and correct inappropriate conduct and actions. It is the responsibility of all employees and officers to report concerns about violations of the city's policies or suspected violations of law or of regulations that govern city operations.

No Retaliation

It is contrary to the City of Asheboro's values for anyone to retaliate against any board member, officer, employee, or volunteer who, in good faith, reports a policy violation, an ethics violation, or a suspected violation of law or of any regulation governing city operations. An employee who retaliates against someone who has reported a violation in good faith is subject to disciplinary action up to and including dismissal.

Reporting Procedure

The City of Asheboro has an open-door policy. If comfortable doing so, employees should first share their questions, concerns, suggestions, and complaints with their supervisor or department head. If an employee is not comfortable speaking with his/her supervisor or department head, the employee should speak with the human resources director or the city manager. Department heads and supervisors are required to report complaints or concerns about suspected ethical and legal violations to the human resources director, who has the responsibility to investigate all reported complaints.

Compliance Officer

The human resources director is responsible for ensuring that all whistleblower complaints are investigated and resolved. The human resources director will advise the city manager of all complaints and their resolution.

Accounting and Auditing Matters

The human resources director shall immediately notify the city manager and the finance director of any concerns or complaints regarding accounting practices, internal controls, or auditing so that the finance director can inform and work with the auditor to see that the matter is resolved.

Acting in Good Faith

Anyone filing a complaint concerning a violation or suspected violation must be acting in good faith and have reasonable grounds for believing that a violation exists. Making an unsubstantiated allegation maliciously or when known to be false will be viewed as a serious disciplinary offense.

Confidentiality

Violations or suspected violations may be reported on a confidential basis and will be kept confidential to the extent possible, consistent with applicable laws, and with the need to conduct an adequate investigation.

Handling of Reported Violations

The human resources director will notify the complainant and acknowledge receipt of the reported violation or suspected violation. All reports will be promptly investigated, and appropriate action will be taken when warranted by the investigation.

Section 13. Policy Prohibiting Viewing of Pornography on City Networks and Devices

13.01 The following definitions apply to, and are specific to, Section 13 in Article I of the City of Asheboro Employee Policies and Procedures Manual.

(a) **Device** is defined as any cellular phone, desktop or laptop computer, or other electronic equipment capable of connecting to a network.

(b) **Material** has the same meaning as defined in Section 14-190.13 of the North Carolina General Statutes.

(c) **Network** is defined as any of the following, whether through owning, leasing, maintaining, or otherwise controlling:

(i) The interconnection of communication systems with a computer through remote or local terminals, or a complex consisting of two or more interconnected computers or telephone switching equipment;

(ii) Internet service; and

(iii) Internet access.

(d) **Pornography** is defined as any material depicting sexual activity.

(e) **Sexual Activity** has the same meaning as defined in Section 14-190.13 of the North Carolina General Statutes.

13.02 The viewing by city employees of pornography on a network of the city is prohibited.

13.03 The viewing by city employees of pornography on a device owned, leased, maintained, or otherwise controlled by the city is prohibited. This same prohibition applies to the city's elected officials and appointees; provided, however, the elected officials and appointees are not subject to the employee policies and procedures manual. Consequently, the same prohibition will be incorporated by the city council into its adopted code of ethics.

13.04 The prohibitions stated in Sections 13.02 and 13.03 shall not apply to a city official or employee that is engaged in any of the following activities in the course of that official's or employee's official duties.

(a) Investigating or prosecuting crimes, offering or participating in law enforcement training, or performing actions related to other law enforcement purposes.

(b) Identifying potential security or cybersecurity threats.

(c) Protecting human life.

(d) Establishing, testing, and maintaining firewalls, protocols, and otherwise implementing this section.

(e) Participating in judicial or quasi-judicial proceedings.

13.05 Annually, no later than August 1 and in the format required by the State Chief Information Officer, the city's Information Systems Director shall report information to the State Chief Information Officer on the number of incidences of unauthorized viewing or attempted viewing of pornography on the city's network; whether or not the unauthorized viewing was by a city employee, elected official, or appointee; and whether or not any of the unauthorized viewing was on a device owned, leased, maintained, or otherwise controlled by the city.

13.06 Any violation of Section 13 in Article I of the employee policies and procedures manual shall constitute grounds for disciplinary action up to and including dismissal from employment with the City of Asheboro. Such disciplinary action shall be administered in accordance with Article VIII of the City of Asheboro Employee Policies and Procedures Manual.

Section ~~12~~ 14. Implementation of Policies

All employees, supervisory and line employees alike, are hereby charged with the responsibility of continually reviewing the employee policies and procedures found in this manual and ensuring that conduct and practices in the workplace conform to the guidelines found. Workplace practices or customs are to be constantly reviewed in order to make sure that a divergence does not develop between the workplace practices and the city's written policies. Without limiting the importance of other policies, specific attention is to be given to ensuring that safety policies and guidelines are properly observed, workplace violence is prevented, and equal employment opportunity based on reasonable job-related work requirements is actively advocated and practiced to the end that no employee or applicant for employment shall suffer discrimination because of age, sex, race, color, religion, non-job related disability, genetic information, national origin, political affiliation, or military service.

EXHIBIT 2

CITY COUNCIL OF THE CITY OF ASHEBORO CODE OF ETHICS

In order to establish guidelines for ethical standards of conduct for the municipality's governing board and to help determine what conduct is appropriate in particular cases, the City Council of the City of Asheboro has adopted the Code of Ethics printed below.

Section 1. Governing board members should obey all laws applicable to their official actions as members of the board. Board members should be guided by the spirit as well as the letter of the law in whatever they do.

At the same time, board members should feel free to assert policy positions and opinions without fear of reprisal from fellow board members or citizens. To declare that a board member is behaving unethically because one disagrees with that board member on a question of policy (and not because of the board member's behavior) is unfair, dishonest, irresponsible, and itself unethical.

Section 2. Governing board members should act with integrity and independence from improper influence as they execute the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

- Adhering firmly to a code of sound values;
- Behaving consistently and with respect toward everyone with whom they interact;
- Exhibiting trustworthiness;
- Living as if they are on duty as elected officials regardless of where they are or what they are doing;
- Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, and consistent manner;
- Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others;
- Disclosing contacts and information about issues that they receive outside of public meetings and refraining from seeking or receiving information about quasi-judicial matters outside of the quasi-judicial proceedings themselves;
- Treating other governing board members and the public with respect and honoring the opinions of others even when the board members disagree with those opinions;
- Not reaching conclusions on issues until all sides have been heard;
- Showing respect for their offices and not behaving in ways that reflect badly on those offices;
- Recognizing that they are part of a larger group and acting accordingly; and
- Recognizing that individual board members are not generally allowed to act on behalf of the board but may only do so if the board specifically authorizes it, and that the board must take official action as a body.

Section 3.

(a) Governing board members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach. Although opinions may vary about what behavior is inappropriate, this council will consider impropriety in terms of whether a reasonable person who is aware of all of the relevant facts and circumstances surrounding the board member's action would conclude that the action was inappropriate.

(b) If a governing board member believes that his or her actions, while legal and ethical, may be misunderstood, the member should seek the advice of the city attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it (such as consulting with the city attorney).

Section 4. Governing board members should faithfully perform the duties of their offices. They should act as especially responsible citizens who others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.

Governing board members should faithfully attend and prepare for meetings. They should carefully analyze all credible information properly submitted to them, mindful of the need not to engage in communications outside the meeting in quasi-judicial matters. They should demand full accountability from those over whom the board has authority.

Governing board members should be willing to bear their fair share of the board's workload. To the extent appropriate, they should be willing to put the board's interests ahead of their own.

Section 5. Governing board members should conduct the affairs of the board in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should remember when they meet that they are conducting the public's business. They should also remember that local government records belong to the public and not to board members or their employees.

In order to ensure strict compliance with the laws concerning openness, governing board members should make clear that an environment of transparency and candor is to be maintained at all times in the governmental unit. They should prohibit unjustified delay in fulfilling public records requests. They should take deliberate steps to make certain that any closed sessions held by the board are lawfully conducted and that such sessions do not stray from the purposes for which they are called.

