

**REGULAR MEETING
ASHEBORO CITY COUNCIL
COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, FEBRUARY 4, 2010
7:00 p.m.**

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

David H. Smith) – Mayor Presiding

Talmadge S. Baker)
Clark R. Bell)
Edward J. Burks)
Stuart B. Fountain) – Council Members Present
Michael W. Hunter)
Walker B. Moffitt)

Linda H. Carter) – Council Member Absent

John N. Ogburn, III, City Manager
Edsel L. Brown, Code Enforcement Officer
Dumont Bunker, City Engineer
Richard L. Cox, Jr., Community Planning and Development Department Intern
Holly H. Doerr, City Clerk/Senior Legal Assistant
John L. Evans, Planner
Casandra M. Fletcher, Marketing Specialist
R. Wendell Holland, Jr., Zoning Administrator
Justin T. Luck, Community Planning and Development Department Intern
R. Reynolds Neely, Jr., Planning Director
Deborah P. Reaves, Finance Director
Jonathan M. Sermon, Recreation Services Superintendent
James W. Smith, II, Fire Chief
Jeffrey C. Sugg, City Attorney
Kermit D. Williamson, Sanitation Superintendent
Rickey D. Wilson, Chief of Police

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 Silence and Pledge of Allegiance.

After a moment of silence was observed in order to allow council members, staff, and guests to collect their thoughts and private meditations, Mayor Smith asked everyone to stand and repeat the pledge of allegiance.

3. Appearance and recognition of guests and citizens.

Mayor Smith welcomed everyone in attendance and recognized four (4) Boy Scouts from Troop 525 who were in attendance as a requirement for the Communication Merit Badge.

4. Presentation of service side arm and awards to Master Police Sergeant Marcus E. Tolbert in recognition of his service to the City of Asheboro from June 22, 1987 to December 31, 2009.

Chief Wilson presented Master Police Sergeant Marcus E. Tolbert with a plaque that included his badge as a token of gratitude for his loyal service to the City of Asheboro as a police officer from June 22, 1987 until December 31, 2010. Additionally, Chief Wilson presented Master Police Sergeant Tolbert with his service side arm that he carried at the time of his retirement.

5. Presentation by Dr. Robert Shackelford, President of Randolph Community College, concerning the 1/4 cent sales tax referendum.

Dr. Robert Shackelford, President of Randolph Community College, asked for the Council's support of a one-quarter cent sales tax referendum to help fund Randolph Community College capital needs. This referendum will take place on March 2, 2010, with early voting to take place on February the 11th through the 27th, 2010.

Upon motion by Mr. Burks and seconded by Dr. Fountain, Council voted unanimously to express its support for approval of the one-quarter cent sales tax referendum.

6. Presentation of fiscal year end audit report by Mr. Steve Hackett, CPA, of Maxton McDowell, CPA.

The City Council received from Mr. Steve Hackett, CPA the audit report for the fiscal year that ended June 30, 2009. During his presentation, Mr. Hackett reported that the city received a "clean audit." A copy of the written report submitted by Mr. Hackett is on file in the City Clerk's office.

7. Sunset Theatre Capital Campaign update:

(a) Presentation by Mr. David Winslow of The Winslow Group concerning fund raising for Asheboro's Next Act Sunset Theatre campaign.

Mr. David Winslow of The Winslow Group reported that the fund raising for the Sunset Theatre is going well and introduced Mr. David Jarrell, Co-Chair of *Asheboro's Next Act*. Mr. Jarrell updated the Council on the fund raising campaign efforts for the Sunset Theatre and presented a promotional video that will be used to promote the campaign that is scheduled to officially begin on April 19, 2010.

(b) Request by Asheboro's Next Act Sunset Theatre campaign leadership to amend Section 130.03 of the Code of Asheboro and the Cultural and Recreation Services Division Policy Manual to allow unfortified wine and malt beverages on the premises of the Sunset Theatre.

Mr. Bill Hoover, who is co-chair of the fundraising campaign for the renovation of the Sunset Theatre along with Ann M. Hoover and former mayor David Jarrell, requested that the City Council consider amending the Code of Asheboro, which includes the policy manual for the city's Cultural and Recreation Services Division, to allow unfortified wine and malt beverages on the premises of the Sunset Theatre facility. Mr. Hoover indicated that these specific types of beverages would be appropriate for certain events at the facility. For example, the fundraising campaign leadership would like to host events at the Sunset Theatre where unfortified wine and malt beverages might be made available for guests as the needs of the theatre are discussed.

In order to provide the Council with specific ordinance amendment text to discuss and debate, the city staff prepared a proposed amendment that would implement Mr. Hoover's request if the City Council decided to grant approval. This proposed ordinance also included text to facilitate specific discussion and debate about a request which was listed as item number 10 on the Council's meeting agenda.

This request listed under item number 10 was from Zimmerman Vineyards and pertained allowing locally grown wines to be sold at the Downtown Farmers' Market for off-premise consumption. The requests from Mr. Hoover and Zimmerman Vineyards impacted similar code provisions. This fact led the city staff to incorporate the requested changes into a single ordinance for consideration.

Consequently, Mayor Smith, with the general consent of the Council, moved agenda item number 10 up for discussion along with the request made by Mr. Hoover under agenda item number 7(b). Leslie Zimmerman then presented to the Council the request by Zimmerman Vineyards to be allowed to sell locally grown wines at the farmers' market for off-premise consumption.