Section 6. Prohibited Use of City Devices

6.01 The following definitions apply to, and are specific to, Section 6 of the Code of Ethics adopted by the City Council of the City of Asheboro.

(a) **Appointee** is defined as a person appointed by the City Council of the City of Asheboro to serve on any board, commission, committee, authority, or similar public body created by the city council, by the city charter, or by statute.

(b) **Device** is defined as any cellular phone, desktop or laptop computer, or other electronic equipment capable of connecting to a network.

(c) **Material** has the same meaning as defined in Section 14-190.13 of the North Carolina General Statutes.

(d) **Network** is defined as any of the following, whether through owning, leasing, maintaining, or otherwise controlling:

(i) The interconnection of communication systems with a computer through remote or local terminals, or a complex consisting of two or more interconnected computers or telephone switching equipment;

(ii) Internet service; and

(iii) Internet access.

(e) **Pornography** is defined as any material depicting sexual activity.

(f) **Sexual Activity** has the same meaning as defined in Section 14-190.13 of the North Carolina General Statutes.

6.02 The viewing by city elected officials and appointees of pornography on a device owned, leased, maintained, or otherwise controlled by the city is prohibited.

6.03 The prohibition stated in Section 6.02 shall not apply to a city official that is engaged in any of the following activities in the course of his or her official duties.

(a) Investigating or prosecuting crimes, offering or participating in law enforcement training, or performing actions related to other law enforcement purposes.

(b) Identifying potential security or cybersecurity threats.

(c) Protecting human life.

(d) Establishing, testing, and maintaining firewalls, protocols, and otherwise implementing this section.

(e) Participating in judicial or quasi-judicial proceedings.

6.04 Annually, no later than August 1 and in the format required by the State Chief Information Officer, the city's Information Systems Director shall report information to the State Chief Information Officer on the number of incidences of unauthorized viewing or attempted viewing of pornography on the city's network; whether or not the unauthorized viewing was by a city employee, elected official, or appointee; and whether or not any of the unauthorized viewing was on a device owned, leased, maintained, or otherwise controlled by the city.

6.05 Any violation of this section by an elected city official shall subject the elected official to the censure procedures prescribed in Section 7 of this Code of Ethics. Any violation of this section by an appointee shall constitute grounds for the removal of the appointee from office.

~~**Section 6.** Censure Procedures~~

~~If a majority of the governing board has reason to believe that one of its members has violated a provision of this Code of Ethics, the council may open an investigation into the matter to determine whether probable cause exists to initiate censure proceedings against the member. All information compiled, including the grounds for any finding of probable cause, shall be shared with the member when it is received. All information pertaining to the case shall be open to public inspection and copying pursuant to the North Carolina public records statutes. If upon investigation the council concludes that a violation of a criminal law may have occurred, it shall refer the matter to the district attorney's office.~~

~~If the council concludes that it wishes to proceed further with censure proceedings, it shall call for a hearing, to be held at a regular meeting or at a special meeting convened for that purpose. Notice of the hearing stating its time, place, and purpose shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the City of Asheboro. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Alternatively, the hearing shall be advertised on the jurisdiction's website for the same period of time, up to and including the date of the hearing. The notice shall state that a detailed list of the allegations against the member is available for public inspection and copying in the office of the city clerk.~~

~~The hearing shall be convened at the time and place specified. The hearing and any deliberations shall be conducted in open session in accordance with the North Carolina open meetings statutes.~~

~~The accused board member shall have the right to have counsel present, to present and cross-examine expert and other witnesses, and to offer evidence, including evidence of the bias of any other board member or the presiding officer. An audio or video and audio tape of the proceedings shall be prepared. Any and all votes during the hearing shall be taken by the ayes and noes and recorded in the council's minutes.~~

~~Once the hearing is concluded, it shall be closed by vote of the board. The presiding officer shall next entertain a motion to adopt a nonbinding resolution censuring the member based on specific violation(s) of the adopted Code of Ethics. Any motion made must be an affirmative one in favor of adopting a~~

~~nonbinding resolution of censure. If the motion or resolution does not state particular grounds for censure under the adopted Code of Ethics, the presiding officer shall rule it out of order.~~

~~If a motion to adopt a nonbinding resolution of censure stating particular grounds under the adopted Code of Ethics has been made, the members of the governing board shall debate the motion. The accused member shall be allowed to participate in the debate, but shall not vote on the motion to adopt the resolution.~~

~~At the conclusion of the debate, the board shall vote on the resolution. If the motion to adopt the nonbinding resolution of censure is approved by a majority vote of those present and voting, a quorum being present, the motion passes and the nonbinding resolution of censure is adopted.~~

~~The text of the nonbinding resolution of censure shall be made a part of the minutes of the city council. Any recording of the council's proceedings shall be approved by the city council as a permanent part of the council's minutes. The proceedings shall then be considered concluded, the governing board having done all that it legally can with respect to the matter in question.~~

Section 7. Censure Procedures

If a majority of the governing board has reason to believe that one of its members has violated a provision of this Code of Ethics, the council may open an investigation into the matter to determine whether probable cause exists to initiate censure proceedings against the member. All information compiled, including the grounds for any finding of probable cause, shall be shared with the member when it is received. All information pertaining to the case shall be open to public inspection and copying pursuant to the North Carolina public records statutes. If upon investigation the council concludes that a violation of a criminal law may have occurred, it shall refer the matter to the district attorney's office.

If the council concludes that it wishes to proceed further with censure proceedings, it shall call for a hearing, to be held at a regular meeting or at a special meeting convened for that purpose. Notice of the hearing stating its time, place, and purpose shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the City of Asheboro. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Alternatively, the hearing shall be advertised on the jurisdiction's website for the same period of time, up to and including the date of the hearing. The notice shall state that a detailed list of the allegations against the member is available for public inspection and copying in the office of the city clerk.

The hearing shall be convened at the time and place specified. The hearing and any deliberations shall be conducted in open session in accordance with the North Carolina open meetings statutes.

The accused board member shall have the right to have counsel present, to present and cross-examine expert and other witnesses, and to offer evidence, including evidence of the bias of any other board member or the presiding officer. An audio or video and audio tape of the proceedings shall be prepared. Any and all votes during the hearing shall be taken by the ayes and noes and recorded in the council's minutes.

Once the hearing is concluded, it shall be closed by vote of the board. The presiding officer shall next entertain a motion to adopt a nonbinding resolution censuring the member based on specific violation(s) of the adopted Code of Ethics. Any motion made must be an affirmative one in favor of adopting a

nonbinding resolution of censure. If the motion or resolution does not state particular grounds for censure under the adopted Code of Ethics, the presiding officer shall rule it out of order.

If a motion to adopt a nonbinding resolution of censure stating particular grounds under the adopted Code of Ethics has been made, the members of the governing board shall debate the motion. The accused member shall be allowed to participate in the debate, but shall not vote on the motion to adopt the resolution.

At the conclusion of the debate, the board shall vote on the resolution. If the motion to adopt the nonbinding resolution of censure is approved by a majority vote of those present and voting, a quorum being present, the motion passes and the nonbinding resolution of censure is adopted.

The text of the nonbinding resolution of censure shall be made a part of the minutes of the city council. Any recording of the council's proceedings shall be approved by the city council as a permanent part of the council's minutes. The proceedings shall then be considered concluded, the governing board having done all that it legally can with respect to the matter in question.

~~**Section 7.**~~ ~~This Code of Ethics should not be considered a substitute for the law or for a council member's best judgment.~~

Section 8. This Code of Ethics should not be considered a substitute for the law or for a council member's best judgment.

[This Code of Ethics was initially adopted on December 9, 2010, and was most recently amended on December 5, 2024.]

(i) Approval of an Ordinance Setting the Asheboro City Council's Schedule for Regular Meetings During the 2025 Calendar Year

ORDINANCE NUMBER 45 ORD 12-24

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

AN ORDINANCE SETTING THE TIME AND DATES FOR REGULAR MEETINGS OF THE ASHEBORO CITY COUNCIL DURING THE 2025 CALENDAR YEAR

WHEREAS, Section 31.04(A) of the Code of Asheboro provides that the "City Council shall hold a regular meeting on Thursday after the first Monday of each month;" and

WHEREAS, the Asheboro City Council has concluded that its regular meetings in 2025 should begin an hour earlier than has been the practice during recent years.

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

Section 1. During the 2025 calendar year, and subject to any notices to the contrary issued in accordance with the applicable statutes and ordinances, regular meetings of the Asheboro City Council will begin at 6:00 p.m. on the dates listed herein and will be held in the Council Chamber, which is located on the second floor in Asheboro City Hall, 146 North Church Street, Asheboro, North Carolina 27203.

Section 2. For purposes of clarity, the schedule for regular meetings of the Asheboro City Council during the 2025 calendar year is printed below.

Month	**Meeting Date**
January	9th
February	6th
March	6th
April	10th
May	8th
June	5th
July	10th
August	7th
September	4th
October	9th
November	6th
December	4th

Section 3. All ordinances and clauses of ordinances in conflict with this Ordinance are hereby repealed to the extent of any conflict with the intent of the Asheboro City Council to hold its regular meetings in accordance with the schedule found in Section 2 of this Ordinance. The provisions of Section 31.04 of the Code of Asheboro shall remain in full force and effect.

Section 4. This Ordinance shall become effective upon adoption and shall sunset at midnight on December 31, 2025.

This Ordinance was adopted in open session during a regular meeting of the Asheboro City Council held on December 5, 2024.

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

ATTEST:

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

(j) Approval of an Ordinance to Amend the General Fund

46 ORD 12-24

ORDINANCE TO AMEND
GENERAL FUND
FY 2024-2025

WHEREAS, On October 10, 2024, the City Council approved the allocation of $650,000 to be transferred to the Asheboro Housing Development Fund.

WHEREAS, an incorrect account 10-000-211.6200 was used in this budget amendment.

WHEREAS, the correct account that should have been used in the amendment was expense line item 10-490-562.0000.

WHEREAS, adjustment needs to me made to correct the accounting.

WHEREAS, the City Council of the City of Asheboro desires to be in compliance with all generally accepted accounting principles.

THEREFORE, BE IT ORDAINED by the City Council of the City of Asheboro, North Carolina that the following revenue and expense line items are changed as follows:

Account #	Account Description	Increase
10-000-211.6200	Due to Asheboro Housing Development Fund	(650,000)
10-490-562.0000	Transfer to Asheboro Housing Development	650,000
		$0

Adopted this the 5th day of December 2024.

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

ATTEST:

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

(k) Approval of an Ordinance to Amend the Water and Sewer Fund to Allow Economic Development Along East Dixie Drive and East Presnell Street

47 ORD 12-24

ORDINANCE TO AMEND
THE WATER & SEWER FUND
FY 2023-2024

WHEREAS, in the 2024-2025 adopted budget, the approved allocation for contracted services in the Wastewater Treatment Plant is $700,000 with $500,000 allocated for the replacement of valves in the NIT pump station and $200,000 to replace Softstart for AB Blowers.

WHEREAS, at the time of the budget approval, the need for a Lift Station at James River Equipment on Presnell Street for future economic development purposes was identified and discussed in budget meetings but was not determined to be a higher priority than the replacement of the valves in the NIT pump station.

WHEREAS, as more information has come available about anticipated economic development along East Dixie Drive and East Presnell Street, the City Manager has determined that the Lift Station at James River Equipment is a higher priority than the NIT pump station and has requested the reallocation of funding for the Lift Station.

WHEREAS, the City of Asheboro desires to amend the 2024-2025 budget as required by law to adjust for changes in revenues and expenditures.

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

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

That the following expense line items be decreased / increased:

Line Item	Description	Change
30-830-545.0000	Contracted Services	(500,000)
30-870-545.0000	Contracted Services	500,000
	Net change	0

Adopted this 5th day of December 2024,

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

ATTEST:

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

9. Community Development Items:

(a) Quasi-Judicial Hearing (Case No. SUP-24-02): An application for a Special Use Permit for property located at 727 Jaco Caudill Drive totaling approximately 9.5 acres +/- and more specifically identified by Randolph County Parcel Identification Number 7740511663, to authorize a new land use classified as "Signs, Off premise Billboard and Poster Panel, etc."

Community Development Director John Evans presented a written request from the applicant to continue the above-referenced case to the council's next regular meeting in January 2025. Council Member Heath moved, and Council Member Swiers seconded the motion to continue the above-referenced land use case. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Swiers, and Trogdon voted aye. There were no dissenting votes.

(b) Legislative Hearing (Case No. RZ-24-22): An application to rezone property located 1449 and 1453 Old Liberty Road (Randolph County Parcel Identification Numbers 7773034780 and 7773035267) from R10 Medium-Density Residential to I1 (CZ) Light Industrial Conditional Zoning.

Mayor Smith opened the legislative hearing on the zoning map amendment application filed as Case No. RZ-24-22. Mr. Evans was the first speaker. In addition to entering into the records the notation that notice of this land use case had been advertised, posted, and mailed as required by North Carolina Law, he gave an overview of the zoning map amendment application submitted by Donna Hughes.

The land for which the above-described zoning has been requested is located at 1449 and 1453 Old Liberty Road. The property is approximately 1.35 acres in size, and is specifically identified by Randolph County Parcel Identification Numbers 7773034780 and 7773035627 (this property will be hereinafter referred to as the "Zoning Lot").

In addition to the written staff reports, Mr. Evans utilized a slide show presentation in conjunction with his comments. The following points of information were noted.

1. Both properties are in the city limits.

2. Old Liberty Road is a state-maintained minor thoroughfare.

3. The dwelling that was previously located at 1453 Old Liberty Road was removed when NCDOT acquired right-of-way for reconstruction of the bridge across the Deep River and acquired additional public right-of-way along Old Liberty Road.

4. The applicable zoning district statements of intent for each zoning district are attached to this report.

5. A significant amount of Special Flood Hazard Area exists on the properties. The applicant proposes that no development or use activity occur in this area, and staff has added a condition to address this proposal.

6. The applicant proposes planting a row of evergreen trees, minimum 6 ft. in height at the time of planting and spaced no more than fifteen feet apart on center, between the front property line and the building, along the western property line (next to an adjoining single-family dwelling). Care should be taken to avoid conflict with existing city sewer line crossing the property.

7. The zoning ordinance allows a conditional zoning district to deviate from the city's predetermined land use requirements. The only deviation identified is not providing additional front yard landscaping to the site at a typical ratio of one tree per 20' or one shrub per 10'. The applicant proposes preserving an existing tree or front yard landscaping. In addition, the landscaping described in item (6) would typically not be required for the land uses the applicant is proposing if the property were classified as general I1 district.

8. The applicant proposes limiting the hours of operations for all authorized uses: 7 a.m.-10 p.m.

9. The applicant states that the existing gravel parking area contains space for a minimum of 8 parking spaces and requests that gravel be permitted to meet minimum parking requirements. Continued use of this unpaved parking is allowed by the ordinance when a change of use occurs that requires no or limited expansion of parking. The existing building also features two bay doors to allow indoor parking of vehicles. Given the limitations on the types of uses proposed and the parking demands the proposed uses would create due to the site's configuration, staff does not have an objection to this proposal.

Mr. Evans 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: Neighborhood Residential

Small Area Plan: Northeast

Growth Strategy Map Designation: Primary Growth

LDP Goals/Policies that Support the Request:

Checklist Item 4: The proposed rezoning is compatible with surrounding land uses.

Checklist Item 5:	The proposed rezoning is compliant with the objectives of the Growth Strategy Map.
Checklist Item 8:	The request is an adaptive reuse of a vacant or unused lot or is an infill lot.
Checklist Item 12:	The property is located outside of the watershed area, or the rezoning request will not impose a significant, negative environmental impact.
4.1.6:	The city will participate in the National Flood Insurance Program and utilize its Flood Damage Prevention regulations to strongly discourage development in high-risk areas.