After considering these requests and discussing the potential impacts of these requests on the operations of the city's Cultural and Recreation Services Division, the Council considered the adoption of the ordinance prepared by city staff in advance of the meeting. Upon motion by Mr. Bell and seconded by Mr. Moffitt, Council voted unanimously to adopt the following ordinance by reference.

07 ORD 2-10

AN ORDINANCE AMENDING THE CODE OF ASHEBORO AND THE POLICY MANUAL GOVERNING THE OPERATIONS OF THE CITY OF ASHEBORO CULTURAL AND RECREATION SERVICES DIVISION

WHEREAS, Section 130.03 of the Code of Asheboro regulates the consumption and possession of alcoholic beverages in certain locations; and

WHEREAS, a fundraising campaign designed to raise private funds for the renovation of the Sunset Theatre is in progress; and

WHEREAS, in furtherance of its efforts to renovate and revitalize the Sunset Theatre, the leadership for this fundraising campaign has asked the Asheboro City Council to allow unfortified wine and malt beverages on the premises of the Sunset Theatre facility; and

WHEREAS, concurrent with this request from the Sunset Theatre fundraising campaign leadership, the Asheboro City Council received a request from Zimmerman Vineyards to allow the retail sale at the Downtown Farmers' Market of unfortified wine produced in Randolph County by this family owned vineyard; and

WHEREAS, the Asheboro City Council has concluded that approving the above-listed requests is consistent with the sound operation of the Sunset Theatre and the Downtown Farmers' Market by the City of Asheboro Cultural and Recreation Services Division.

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

Section 1. Section 130.03 of the Code of Asheboro is hereby rewritten as follows:

§ 130.03 CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES IN CERTAIN LOCATIONS

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

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

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

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

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

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

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

(3) The possession or consumption of unfortified wine and malt beverages on the premises of the Sunset Theatre facility. The possession or consumption of unfortified wine and malt beverages on these premises will be lawful only if such possession or consumption is conducted in strict compliance with all applicable laws, ordinances, and regulations, specifically including without limitation the regulations adopted for the facility as part of the City of Asheboro Cultural and Recreation Services Division Policy Manual.

(4) The possession of unfortified wine on the premises of the Downtown Farmers' Market facility. The possession of unfortified wine on these premises will be lawful only if such possession occurs as part of the retail sale by an

approved Downtown Farmers' Market vendor of unfortified wine for off-premise consumption. The retail sale of unfortified wine shall be conducted in strict compliance with all applicable laws, ordinances, and regulations, specifically including without limitation the regulations prescribed for the Downtown Farmers' Market in the City of Asheboro Cultural and Recreation Services Division Policy Manual.

(F) *Penalties.* Any person who violates the prohibitions prescribed by subsections (A), (B), and (C) shall be guilty of a misdemeanor in accordance with Section 14-4 of the North Carolina General Statutes.

Section 2. The City of Asheboro Cultural and Recreation Services Division Policy Manual is hereby amended to provide as specified in the exhibits attached hereto as EXHIBIT 1 and EXHIBIT 2. All articles, sections, and provisions of the said manual that are not expressly addressed by EXHIBIT 1 and EXHIBIT 2 will continue in full force and effect without alteration. EXHIBIT 1 and EXHIBIT 2 are hereby incorporated into this ordinance by reference as if copied fully herein.

Section 3. All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 4. This ordinance shall be in full force and effect upon and after the date of its adoption.

This ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 4th day of February, 2010.

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

ATTEST:

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

EXHIBIT 1

ARTICLE XIV. SUNSET THEATRE

SECTION 14.1 APPLICATION

~~The Asheboro Parks & Recreation Department sanctions the use of the Sunset Theatre. This facility may be rented to individuals or other types of legal entities, subject to the terms and conditions listed herein and elsewhere within the Code of Asheboro~~

~~Application to use this venue shall be made on a prescribed form obtainable from the Asheboro Parks & Recreation Department. Applications are subject to the approval by the Parks & Recreation Director.~~

The City of Asheboro Cultural and Recreation Services Division strives to administer the Sunset Theatre facility in a manner that will provide the citizens of Asheboro with an opportunity for a high quality experience. Under general guidance from the Cultural and Recreation Services Director, designated city employees within the Cultural and Recreation Services Division will operate the facility in the best interest of the City of Asheboro.

Subject to the regulations prescribed herein, this facility may be rented to individuals or other types of legal entities for events or activities that are consistent with the mission of the Cultural and Recreation Services Division. The decision as to whether to rent the facility on any specific occasion is within the ultimate discretion of the Cultural and Recreation Services Director as he or she evaluates the needs and priorities of the division. In order to request the use of this facility, an applicant shall accurately complete in its entirety the application form prescribed by the Cultural and Recreation Services Director. This form can be obtained from employees in the Cultural and Recreation Services Division.

SECTION 14.2 RULES & REGULATIONS

- ~~1. Alcoholic beverages are prohibited. When noted on the prescribed application form as part of an approved event, the possession or consumption of unfortified wine and malt beverages is permitted on the premises in connection with and for the duration of the approved event so long as the possession or consumption of unfortified wine and malt beverages is undertaken in strict compliance with any conditions attached by the Cultural and Recreation Services Division to the~~

event approval as well as all applicable laws, ordinances, and regulations. No alcoholic beverages other than unfortified wine and malt beverages are permitted on the premises of the facility at any time.