LDP Goals/Policies that Do Not Support the Request:

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

The City of Asheboro Planning Board considered the zoning map application and recommended approving the placement of the Zoning Lot into the requested I1 (CZ) zoning district. In making this recommendation, the planning board concurred with the planning staff's analysis of the consistency of the proposed zoning with the adopted comprehensive plans as well as the reasonableness of the proposal. The planning staff's analysis is summarized in the following indented paragraphs.

> A new conditional zoning district for this property allows for a broader range of appropriate and historically similar uses while increasing protections for neighboring residences and environmentally sensitive areas. The conditions offered and accepted by the applicant can aid in achieving multiple environmental and land use goals of the Land Development Plan, as well as goals related to the reuse of unused or underutilized existing development.
>
> The conditions also aid in reasonableness given the land use history and current development of the property, the general I1 zoning applied to multiple adjoining properties, the benefit to the property owner provided by the selective broadening of permitted land uses, and the benefit to neighbors and the surrounding community provided by land use and operational restrictions and additional proposed landscaping.
>
> Staff's recommendation is to approve the request.

In the event of council approval of the application, the planning staff offered suggested conditions to include as part of a conditional zoning ordinance amendment. These conditions are as follows:

(A) *The uses approved shall be limited to one of the following at any time: Contractors Office, Electronic, and Electrical Repair – Small, Exterminator, Furniture Refinishing and Repair, Interior Cleaning Services, Manufacturing,*

Processing, and Assembly – Light, Motor Vehicle Repair – Minor, Rental/Sales of Domestic Vehicles, Repair Services, Sign Painting, Warehouse.

(B) All parties involved in this request, including the owner, successors, heirs, and assigns, agree to the conditions and approved site plan.

(C) Prior to the issuance of a Zoning Compliance Permit, the owner shall provide city staff with written acceptance of any zoning district conditions discussed and accepted during the public hearing.

(D) It shall be the property owner's responsibility to obtain any and all permits and approvals required for the proposed land use, including but not limited to, NCDOT driveway permitting (if required by NCDOT).

(E) Prior to the issuance of a zoning compliance permit, a site plan demonstrating compliance with all applicable zoning regulations and conditions, as well as the applicable permit fee, shall be submitted. Subsequent change of occupancy permit(s) shall be obtained as required by Section 2.03(D(2)(a)(ii) of the Asheboro Zoning Ordinance.

(F) Prior to occupancy, the landscape buffer shall be installed as shown and described on the site plan reviewed and approved by the city council.

(G) Existing front yard landscaping shall be maintained as shown and described on the site plan reviewed and approved by the city council.

(H) No development or use activity shall occur in the Special Flood Hazard Area, including but not limited to, construction of new structures, addition of impervious surface, parking of vehicles, or storage of any inventory or materials.

(I) Use hours of operation shall be limited to 7:00 a.m. to 10:00 p.m.

(J) The existing gravel area may continue to be utilized to satisfy the minimum parking requirements for all approved uses, as allowed by Section 6.13(B)(5) of the Asheboro Zoning Ordinance. Expansion of a permitted use or the gravel area shall be evaluated for compliance with parking design standards.

(K) Accessory Open Storage shall not be permitted unless conducted in compliance with Screening of Open Storage regulations.

(L) <u>If a dumpster(s) for solid waste disposal is proposed or required, such dumpster(s) shall be screened with a solid wooden, vinyl, or opaque chain link fence consistent with Section 6.08(C)(4) of the Asheboro Zoning Ordinance</u>.

(M) The owner(s) 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 in the chain of title for the Zoning Lot.

Mayor Smith opened the floor for comments from the public. Donna Hughes and H.R. Gallimore presented comments in support of the request and accepted the staff proposed conditions. When no one else asked to speak, Mayor Smith transitioned to the deliberative phase of the process.

After engaging in deliberations about the zoning map amendment application, Council Member Bell moved, and Council Member Heath seconded the motion to

adopt the plan consistency statement below and to approve the requested zoning map amendment with the following multi-part motion.

1. A conditional zoning district for this property allows for a broader range of appropriate and similar uses while increasing protections for neighboring residences and environmentally sensitive areas. The conditions offered and accepted by the applicant aid in achieving multiple environmental and land use goals of the Land Development Plan, as well as goals related to the reuse of unused or underutilized existing development.

   The conditions also aid in reasonableness given the land use history and current development of the property. Additionally, the general I1 zoning applied to multiple adjoining properties, the benefit to the property owner provided by the selective broadening of permitted land uses, and the benefit to neighbors and the surrounding community provided by land use and operational restrictions and additional proposed landscaping.

2. In addition to the above-stated analysis, the city council agreed with the planning recommendation. Consequently, subject to the previously stated conditions, the zoning map amendment application seeking to place the Zoning Lot into the requested I1 (CZ) zoning district is hereby approved.

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

(c) Legislative Hearing (Case No. RZ-24-23): An application to rezone property located at 305 Old Liberty Road (Randolph County Parcel Identification Number 7762059321) from B2 General Commercial and R10 Medium-Density Residential to R10 on the entire parcel.

Mayor Smith opened the legislative hearing on the zoning map amendment application filed as Case No. RZ-24-23. Mr. Evans was the first speaker. In addition to entering into the records the notation that notice of this land use case had been advertised, posted, and mailed as required by North Carolina law, he gave an overview of the zoning map amendment application submitted by Innovision Group, LLC.

The land for which the above-described zoning has been requested is located at 305 Old Liberty Road. The property is approximately 0.4 of an acre in size, and is specifically identified by Randolph County Parcel Identification Number 7762059321 (this property will be hereinafter referred to as the "Zoning Lot").

In addition to the written staff reports, Mr. Evans utilized a slide show presentation in conjunction with his comments. The following points of information were noted.

1. The property is inside the city limits.

2. Old Liberty Road is a state-maintained minor thoroughfare.

3. The property is currently split-zoned with approximately 0.3 acres +/- closest to Old Liberty Road having B2 General Commercial zoning and 0.1 acres +/- having R10 Medium-Density Residential zoning.

4. The zoning ordinance describes the B2 General Commercial and R10 Medium-Density Residential districts as follows:

   B2: 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 street.

R10: Intended to provide regulations which will produce a moderate intensity of residential uses, usually single family or two family in character and served by central water supply and sewage disposal systems, plus the necessary governmental and other support facilities to service such urban intensity living.

5. There was previously a manufactured home on the property, which was a legal nonconforming use.

6. The B2 district allows any use permitted in that district by right, including a broad range of commercial uses. The primary use by right in the R10 district is one single-family dwelling or one two-family dwelling on properties with at least 15,000 square feet.

Mr. Evans 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: Northeast

Growth Strategy Map Designation: Primary Growth

LDP Goals/Policies that Support the Request:

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)*

Checklist Item 5: Complies with Growth Strategy Map

Checklist Item 12-13: 12.) Property is located outside of the watershed area 13.) Property is outside of the Special Hazard Flood Area

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

LDP Goals/Policies that Do Not Support the Request:

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

The City of Asheboro Planning Board considered the zoning map amendment application and recommended placement of the Zoning Lot into the requested R10 zoning district. In making this recommendation, the planning board concurred with the planning staff's analysis of the consistency of the proposed zoning with the adopted comprehensive plans as well as the reasonableness of the proposal. The planning staff's analysis is summarized in the following indented paragraphs.

Despite the property's designation by the Proposed Land Use Map for commercial use, the requested R10 district is consistent with contiguous residential properties. Rezoning the property from its more

permissive current B2 commercial zoning classification to R10 zoning reduces the potential for land uses conflicts. Additionally, the R10 zoning designation provides additional housing opportunities in an established residential neighborhood in close proximity to area employers.

Considering the aforementioned analysis, staff believes that the proposed zoning map amendment is reasonable and in the public interest and recommends approval of the request.

Mayor Smith opened the floor for comments from the public. On behalf of the applicant, Jeff Davis presented comments in support of the request. When no one else asked to speak, Mayor Smith transitioned to the deliberative phase of the process.

After engaging in deliberations about the zoning map amendment application, Council Member Bell moved, and Council Member Trogdon seconded the motion, to adopt the plan consistency statement printed below and to approve the requested zoning map amendment with the following multi-part motion.

1. Despite the property's designation by the Proposed Land Use Map for commercial use, the requested R10 district is consistent with contiguous residential properties. Rezoning the property from its more permissive current B2 commercial zoning classification to R10 zoning reduces the potential for land uses conflicts. Additionally, the R10 zoning designation provides additional housing opportunities in an established residential neighborhood in close proximity to area employers.

   The council concluded that the zoning consistent with the comprehensive plan, reasonable, and in the public interest.

2. In addition to the above-stated analysis, the council agrees with the planning board's recommendation. Consequently, the zoning map amendment application seeking to place the Zoning Lot into the requested R10 zoning district is hereby approved.

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

10. Engineering Items:

(a) A petition received from Vuncannon Frazier, LLC

(i) Consideration of a Resolution Directing the City Clerk to Investigate the Annexation Petition

City Engineer Michael Leonard, PE, provided an overview of the annexation petition submitted by Vuncannon Frazier, LLC. The annexation petition pertains to a parcel of land located near 801 Hub Morris Road.

After reviewing the information provided by city staff, Council Member Burks moved, and Council Member Moffitt seconded the motion to approve/adopt the following resolution by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Swiers, and Trogdon voted aye. There were no dissenting votes.

RESOLUTION NUMBER 30 RES 12-24

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE AN ANNEXATION PETITION SUBMITTED BY VUNCANNON-FRAZIER, LLC

WHEREAS, Vuncannon-Frazier, LLC, a North Carolina limited liability company, (the "Petitioner") has submitted a petition requesting the annexation into Asheboro of a parcel of land (Randolph County Parcel Identification Number 7763544550) owned by the limited liability company on the northeast side of Hub Morris Road (North Carolina Secondary Road 2149); and

WHEREAS, the Petitioner's land for which annexation has been requested is not contiguous to Asheboro's primary city limits; and

WHEREAS, Section 160A-58.2 of the North Carolina General Statutes provides that the sufficiency of such a petition shall be investigated by the city clerk before further annexation proceedings 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 December 5, 2024.

/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-state action, the city clerk's office conducted an investigation of the annexation petition in advance of the council meeting and prepared the following certificate for council's review.

CERTIFICATE OF SUFFICIENCY

(Petition Requesting the Annexation of a Parcel of Land Owned by Vuncannon-Frazier, LLC)

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 Vuncannon-Frazier, LLC (the "Petitioner"). I further certify that the following paragraphs accurately state the information obtained during the course of my investigation of the annexation petition.

The Petitioner has requested the annexation into Asheboro of approximately 44.147 acres of land owned by the limited liability company and located on the northeast side of Hub Morris Road (the land for which annexation is sought will be hereinafter referred to as the "Annexation Parcel"). The Annexation Parcel is not contiguous to the primary corporate limits of the City of Asheboro.

Based on my investigation, I have concluded that all of the owners of the real property for which annexation has been requested have signed the prescribed petition. The petition appears to be sufficient to satisfy the provisions of Section 160A-58.1 of the North Carolina General Statutes.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Asheboro to make this certification effective as of December 5, 2024.

(CITY SEAL)

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

(ii) Consideration of a Resolution Setting the Date for a Public Hearing on the Question of Annexation

In light of the preceding council action and the submission of the certification from the office of the city clerk, Mr. Leonard then recommended adoption of a resolution setting the date for a public hearing on the questions of the requested annexation. Council Member Heath moved, and Council Member Bell seconded the motion to approve/adopt the following resolution by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Swiers, and Trogdon voted aye. There were no dissenting votes.

RESOLUTION NUMBER 31 RES 12-24

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

RESOLUTION SETTING THE DATE FOR A PUBLIC HEARING ON THE QUESTION OF ANNEXING A PARCEL OF LAND OWNED BY VUNCANNON-FRAZIER, LLC

WHEREAS, Vuncannon-Frazier, LLC, a North Carolina limited liability company, (the "Petitioner") has submitted a petition requesting the annexation into Asheboro of a parcel of land (Randolph County Parcel Identification Number 7763544550) owned by the limited liability company on the northeast side of Hub Morris Road (North Carolina Secondary Road 2149); and

WHEREAS, the Petitioner's above-identified parcel of land is not contiguous to the primary corporate limits of the City of Asheboro; and

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

WHEREAS, the city clerk has certified the sufficiency of the petition for proceeding with setting the date for a public hearing on the question of the requested annexation in accordance with Section 160A-58.2 of the North Carolina General Statutes.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that a public hearing on the question of annexing the territory shown on the plat attached to this Resolution as EXHIBIT 1 will be held in the council chamber on the second floor of Asheboro City Hall, 146 N. Church Street, Asheboro, North Carolina 27203 during a regular meeting of the Asheboro City Council that will begin at 6:00 p.m. on January 9, 2025; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that notice of the public hearing scheduled pursuant to 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 in open session during a regular meeting of the Asheboro City Council held on December 5, 2024.

/s/David H. Smith

David H. Smith, Mayor

ATTEST:

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

(b) An Asheboro Airport Authority Recommendation for the City Council to Take the Actions Necessary to Lease Space at the Asheboro Regional Airport for the Construction of a New Hangar

Mr. Leonard presented a recommendation from the Asheboro Airport Authority for the city council to take the actions necessary to lease space at the Asheboro Regional Airport for the construction and use of a new hangar by John Derksen with Dura-Built, LLC.

Recommended Terms & Conditions of Lease Agreement

Name of Lessee: John Derksen – Dura-Built, LLC

Area of Rental Space: 95 X 95 or 9,025 sq. feet

Lease Term: 30 years

Annual Rental Rate: $902.50 (annually)

Hangar Construction to begin within 120 days of execution of lease agreement.

Amount of Security Deposit at commencement of construction work - $2,500.00 which is fully refundable upon receipt of Certificate of Occupancy.

Confirm within thirty (30) days of completion of construction, lessee must convey hangar to the City of Asheboro.

State the purpose of the lease agreement.

Lessee has **NO** right to sublease hangar or any portion thereof – Without prior approval from the Asheboro Airport Authority.

Airport Authority approved flood lighting – dusk to dawn operation. (Same as other hangars)

Lessee shall bear all costs involving utilities to hangar, insurance and permits, and any cost of required repairs to its hangar and space pavement.

Lessee shall be responsible for a nine (9) inch thick concrete apron with a four (4) inch stone base from the lease premises to taxi lane.

Lessor shall **NOT** be liable for loss arising out of damage to or destruction of the hangar or its contents from any cause except such loss as may be recoverable under Lessor's standard liability insurance policy.

After the expiration of the initial lease term, Lessee will have first refusal to rent the hangar for a fee comparable to other hangars at the Asheboro Regional Airport.

Lessee shall maintain throughout the term of the lease the following insurance policies.

Insurance that will cover the replacement cost of the hangar or any portion thereof with the City of Asheboro named as loss payee; and

Insurance that will cover liability arising from premises, operations, airplane maintenance, contractual liability, and products/completed operations. The City of Asheboro shall be name as an additional insured on the policy. Limits of the liability policy shall be no less than $2,000,000.00.

ATTACHMENT B

REQUIREMENTS FOR HANGAR CONSTRUCTION

Lease-Building deeded to City of Asheboro upon completion of construction. Term dependent on construction. Thirty years maximum under state law.

Fee -$.10 per square foot per year payable to City of Asheboro.

Rules and Regulations apply same as other tenants.

Insurance to be provided by lessee. File with copy of deed.

Maintenance to be provided by Lessee.

Termination/resale of remaining lease is allowed.

First choice to Lessor.

Rent after expiration to be same as comparable hangars with the first choice of rental to Lessee.

Construction (All of the following at Lessee expense)

Building code approval for hangar and door – City of Asheboro Building & Inspection Department.

Two-hour fire wall required adjacent to existing or future hangars for full length of facing wall.

Building color to match other buildings in area.

Building to have gutters and adequate drainage.

Construction bond/insurance.

Site plan approval for hangar location relative to taxi lane and taxi way showing grades, drainage and paving and water runoff from roof and electrical service (underground) – City of Asheboro Engineering Department.

Paving and regressing.