2. Smoking and tobacco products are prohibited in the facility.
3. A \$100.00 security deposit must be paid at the time of reservation to secure a date. The fee shall be submitted to the ~~Parks & Recreation Department~~ Cultural and Recreation Services Division. Multiple dates will require multiple deposits.
4. The ~~Parks & Recreation~~ Cultural and Recreation Services Director reserves the right to co-sponsor an event.
5. Violation of this agreement shall result in forfeiture of security deposit fees.
6. The user fees, as described in the Schedule of Deposits, Fees, and Charges administered by the ~~Parks & Recreation Department~~ Cultural and Recreation Services Division, must be paid at least 48 hours before the start of the event, or the event will be cancelled. In the event advance tickets have been sold, lessee is responsible for reimbursing ticket holders or to honor any advance tickets sold for a future event sponsored by the same lessee. Lessee is responsible for advertising the cancellation.
7. Failure to pay the rental fee will result in denied access to the facility.
8. The maximum daily rental period is one 8 hour period (unless otherwise noted in the Schedule of Deposits, Fees, and Charges administered by the ~~Parks & Recreation Department~~ Cultural and Recreation Services Division), which includes load-in and load-out. At the latest, closing time shall be Midnight, unless otherwise stated. Failure to remove all items prior to the end of the specified rental period shall result in additional rental fees being charged.
9. In the event the facility is being rented for an event open to the public, or if admission is being charged, the person/organization renting the facility, hereinafter known as "lessee", shall pay for and maintain, at all times during the individual or entity's use of the facility, Comprehensive and General Liability insurance coverage with primary limits of liability of no less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury and property damage for any events open to the public. Furthermore, the City will be furnished with a certificate of insurance in a form satisfactory to the City. The certificate of insurance must be in the possession of ~~Asheboro Parks & Recreation~~ the City of Asheboro Cultural and Recreation Services Division at least, but not later than, 48 hours prior to the scheduled event. Failure to provide proof of insurance will result in the event being cancelled. Furthermore, the Applicant must agree to forever hold harmless and to fully indemnify the City and its personnel, agents, officials, and City Council, in both their official and individual capacities, from any and all judgments, liens, claims, assessments, demands, attorney fees, actions, and causes of action of any sort arising out of any damage or injury sustained by any person or entity by reason of any negligent or willful act or omission of the Applicant or its officers, employees, agents or contractors in connection with the Applicant's use of the Sunset Theatre.
10. If the event is closed to the general public and no admission fee is charged, a liability waiver shall be required in lieu of liability insurance coverage.
11. The Lessee must designate a representative who will be responsible for all phases of the event and who will be on site the entire time the event is taking place.
12. The maximum number of tickets sold for any one event shall be determined by the total number of seats available and set up of the facility.
13. Assignment: Lessee may not assign this lease agreement or any right contained in this lease agreement or sublet the Sunset Theatre or any adjoining property owned by the City of Asheboro.
14. ~~Asheboro Parks & Recreation~~ The Cultural and Recreation Services Division shall have by way of illustration and without limitation the right to deny the use of the facility if; **1)** It deems such use may result in damage to the ~~theater~~ facility, **2)** It deems such use is inconsistent with the policies of the ~~theater~~ division, **3)** It deems such use may lead to illegal activity at the ~~theater~~ facility, **4)** it deems such use may be detrimental to the character of the theatre as a multipurpose community facility.
15. A ~~Parks & Recreation Staff Member~~ Cultural and Recreation Services Division staff member will be in attendance to oversee and supervise all events held at the theatre. This staff member shall be equipped with a cell phone, first aid kit, be certified in First Aid & CPR, have the knowledge and ability to enforce ~~theater~~ facility rules & regulations, and knowledge of ~~operation~~ of the electrical, ~~hvac~~ HVAC, and lighting systems. This staff member shall have the authority to require anyone to leave the facility at any time for violation of the rules and regulations prescribed for the Sunset Theatre or for engagement in any other form of inappropriate conduct.

16. Lessee agrees to a "walk-through" inspection prior to use of the facility. Any pre-existing, damaged, broken or malfunctioning equipment, or furnishings shall be noted. A second walk-through shall be made at the completion of the event, and any variance shall be noted and appropriate charges will be billed and due within 5 business days.
17. No rice or birdseed is to be thrown inside the building.
18. As appropriate, the lessee is responsible for procuring the services of properly trained security/law enforcement personnel.
19. The Asheboro Police Department and ~~Asheboro Parks & Recreation Staff~~ Cultural and Recreation Services Division staff members shall have access to all areas of the facility at all times before, during, and after the event.
20. Lessee is responsible for cleaning the ~~theater~~ facility after the event. The ~~theater~~ facility must be ~~cleaned~~ restored to the condition it was in at the start of the lease period.
21. Failure to clean up as required shall result in loss of security deposit.
22. Cleaning supplies and trash can liners are available for use. Trash shall be disposed of in the appropriate location.
23. Items left after rental period will result in loss of Deposit and shall be deemed to be abandoned property subject to removal and disposition in the sole discretion of the City of Asheboro.
24. No decorations, posters, pictures, banners, or other such items shall be fastened to walls, windows, woodwork, doors, or curtains nor placed on stands in any area of the ~~Theatre~~ facility without approval.
25. No nails, tacks, staples, or screws of any kind may be applied to any part of the interior or exterior of the building.
26. Only approved tapes, such as blue painters tape and gaff tape may be applied to the stage floor.
27. No painting, wood cutting, or drilling shall be done on the stage or in the adjacent support areas without approval.
28. All scenery elements are to be flame retardant. The use of open flame (candles, matches, lighters, etc...) is expressly prohibited.
29. At no time shall any of the lessee's scenery, stage furniture, props, costumes, or equipment block any exits, loading doors, storage rooms, sidewalks, or parking areas.
30. Any stage props that have power must meet current electrical codes and are subject to inspection and approval. If such props do not pass inspection, they are subject to immediate removal from the facility.
31. Lessee is encouraged to provide posters, banners, and promotional material for the "Coming Attractions" Display Board at the Theatre entrance. Any items to be displayed or distributed are subject to approval.
32. Lessee shall not change the location or use of the lobby displays, easels, or signs without prior approval.
33. ~~Asheboro Parks & Recreation~~ The City of Asheboro Cultural and Recreation Services Division reserves the right to sell any and all concessions during any event held at the ~~Theatre~~ facility.
34. Lessee warrants that all copyrighted material to be performed has been duly licensed or authorized by the copyright owners or their representatives and agrees to indemnify and hold the City of Asheboro harmless from any and all claims, losses, or expenses incurred with regard thereto. Lessee shall pay all of the City of Asheboro's costs and expenses, including reasonable attorney's fees, incurred in defense of or as a result of any claims respecting copyrights and related matters.
35. Lessee shall be responsible for payment of any and all taxes, permits, fees, and other charges arising out of or connected with the use of the premises by lessee, and lessee shall save the City of Asheboro harmless from any and all obligations with respect to such taxes, permits, and other charges.
36. If lessee desires to sell any items in or near the ~~theater~~ facility, including but not limited to concessions items, videos, ~~cds, dvds,~~ CDs, DVDs, tapes, clothing, periodicals, etc., lessee must

obtain written permission at least 48 hours prior to the event. ~~Theater~~ The Cultural and Recreation Services Director may refuse with or without cause such permission.

37. If lessee is granted permission to sell concessions, lessee agrees to pay ~~Asheboro Parks & Recreation~~ the City of Asheboro Cultural and Recreation Services Division a 10% commission on any sales of any concession items sold. A joint inventory will be taken prior to and after the event.
38. If Lessee is approved to sell their own concessions, they shall provide their own workers to sell merchandise, concessions, and supplies, including, food, candy, drinks, cups, napkins, condiments, popcorn supplies, bags, ice, etc. ~~trash receptacles, etc...~~ ~~to be sold~~. Chewing gum will not be allowed for sale.
39. Lessee is responsible for providing the following:
 - a. ~~PA~~ A public address/sound system, accessories, and qualified operator. Any cords shall be secured, ~~safe for~~ for the safety of the public and in compliance with current electrical codes.
 - b. ~~Operator~~ An operator to run the spotlight, if needed.
 - c. Ushers for the event.
 - d. Ticket sellers /takers for the event.
 - e. Approved lighting equipment and qualified operators.
 - f. Money box and petty cash as needed.
40. All persons/groups renting the facility are responsible for knowing the location of all fire extinguishers and exits. A location map shall be provided.
41. Prior to each performance/event, an announcement must be made stating the location of restrooms and emergency exits.
42. Only ~~Parks & Recreation Staff~~ Cultural and Recreation Services Division staff members may adjust thermostats.
43. The ~~Parks & Recreation~~ Cultural and Recreation Services Director reserves the right to cancel any event, at any time, based on rental agreement violations.
44. The following are available for an additional fee, please contact ~~Asheboro Parks & Recreation~~ the City of Asheboro Cultural and Recreation Services Division for additional information:
 - a. Popcorn Popper \$25.00 per day.
 - b. Ticket Sellers/Takers (hourly charge).
 - c. Ushers (hourly charge).
 - d. Spotlight Operator (hourly charge).

EXHIBIT 2

ARTICLE XI. DOWNTOWN FARMERS' MARKET

SECTION 11.1 OPERATION AND CONTROL

The Downtown Farmers' Market and the facility in which it is operated shall be administered by the City of Asheboro Cultural and Recreation Services Division in a manner that will provide the citizens of Asheboro and Randolph County with an opportunity for a quality experience.

Under general guidance from the Cultural and Recreation Services Director, a designated city employee within the Cultural and Recreation Services Division will operate the facility in the best interest of the City of Asheboro.

SECTION 11.2 HOURS OF OPERATION

- A. The Hours of Operation of the Farmers' Market shall vary with the season and activities permitted.
- B. The Operating days shall be Tuesday, Thursday and Saturday. Operating Days may be added or deleted, depending on supply of produce. The Cultural and Recreation Services Director reserves the right to adjust hours of operation, as needed.

SECTION 11.3 FEES AND CHARGES

An annual membership is available for a nominal yearly fee. Membership affords the vendor one daily vendor fee per season and an assigned space for the season. On market days, all assigned member spaces will be reserved for one hour after the market opens. After this time limit has expired, spaces are available to eligible vendors on a first come, first served basis. Excepted as noted above, members and non-members will be required to pay a daily fee. Fees and charges shall be set by City Council and shall be incorporated into the Schedule of Deposits, Fees, and Charges Administered by the Cultural and Recreation Services Division.