Equip with required fire extinguishers.

Steps to follow:

1. Recommendation in principle by Asheboro Regional Airport Authority at regular meeting. Need building, door and site plans approved and building color.
2. City Council agreement at regular meeting.
3. FAA Form 7460 completion by Lessee and FAA approval.
4. Draw up lease agreement and sign.
5. Construction/inspection.
6. Occupancy/begin annual lease payments

ATTACHMENT C

Asheboro Regional Airport Hangar Specifications

1. TYPE II – A or B Metal Building Only

2. Height shall not exceed airport regulations.

3. Hangar shall be constructed in compliance with the most current edition of the North Carolina State Commercial Building Code.

4. A building permit must be obtained before construction begins.

5. All required inspection shall be requested and performed in a timely manner during construction.

Council Member Moffitt moved, and Council Member Bell seconded the motion to accept the recommendation from the Asheboro Airport Authority and directed city staff members to advertise and prepare the necessary documents to approve a lease during the regular meeting in January 2025. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Swiers, and Trogdon voted aye. There were no dissenting votes.

11. An Update on Pending Vacancies on the Asheboro Planning Board

Prior to the consideration of agenda item 11 and to eliminate a possible conflict of interest, Council Member Trogdon asked to be recused from participating in any discussion and possible council action pertaining to this agenda item. Council Member Bell moved, and Council Member Heath seconded the motion, to recuse Council Member Trogdon from participating in regards to agenda item 11. Council Members Bell, Burks, Heath, McCaskill, Moffitt, and Swiers voted aye. There were no dissenting votes.

Mr. Nutall reported that the Randolph County Board of Commissioners approved the appointment of Jacob Wilburn to the Asheboro Planning Board. Additionally, Mr. Nuttall recommended the appointment of Taylor Trogdon, Jr. as a member of the planning board. Council Member Bell moved, and Council Member Moffitt seconded the motion to appoint Taylor Trogdon, Jr. to the Asheboro Planning Board. Council Members Bell, Burks, Heath, McCaskill, Moffitt, and Swiers voted aye. There were no dissenting votes.

12. Proposed Revisions to a Lease Agreement with ZooKeepers Baseball LLC

Based on guidance provided during the November 2024 council meeting, City Attorney Jeff Sugg presented proposed revisions to a lease agreement between the City of Asheboro and ZooKeepers Baseball LLC. During some discussion, the council members requested that the annual rent begin at $2,000 instead of $1,000.

Council Member Bell moved, and Council Member Moffitt seconded the motion to approve the revised lease agreement with the modification of the annual rent beginning at $2,000 and to authorize the advertisement of the legal notice required to take final action on the lease during the regular council meeting in January 2025. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Swiers, and Trogdon voted aye. There were no dissenting votes. The revised lease agreement will be finalized and the necessary notices will be published. The agreement is pasted below.

STATE OF NORTH CAROLINA

LEASE AGREEMENT FOR THE NON-EXCLUSIVE USE OF MCCRARY PARK

COUNTY OF RANDOLPH

THIS LEASE AGREEMENT (the "**Agreement**"), entered into as of the last date of signature of the Parties hereto, is made by and between the **CITY OF ASHEBORO** (the "**City**"

or "Lessor"), a North Carolina municipal corporation with a mailing address of Post Office Box 1106, Asheboro, Randolph County, North Carolina 27204-1106, and **ZOOKEEPERS BASEBALL LLC** (the "**ZooKeepers**" or "**Lessee**"), a North Carolina limited liability company with a mailing address of Post Office Box 4036, Asheboro, Randolph County, North Carolina 27204-4036. The City and the ZooKeepers are collectively referred to herein as the "**Parties**."

WITNESSETH:

~~**WHEREAS,** the ZooKeepers desire to continue to lease the municipal corporation's McCrary Park, 138 Southway Road, Asheboro, North Carolina 27205, inclusive of the synthetic turf baseball field, bullpens, batting cages, ticket office, concession stands, permanent restroom facilities, press box, digital scoreboard and sound system, professional quality sports lighting, and paved parking for 260 +/- vehicles; and~~

~~**WHEREAS,** the ZooKeepers request to continue the leasing relationship with the City is rooted in the desire to continue to operate a collegiate summer baseball program; and~~

~~**WHEREAS,** the City and the ZooKeepers desire to provide the citizens of Asheboro and the surrounding areas with the opportunity to attend and view collegiate summer baseball and other amateur baseball games, including American Legion Baseball; and~~

~~**WHEREAS,** the Parties acknowledge and agree that the City may utilize McCrary Park for other recreation or City approved events, inclusive of accommodations that further the City's support of the Asheboro City School System's baseball program; provided, however, such additional activities shall not interfere with the ability of the ZooKeepers to operate a collegiate summer baseball program; and~~

WHEREAS, one of the assets owned and maintained by the City in furtherance of the recreation services offered by the municipal corporation is McCrary Park located at 138 Southway Road, Asheboro, North Carolina 27205; and

WHEREAS, the McCrary Park facility has a synthetic turf baseball field, bullpens, batting cages, ticket office, concession stands, permanent restroom facilities, press box, digital scoreboard and sound system, professional quality sports lighting, and paved parking for 260 vehicles, more or less; and

WHEREAS, the City utilizes McCrary Park as a venue for baseball events such as collegiate summer baseball and American Legion baseball in addition to providing a home field for the Asheboro High School baseball team; and

WHEREAS, the ZooKeepers have asked to continue the limited liability company's use of the McCrary Park facility to operate a collegiate summer baseball program, inclusive of other events throughout the year that will support the economic viability of the collegiate summer baseball program; and

WHEREAS, because the request is consistent with the municipal corporation's goals for the facility, the City is willing to lease McCrary Park on a non-exclusive basis to the ZooKeepers pursuant to the provisions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and other good and valuable consideration, the City, as Lessor, does hereby lease to the ZooKeepers, and the ZooKeepers hereby accept, as Lessee, the following described real property commonly known as McCrary Park (the three parcels or tracts of land described below will be hereinafter collectively referred as the "**Park**") for the ~~primary purposes of providing a home for the ZooKeepers baseball team and hosting collegiate summer baseball and related activities pursuant to the terms and conditions set forth and explained in this Agreement:~~ purpose of providing a home for the ZooKeepers baseball team and providing the limited liability company with opportunities to host other baseball events that support the company:

Parcel or Tract 1

Asheboro Township, Randolph County, North Carolina:

The real property and improvements known as the McCrary Park that are described in a special warranty deed, dated June 1, 2017, from Acme-McCrary Corporation/Sapona Manufacturing Company, Incorporated Employees' Fitness Center to the City of Asheboro. This special warranty deed was recorded on June 1, 2017, in the Office of the Register of Deeds for Randolph County, North Carolina (the "Randolph County Registry") in Book 2548, Page 883.

The above-described property was acquired by the Acme-McCrary Corporation/Sapona Manufacturing Company, Incorporated Employees' Fitness Center by instrument recorded in Book 1882, Page 607 in the Randolph County Registry. This parcel of land is currently identified by Randolph County Parcel Identification Number 7751347980.

Parcel or Tract 2

Asheboro Township, Randolph County, North Carolina:

All of the 1.3 acres of land, more or less, lying on the west side of North McCrary Street (North Carolina Secondary Road 1455) as described in a North Carolina General Warranty Deed recorded in Book 1835, Page 3073, Randolph County Registry.

For a back reference, see the instrument recorded in Book 1246, Page 1478, Randolph County Registry. This parcel of land is currently identified by Randolph County Parcel Identification Number 7751359117.

Parcel or Tract 3

Asheboro Township, Randolph County, North Carolina:

All of the 0.26 of an acre of land, more or less, described in a deed recorded in Book 2719, Page 2188, Randolph County Registry.

For a back reference, see Book 1754, Page 1136, Randolph County Registry. This parcel of land is currently identified by Randolph County Parcel Identification Number 7751354017.

THE TERMS AND CONDITIONS of the Agreement are stated below.