SECTION 11.4 RULES AND REGULATIONS

- A. Designated city employees within the Cultural and Recreation Services Division shall enforce the rules and regulations specified herein on each day of the market's operation by inspecting produce and goods of each vendor to ensure compliance with the Grower's Certification and by documenting compliance or noncompliance of each vendor on a daily inspection form. The initials of staff on the daily inspection form shall signify the payment of any required fee, if applicable, and compliance with the Grower's Certification.
- B. All goods offered for sale by a vendor must be grown or made by the person, family, or company selling the product at the market. Only home grown or home made products from the following counties may be sold: Randolph, Alamance, Chatham, Davidson, Forsyth, Guilford, Moore, Montgomery, Richmond and Stanley.
- C. Designated employees within the Cultural and Recreation Services Division shall assign spaces to all vendors. Each vendor shall be responsible for keeping his or her assigned space clean during use and when leaving the facility.
- D. Excess produce must be removed from the market and not dumped in market facility trash containers.
- E. In order to be a vendor at the Farmers' Market, a prospective vendor must submit a properly completed application and the appropriate fees in good funds to the designated personnel in the City of Asheboro Cultural and Recreation Services Division.
- F. Staff shall review and approve each application. Applications should be received at least two weeks before the vendor plans to begin selling at the Market.
- G. All vendors must have received a "Grower's Certification" from their local cooperative extension service agent. In order to be deemed valid and in compliance with these rules and regulations, a Grower's Certification must be dated as having been issued on or after April 1 of the market season during which the vendor is currently offering goods for sale at the market. Additionally, each vendor must post his or her Grower's Certification for public inspection at the grower's assigned space while selling at the market.
- H. All Vendors shall display a sign bearing their name and address. This sign shall be prominently displayed by the vendor while selling at the market. The sign shall be provided by the City of Asheboro Cultural and Recreation Services Division.
- I. Prices must be posted for all items to be sold.
- J. Products that can be sold include:
 - a. ~~Vegetables grown from seeds, sets, or seedlings~~
 - b. ~~Fruits, nuts, or berries~~
 - c. ~~Plants grown from seed, seedling transplant, or cutting~~
 - d. ~~Bulbs~~
 - e. ~~Eggs~~
 - f. ~~Meats~~
 - g. ~~Dairy products~~
 - h. ~~Honey~~
 - i. ~~Cut or dried flowers~~
 - j. ~~Straw~~
 - k. ~~Preserves, pickles, relishes, jams, and jellies~~
 - l. ~~Baked goods baked by the seller~~
 - m. ~~Any other commodity or product reasonably determined by the Cultural and Recreation Services Director or his designee to fall within the range of commodities or goods produced by the agricultural sector of the economies in the counties of Randolph, Alamance, Chatham, Davidson, Forsyth, Guilford, Moore, Montgomery, Richmond and Stanley.~~
 - (a) Vegetables grown from seeds, sets, or seedlings;
 - (b) Fruits, nuts, or berries;

- (c) Plants grown from seed, seedling transplant, or cutting;
 - (d) Bulbs;
 - (e) Eggs;
 - (f) Meats;
 - (g) Dairy products;
 - (h) Honey;
 - (i) Cut or dried flowers;
 - (j) Straw;
 - (k) Preserves, pickles, relishes, jams, and jellies;
 - (l) Baked goods baked by the seller;
 - (m) Unfortified wine sold directly by the grower who produced the wine on vineyards located within the counties of Randolph, Alamance, Chatham, Davidson, Forsyth, Guilford, Moore, Montgomery, Richmond, and Stanley; and
 - (n) Any other commodity or product reasonably determined by the Cultural and Recreation Services Director or his designee to fall within the range of commodities or goods produced by the agricultural sector of the economies in the counties of Randolph, Alamance, Chatham, Davidson, Forsyth, Guilford, Moore, Montgomery, Richmond, and Stanley.
- K. No low-acid canned foods such as green beans, corn, peas, carrots, etc. may be sold. In addition, no canned tomato products may be sold.
- L. All products must be of top quality.
- M. All food must meet NCDA and local health regulations. Members selling prepared foods must provide verification of current NCDA inspection when submitting their application.
- N. Food items must be labeled prior to sale with at least the following information:
- a. Common or usual name of product.
 - b. Net contents, i.e.: net weight in ounces or pounds and ounces if the product is solid or semisolid; net contents in fluid ounces if the product is liquid.
 - c. List of ingredients in the product by decreasing order of predominance by weight of each ingredient.
 - d. Name, address including zip code and phone number of the person responsible for the product.
 - e. Date processed.
- O. Only standard canning jars with new rings and lids may be used.
- P. Home baked cakes, pies, cookies and breads may be sold except cream pies.
- Q. All products produced under certification such as organic, licensed meat, poultry, or dairy products or products requiring inspection, such as baked goods or preserves must display certification or license and have a copy on file with Staff.
- R. No live animals may be sold or given away at the market.
- S. No pets are allowed at the Farmers' Market.
- T. Any vendor selling meat, dairy, poultry, or other animal products that are regulated by the NCDA and/or USDA are responsible for satisfying any regulatory requirements prior to selling of product. Vendors must file a copy of Department of Agriculture Form MP-2 (Registration of Poultry and Meat Handlers) with the market manager and keep a copy of this license with them at all times while selling at the market. Vendors also must inform the Staff of any change in licensing status immediately upon receiving notice of a change. All products must be stored in a new or like new condition refrigerator or freezer.
- U. Scales should be the type that can be or is approved and certified by the NCDA.
- V. Any complaints, disputes, or violations of the rules shall be directed to the Staff for resolution.
- W. Neither the City of Asheboro nor its elected officials, officers, employees, agents or representatives, shall be responsible, in either an official or individual capacity, for loss through theft or otherwise of private property at the market. The Farmers' Market shall not be responsible for personal injuries or damages to individuals or personal property arising out of the actions or conduct of guests, invitees, or any type of third party not directly affiliated with the City of Asheboro.
- X. Each vendor shall be responsible for their own records, taxes, and compliance with all applicable regulations.

Y. Without limitation as to additional enforcement actions that may be taken as deemed appropriate by city officials in light of the nature of a specific offense, the following enforcement protocols will be utilized when goods are displayed/offered for sale in violation of these rules and regulations during a particular season:

- a. 1st Offense = A verbal warning will be issued to the offending vendor, and the goods displayed/offered for sale in violation of the rules and regulations must be immediately removed from the view of any member of the public. Goods subject to a verbal or written removal order cannot be sold at the market facility. Any vendor who refuses to comply with an order from a city employee assigned to operate the Downtown Farmers' Market to remove goods from display will be asked to leave the premises and will be guilty of trespassing if this order to leave the premises is not obeyed within the amount of time reasonably necessary to load all of the vendor's displayed items for transport. No vendor ordered to leave the facility due to a violation of the adopted rules and regulations is entitled to a refund of any fees that he or she may have paid in order to participate in the Downtown Farmers' Market.
- b. 2nd Offense = Upon discovery of a second violation of any of the rules and regulations prescribed for the market, a vendor will be ordered to immediately leave the facility with the entirety of his or her goods. Such a vendor will not be permitted to sell any goods at the Downtown Farmers' Market for a period of three (3) consecutive market days, inclusive of the date on which the second offense was discovered.
- c. 3rd Offense = Upon discovery of a third violation of any of the rules and regulations prescribed for the market, a vendor will be ordered to immediately leave the facility with the entirety of his or her goods. Such a vendor will not be permitted to sell any goods at the Downtown Farmers' Market for the remainder of the current season.

SECTION 11.5 VENDOR FEEDBACK

Farmers' Market meetings shall be held before and after the Farmers' Market season. The purpose of the meetings shall be to give Market participants the opportunity to voice their opinions and make suggestions of the operation of the market. Other meetings may be held on an as needed basis. The Cultural and Recreation Services Director shall preside at all meetings.

SECTION 11.6 FARMERS' MARKET FACILITY

1. ~~No Alcoholic beverages or drugs are permitted.~~ Except as authorized in Subsection J(m) of Section 11.4 of this Article, no alcoholic beverages or controlled substances, other than those prescription medications lawfully in the possession of an individual, are permitted on the premises of the facility. In order to remain within the exception to the general prohibition of alcoholic beverages on the facility's premises, the retail sale of unfortified wine pursuant to Subsection J(m) of Section 11.4 shall be conducted in strict compliance with all applicable federal, state, and local laws, ordinances, and regulations.
2. No pets, other than service animals, are allowed.
3. No flea market items may be sold or displayed at any time.
4. Yard Sales may not be held at the Facility.
5. Rental of the facility must be approved by the Cultural and Recreation Services Division.
6. Security deposit and rental fees shall be set by City Council.
7. Vendors requiring electricity shall provide their own extension cords properly rated to meet their electrical requirements.
8. No items may be attached to any area of the Farmers' Market structure, trees, etc.
9. Holding an event at the Farmers' Market without authorization shall subject the event to immediate termination and other enforcement actions as deemed appropriate by the Cultural and Recreation Services Director.

8. Consent Agenda:

Prior to Mayor Smith opening the floor for a motion to approve the Consent Agenda, Mr. Sugg noted that a clerical error on page five (5) of the minutes of the City Council's regular meeting that was held on January 7, 2010 needed to be corrected. Item 7(a) on page five (5) of the January 7, 2010 meeting minutes should have reflected that Council Members Baker, Burks, Hunter, and Moffitt voted no with regard to a motion to continue consideration of the requested amendment of the Asheboro Zoning Ordinance to another meeting. Instead, as presented, the minutes erroneously indicated that Council Members Baker, Fountain, Hunter, and Moffitt voted no. Upon motion by Mr. Baker and seconded by Mr. Hunter, Council voted unanimously to approve, with the correction noted above, the following consent agenda items:

- (a) **The minutes of the regular meeting of the City Council that was held on January 7, 2010.**
- (b) **The general account of the closed session that was conducted by the City Council on January 7, 2010.**
- (c) **A resolution sealing the general account of the closed session conducted on January 7, 2010.**

05 RES 2-10

**RESOLUTION TO SEAL THE GENERAL ACCOUNT OF A
CLOSED SESSION**

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

WHEREAS, pursuant to Section 143-318.11(a)(4) of the North Carolina General Statutes, the City Council of the City of Asheboro properly conducted a closed session on January 7, 2010, during a regular meeting, in order to discuss matters relating to the location or expansion of industries or other businesses in the City of Asheboro.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the general account of the closed session held by the City Council on January 7, 2010, is to be sealed so long as public inspection of the records would frustrate the purpose of the closed session; and

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

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on February 4, 2010.