ARTICLE 1. PERMITTED USE

Section 1.01 This Agreement grants to the ZooKeepers, as Lessee, the non-exclusive use of the Park for a collegiate summer baseball program, specifically including playing baseball, baseball practices, promoting baseball, and any other ancillary events or activities approved by the City as compatible with the scheduling framework provided in this Article.

~~**Section 1.02** During the time period May 1 through August 15 of each year, the City will provide to the ZooKeepers the highest scheduling priority to operate the ZooKeepers and, in conjunction with the Kiwanis Club of Asheboro, American Legion baseball teams; provided, however, if the Asheboro High School baseball team qualifies for the playoffs, the school team is authorized to utilize the Park in a manner that is compatible with the ZooKeepers home schedule.~~

~~**Section 1.03** The City's Recreation Services Department shall work in a good faith effort to avoid scheduling conflicts at the Park by coordinating ZooKeepers events and other events that are not part of operations conducted by the ZooKeepers. If, during any time period, a scheduling conflict arises between ZooKeepers events and any other events~~

~~proposed for the Park, the City of Asheboro Recreation Services Director (the "**Director**") is authorized to resolve the scheduling conflict by reviewing the available information and making a final decision that is in the best interests of the City. This decision-making process is to be guided by the principle that, in addition to providing a home for summer collegiate baseball and the American Legion baseball teams, the city is committed to utilizing the Park as a venue for recreation programming, incentivizing scholastic play in the community, and bringing visitors to the Asheboro community. To facilitate informed decision making, the ZooKeepers shall provide the Director, as soon as practicable each year, with up-to-date schedules for proposed games, practices, and events so that Park scheduling can be managed in an efficient manner.~~

Section 1.02 The authority to grant approval on behalf of the City for ancillary events or activities and to resolve scheduling conflicts at the Park is vested in the City of Asheboro Recreation Services Director (the "**Director**"). The exercise of this scheduling authority shall be guided by the framework established in the following Sections 1.03 and 1.04 of this Agreement.

Section 1.03 During the period of May 1 through August 15 of each year, the highest scheduling priority is given to the ZooKeepers for the team's season; provided, however, American Legion baseball and the Asheboro High School baseball team are authorized to use the Park. The Director shall resolve any scheduling conflicts that might arise, specifically including any scheduling overlap that might occur if the Asheboro High School baseball team participates in the playoffs.

Section 1.04 Outside of the above-listed range of dates set aside for the team's season, the Lessee is authorized to use the Park for other baseball events and activities. The Director is authorized and directed to work in a good faith effort to resolve scheduling conflicts that impede Lessee's use of the Park for ancillary baseball events. For purposes of illustration and without limitation, Lessee is authorized to use the Park for events such as the Asheboro ZooKeepers Fall Baseball League, the ZooKeepers Classic High School Baseball Tournament, and the ZooKeepers Youth Baseball Camps. If a scheduling conflict arises between Lessee's events and other events proposed for the Park, the Director shall resolve the scheduling conflict by reviewing the available information and making a final decision that is in the best interests of the City. This decision-making process is to be guided by the principle that, in addition to providing a sustainable home for the collegiate summer baseball program, the Park is a venue for recreation programming, incentivizing scholastic play in the community, and bringing visitors to the Asheboro community. To facilitate effective schedule management, Lessee shall provide the Director, as soon as practicable, with up-to-date schedules for proposed games, practices, and events.

ARTICLE 2. TERM

The term of this Agreement shall be ten (10) years, beginning on ~~July 1, 2024~~ January 1, 2025 (the "**Commencement Date**").

ARTICLE 3. RENT

Section 3.01 During the term of this Agreement, the ZooKeepers shall pay to the City, without previous demand, setoff, or deduction, an annual rent in the amount specified for each year:

(A)	Lease Year 1	=	~~$1,000.00~~ $2,000.00;
(B)	Lease Year 2	=	$2,000.00;
(C)	Lease Year 3	=	$3,000.00;
(D)	Lease Year 4	=	$3,000.00;
(E)	Lease Year 5	=	$3,000.00;
(F)	Lease Year 6	=	$5,000.00;
(G)	Lease Year 7	=	$5,000.00;
(H)	Lease Year 8	=	$5,000.00;
(I)	Lease Year 9	=	$5,000.00; and
(J)	Lease Year 10	=	$5,000.00.

Section 3.02 The entirety of the annual rental amount specified in Section 3.01(A) for Lease Year 1 shall be due and payable in good funds upon execution of this instrument. Thereafter, the entirety of the annual rental amount specified for each of the lease years shall be due and payable in good funds within thirty-one (31) calendar days of each anniversary of the Commencement Date. All rental payments shall be paid to the City at the address set out in Article 17 of this Agreement or at such other place as may be designated by the City from time to time. Delivery and payment of rent shall be deemed made only upon actual receipt by the City of the applicable rent payment in good funds.

Section 3.03 In consideration of the limited amount of rental charged to the ZooKeepers each lease year, the Parties have agreed to enter into a ~~GRANT OF COMBINED RIGHT OF FIRST OFFER AND RIGHT OF FIRST REFUSAL~~ GRANT OF RIGHT OF FIRST REFUSAL designed to facilitate the long-term use of the Park for a collegiate summer baseball program. The template for the granting of these rights to the City is attached to this Agreement as EXHIBIT 1. A grant of rights instrument that conforms in every material respect to the instrument attached as EXHIBIT 1 shall be executed contemporaneously with the execution of this Agreement. A breach by the Lessee of the Right of First Refusal granted pursuant to this Agreement shall be a noncureable default that will entitle the City to declare the Lessee in default and take immediate action to enforce the City's rights as Lessor under Article 14 of this Agreement.

ARTICLE 4. STAFFING

The ZooKeepers shall, at the sole expense of the limited liability company, be responsible for all of the staffing of the Park, specifically including without limitation the parking lot, field, and related facility positions that have to be staffed for ZooKeepers events that fall within the scope of Article 1 of this Agreement.

ARTICLE 5. ALTERATIONS OR IMPROVEMENTS

No alterations, improvements, or structural changes of any kind may be made to the Park without the express written consent of the City. If consent is sought by the ZooKeepers for alterations, improvements, or structural changes of any kind to the premises, the decision as to whether or not to grant such consent shall be within the sole discretion of the City. Furthermore, such consent may be conditioned on the acceptance and compliance of the ZooKeepers with any conditions deemed necessary and proper by the City.

ARTICLE 6. CONCESSIONS AND CONCESSION FACILITIES

The ZooKeepers shall have the exclusive right to operate concessions at ZooKeepers events that fall within the scope of Article 1 of this Agreement. When operating the concessions operations, the ZooKeepers shall be responsible, without any assistance from the

City, for performing all of the operational tasks and bearing all of the costs associated with such operations. In addition to staffing the concession operations, the tasks and costs that are the responsibility of a concessions operator other than the City include, but are not limited to, purchasing and maintaining equipment, products, and/or inventory. Furthermore, the concessions operator shall be responsible for operating the concession facilities in a sanitary manner and for obtaining and maintaining all necessary and appropriate permits.

ARTICLE 7. NOVELTY SALES

The ZooKeepers shall have the exclusive rights to operate the novelty sales for ZooKeepers events that fall within the scope of Article 1 of this Agreement and to retain the revenue derived from these sales.

ARTICLE 8. PROMOTION AND ADVERTISING

The ZooKeepers shall have the exclusive right to sublet advertising media at the Park and to retain the revenue derived therefrom. All such advertising media shall consist of either existing advertising media or shall be approved by the City prior to installation; such approval shall not be unreasonably withheld. Furthermore, the ZooKeepers shall have exclusive radio and television broadcast rights and privileges for all ZooKeepers events that fall within the scope of Article 1 of this Agreement and to all revenues derived therefrom. Notwithstanding any other text found herein, no provision of this Agreement shall be construed in a manner that limits or impairs to any degree the exclusive right of the City to grant sponsorship/naming rights for city-owned property.