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

ATTEST:

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

- (d) **The minutes of the special meeting of the City Council that was held on January 21, 2010.**
- (e) **An ordinance to amend the general fund fiscal year 2009-2010 for Fire Department SAFER Grant funds.**

08 ORD 2-10

ORDINANCE TO AMEND THE GENERAL FUND FY 2009-2010

WHEREAS, The City of Asheboro Fire Department was notified that their SAFER Grant request was approved (Grant #DWM2008-FF-00327) on September 18, 2009 and these funds would be available to offset the City of Asheboro salary and fringe benefit cost of three new fire fighters, and;

WHEREAS, the total salary and fringe benefit cost for three firefighters from date of hire of December 16, 2009 thru June 30, 2010 is estimated to be \$72,872, and;

WHEREAS, the City of Asheboro will be reimbursed an estimated \$65,584 (90% of cost in grant year 1) from SAFER grant funds in fiscal year 2010, and;

WHEREAS, these three fire fighters plus one additional firefighter, at an estimated salary and fringe benefit cost of \$18,001, will allow for departmental reorganization and bring the City of Asheboro Fire Department staffing closer to that needed for the projected third station, and;

WHEREAS, the budget as adopted requires amendment to reflect the appropriation of fund balance for this expense, and;

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

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

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

<u>Account #</u>	<u>Revenue Description</u>	<u>Increase</u>	<u>Amended Budget</u>
10-349-0301	SAFER Grant	65,584	89,584
10-399-0000	Fund Balance Appropriation	<u>25,289</u>	726,938
	Total Increase	90,873	

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

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>	<u>Amended Budget</u>
10-530-0200	Salaries & Wages	68,289	2,314,927
10-530-0702	Fringe: FICA	4,234	144,766
10-530-0703	Fringe: Medicare	990	33,856
10-530-0704	Fringe: Insurance	14,000	322,700
10-530-0705	Fringe: Retirement	<u>3,360</u>	116,692
	Total Increase	90,873	

Adopted this the 4th day of February 2010.

David H. Smith
David H. Smith, Mayor

ATTEST:

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

- (f) **The reappointment of Mr. Stephen R. Knight, Mr. Jack Cox, Mr. G. Ed Dunn, Mr. John A. McGlohon and Mr. James M. Rich, Jr. as members of the Asheboro Airport Authority for three (3) year terms beginning February 4, 2010.**
- (g) **Final approval of an ordinance granting a 15-year franchise to Morton and Sewell Land Company, LLC for the operation of a construction and demolition debris landfill at Gold Hill Road Landscape Supply and Landfill.**

ORDINANCE GRANTING A CONSTRUCTION AND DEMOLITION DEBRIS LANDFILL FRANCHISE TO MORTON AND SEWELL LAND COMPANY, LLC

WHEREAS, Morton and Sewell Land Company, LLC (hereinafter referred to as the "Franchisee") currently owns and operates a construction and demolition debris landfill (hereinafter referred to as the "Landfill") that is located at 385 Gold Hill Road, Asheboro, North Carolina and is commonly known as Gold Hill Road Landscape Supply and LCID Landfill; and

WHEREAS, the Landfill is located within the corporate limits of the City of Asheboro (hereinafter referred to as the "City"); and

WHEREAS, on August 10, 2006, the Asheboro City Council gave final approval to a franchise ordinance, which came into effect on October 17, 2006, granting the Franchisee a 5-year construction and demolition debris landfill franchise; and

WHEREAS, at the request of the Franchisee, staff members employed by the City have examined the level of service provided by the Franchisee since the current franchise ordinance came into effect and have also reviewed the documentation entitled "Application for Substantial Change Gold Hill Road Construction and Demolition Debris Landfill – Combined Cell Lateral Expansion" that was submitted by the Franchisee's engineer(s) to state regulators; and

WHEREAS, on the basis of this review of the available evidence, including the good standing of the Franchisee with state regulators, City staff members have recommended to the Asheboro City Council that the Franchisee be granted a slightly modified 15-year franchise to continue the operation of the existing construction and demolition debris landfill; and

WHEREAS, the City Council of the City of Asheboro has concluded that the granting of the staff recommended franchise is in the public's interest.

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

Section 1. Pursuant to and in accordance with Sections 130A-294 and 160A-319 of the North Carolina General Statutes, Morton and Sewell Land Company, LLC (hereinafter referred to as the "Franchisee") is hereby granted a franchise to operate a construction and demolition debris landfill located at 385 Gold Hill Road, Asheboro, North Carolina.

Section 2. The Landfill shall be operated as Gold Hill Road Landscape Supply and LCID Landfill under the direction of Alfred H. Morton of 2280 Stutts Road, Asheboro, North Carolina. The hours of operation shall be Monday through Friday from 7:00 a.m. until 5:00 p.m. and Saturday from 8:00 a.m. until 12:00 p.m.

Section 3. The Landfill shall have available for its use twenty-two (22) acres of land that are permitted in accordance with the laws of the State of North Carolina for use as a construction and demolition debris landfill. Approximately seventy-five (75) cubic yards of waste will be deposited into the Landfill per day each year. The Landfill has a total capacity of one million one hundred fourteen thousand (1,114,000) cubic yards, and it has an estimated life of twenty-five (25) or more years.