ARTICLE 9. INSURANCE

At all times during the term of this Agreement, the ZooKeepers shall, at the limited liability company's own expense, maintain and keep in full force and effect liquor liability coverage as well as general liability insurance against claims for bodily injury, death, or property damage occurring on or about the demised premises with a per occurrence limit of not less than one million dollars ($1,000,000.00). Throughout the term of this Agreement, the City shall be named as an additional insured in any policies obtained by the ZooKeepers as a consequence of the requirements imposed by the preceding sentence. Furthermore, the City will be furnished annually with a Certificate of Insurance demonstrating the ZooKeepers compliance with this Article, and all policies shall provide for thirty (30) days advance written notice to the City of material change, cancellation, or non-renewal of said policies.

ARTICLE 10. UTILITIES

All utilities (electricity, water, and sewer) shall remain in the name of the City, and the City shall pay these utility charges.

ARTICLE 11. MAINTENANCE/CLEAN-UP RESPONSIBILITIES

Section 11.01 The City shall be responsible for field maintenance required for ZooKeepers games and practices prior to the commencement of a game or a practice session. Such maintenance includes grooming the synthetic field turf. However, the ZooKeepers shall be responsible for any infield maintenance required during a game or during a double header.

Section 11.02 The City shall be responsible for regular mowing of the surrounding areas during the season.

Section 11.03 The City shall be responsible for cleaning up the Park's facilities, including without limitation the fields, grandstands, restrooms, press box, and parking areas, after each ZooKeepers event. Solid waste collected by ZooKeepers staff during games shall be deposited in plastic bags in accordance with the rules and regulations governing the bagging and placement of solid waste for removal by the City's environmental services department.

Section 11.04 The City shall be responsible for the removal of the properly bagged solid waste from the premises.

ARTICLE 12. INDEMNIFICATION

The ZooKeepers hereby promise and agree to hold harmless and indemnify the City against any and all liabilities, costs, losses, damages, injuries, claims, judgments, or awards, including without limitation attorney fees, court costs, and costs incidental to any litigation, arising out of or resulting from (a) the use or occupancy of the premises by the ZooKeepers; (b) any injury or damage happening on or about the premises that is caused by the negligent act(s) or omission(s) of the ZooKeepers or one of the limited liability company's officers, employees, agents, or representatives (whether paid or unpaid); (c) any breach of the terms of this Agreement; or (d) failure on the part of the ZooKeepers to comply with any law or governmental regulation.

ARTICLE 13. SUBLEASING/ASSIGNMENT

With the exception of the revenue generating activities authorized in Article 8 of this Agreement, the ZooKeepers shall not sublet or assign this Agreement without the prior written consent of the City. The City reserves the right to refuse, with or without cause, to grant any such consent.

ARTICLE 14. TERMINATION IN EVENT OF DEFAULT

Section 14.01 With the exception of a breach by the Lessee of Section 3.03 of this Agreement, if ~~If~~ either the City or the ZooKeepers shall fail to perform, keep, and observe any of the terms, covenants, and conditions contained within this Agreement, and shall remain in default thereof for a period of thirty (30) days after written notice from the party not in default calling attention to such default, the party not in default may declare this Agreement terminated and canceled. In the case of the City, the City may take possession of the Park without additional notice and without prejudice to any other legal remedy that it might have available to it on account of default by the ZooKeepers.

Section 14.02 In the event of Lessee's breach of the grant of rights specified in Section 3.03 of this Agreement, the City, without further notice or demand, may terminate this Agreement without any right by Lessee to reinstate its rights by payment of any amount due or other performance of the terms and conditions hereof. Upon such termination, Lessee shall immediately surrender possession of the Park to the City. The City may take the actions authorized by this Section without prejudice to any other legal remedy that it might have available to it as Lessor on account of default by the ZooKeepers.

Section 14.03 Upon termination of this Agreement, the City as Lessor may immediately or anytime thereafter re-enter the Park and remove Lessee, including all persons and personal property, from the premises. In the event of any such re-entry, the Lessee waives all claims for damages which may be caused by the re-entry of the Lessor and will save the Lessor harmless from any loss, cost, or damage suffered by the Lessee by reason of such re-entry.

ARTICLE 15. WAIVER OF LIABILITY

The ZooKeepers shall maintain the limited liability company's own property insurance with coverage against theft or damage to any and all personal property that the company stores in or about the Park. The limited liability company assumes all risk and responsibility in connection with the safekeeping of all of its equipment and personal property. Furthermore, the ZooKeepers agree to hold the City harmless for any damage of whatever nature occurring to said property while it is located on the premises of the Park.

ARTICLE 16. BINDING ON SUCCESSORS AND ASSIGNS

All covenants and agreements of this Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the City and the ZooKeepers.

ARTICLE 17. NOTICES

All notices required to be given or authorized to be given by any party pursuant to this Agreement shall be in writing and shall be served personally or by certified mail, return receipt requested, with postage prepaid and addressed as detailed below.

To the City:
City of Asheboro
146 North Church Street
Post Office Box 1106
Asheboro, North Carolina 27204-1106
Attention: City Manager

To the ZooKeepers:
ZooKeepers Baseball LLC
Post Office Box 4036
Asheboro, North Carolina 27204-4036
Attention: Ronnie Pugh, Manager

ARTICLE 18. AMENDMENT OF AGREEMENT

This Agreement may be amended only by written instrument duly authorized and executed by the Parties.

ARTICLE 19. SEVERABILITY OF AGREEMENT

If any provision of this Agreement shall be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of the Agreement, and this Agreement shall be enforced as if such invalid and unenforceable provision had not been contained herein.

ARTICLE 20. COUNTERPARTS OF AGREEMENT

This Agreement may be executed in several counterparts, and any such counterparts shall be regarded for all purposes as an original.

ARTICLE 21. SURVIVABILTY OF AGREEMENT PROVISIONS

The representations, warranties, and indemnification provisions contained herein shall survive the termination of this Agreement.

ARTICLE 22. NO WAIVER OF AGREEMENT PROVISIONS

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

ARTICLE 23. APPLICABLE LAW

This Agreement shall be governed and construed under and pursuant to the laws of the State of North Carolina.

ARTICLE 24. ENTIRETY OF AGREEMENT

This instrument sets forth the entire agreement and understanding of the parties with respect to the subject matter of the Agreement and supersedes all prior arrangements and communications between the Parties.

ARTICLE 25. INFORMED AND VOLUNTARY EXECUTION

Each party herein expressly represents and warrants to all other Parties hereto that (a) before executing this instrument, said party has fully informed itself of the terms, contents, conditions, and effects of the Agreement; (b) said party has relied solely and completely upon its own judgment in executing this instrument; (c) said party has had the opportunity to see and has obtained the advice of counsel before executing this instrument; (d) said party has acted voluntarily and of its own free will in executing this instrument; (e) said party is not acting under duress, whether economic or physical, in executing this instrument; and (f) this Agreement is the result of arm's length negotiations conducted by and among the Parties and their respective counsel.

ARTICLE 26. JOINT NEGOTIATION AND DRAFTING

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

ARTICLE 27. HEADINGS

The headings are for convenience and reference only and in no way define and limit the scope and content of this Agreement or in any way affect its provisions.

ARTICLE 28. AUTHORIZATION TO EXECUTE AGREEMENT

By signature below, the Parties represent and warrant that the undersigned are authorized to enter into this Agreement.

IN WITNESS WHEREOF, the Parties have executed this instrument as of the dates written below.

CITY OF ASHEBORO:

By: _____
Signature of Mayor David H. Smith

Date: _____
Printed Date of Execution

ZOOKEEPERS BASEBALL LLC:

By: _____
Signature of Authorized Official

Name: _____
Printed Name of Authorized Official

Title: _____
Printed Title of Authorized Official

Date: _____
Printed Date of Execution

13. Upcoming Events and Items Not on the Agenda

During this portion of the meeting, Mr. Ogburn announced that the North Carolina Department of Transportation (NCDOT) has evaluated the removal of traffic signals at certain intersections in Asheboro. According to NCDOT, signals are not warranted at the following three intersections: Church Street and Kivett Street; Park Street and Kivett Street; and Park Street and Sunset Avenue. The department would like to remove the existing signals at these locations and convert each location to an "All-Way Stop." City staff will share any feedback with NCDOT.

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

There being no further business, the meeting was adjourned at 9:38 p.m.

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

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