Section 4. By supplying the City with an electronic file entitled "Application for Substantial Change Gold Hill Road Construction and Demolition Debris Landfill – Combined Cell Lateral Expansion" that was submitted to state regulators and dated October 2009, the Franchisee has furnished the City with a facility plan for the Landfill that includes the boundaries of the proposed facility, the proposed development of the facility in 5-year operational phases, the boundaries of all waste disposal units, final elevations and capacity of all waste disposal units, the amount of waste to be received per day in tons, the total waste disposal capacity of the Landfill in tons, a description of environmental controls, and a description of any other waste management activities to be conducted at the facility as well as the proposed location of soil borrow areas, leachate facilities, and all other facilities and infrastructure, including ingress and egress to the facility. This information is sufficient under the provisions of Section 130A-294(b1)(2)(f) of the North Carolina General Statutes to properly grant a construction and demolition debris landfill franchise to the Franchisee. The above-referenced facility plan is hereby accepted by the City and is hereby incorporated into this ordinance by reference as if copied fully herein. A copy of the facility plan is on file in the city clerk's office and is available for inspection.

Section 5. Throughout the duration of the franchise granted by this ordinance, the Franchisee shall purchase and maintain a one million dollar (\$1,000,000.00) environmental liability insurance policy, a one million dollar (\$1,000,000.00) general liability insurance policy, and workers' compensation insurance coverage that complies with the applicable provisions of the North Carolina General Statutes. The City shall be named as an additional insured under the environmental liability insurance and general liability insurance policies.

On an annual basis, the City shall be furnished with Certificates of Insurance in a form satisfactory to the City for the purpose of verifying the existence of the insurance coverage required by this section. The insurance policies mandated by this section shall provide for thirty (30) days advance written notice of material change, cancellation, or non-renewal.

Section 6. The population to be served by the Landfill shall be primarily commercial contractors who specialize in construction and demolition activities. The main waste stream shall primarily come from the City of Asheboro, Randolph County, and from counties contiguous to Randolph County.

Section 7. As part of its efforts to reduce, reuse, and recycle as much solid waste as possible, the City has worked in a cooperative manner with Gold Hill Road Landscape Supply and LCID Landfill to dispose of the following materials: brush, tree trimmings, leaves, yard waste, and stumps as well as clean concrete, building materials, and construction and demolition materials. After these materials are taken to the facility by city personnel and/or others, the materials are processed in a variety of ways and, if possible, resold to the public. Therefore, the continued successful operation of Gold Hill Road Landscape Supply and LCID Landfill has a positive impact on the City's efforts to reduce, reuse, and recycle solid waste.

Under the City of Asheboro Solid Waste Management Plan that was adopted by the City on July 5, 2007, in accordance with Section 130A-309.09A of the North Carolina General Statutes, the Landfill is specifically cited as a crucial actor in assisting the city with the disposal of construction and demolition waste. The City's sanitation department does not pickup or haul construction and demolition waste. Therefore, the granting of the requested franchise so as to maintain a privately owned and properly permitted construction and demolition debris landfill is critical to providing cost-effective disposal options to meet the needs of the municipality's citizens.

Section 8. The waste accepted by the construction and demolition debris landfill shall be composed of waste or debris resulting from roofing, construction, remodeling, repair, or demolition operations on pavement, buildings, or other structures. In furtherance of the City's goal to promote and make available to its citizens cost-effective disposal options that are environmentally sustainable, the Franchisee is authorized, by way of illustration and not limitation, to accept waste containing asbestos. However, the Franchisee shall monitor the wastes offered to the Landfill and shall reject any unacceptable waste including without limitation organic/household waste, waste that has been in contact with petroleum, solvents, or chemicals, waste containing PCB's, and waste that has been in contact with pesticides or herbicides.

Section 9. The fee schedule for the Landfill is attached to this ordinance as Exhibit A and is hereby incorporated into this ordinance by reference as if copied fully herein. This fee schedule may be adjusted by the Franchisee on an annual basis in accordance with the Consumer Price Index - All Urban Consumers, U.S. City Average, All Items (not seasonally adjusted) as published by the U. S. Department of Labor, Bureau of Labor Statistics with an index base period of 1982-84 = 100. Such an adjustment shall be made on the 1st day of July of each year that this franchise is in full force and effect. On the adjustment date, the above-referenced fee schedule may be increased by a percentage equal to the cumulative percentage increase, if any, in the above-cited consumer price index (hereinafter referred to as the "CPI"). The cumulative percentage increase in the CPI means the percentage increase, if any, in the CPI for the month of May immediately preceding the adjustment date over the CPI recorded for the month of May during the preceding calendar year.

If the CPI ceases to use as the basis of calculation the standard of 1982-84 = 100, or if a change is made in the items contained in the CPI, or if the CPI is altered, modified, converted, or revised in any other manner, then the foregoing computations shall be made with the use of such conversion factor, formula, or table for converting the CPI as may be published by the Bureau of Labor Statistics. If the Bureau of Labor Statistics does not publish such conversion information, then the foregoing computations shall be made with the use of a conversion factor that adjusts the modified CPI to the figure that would have been calculated had the manner of computing the CPI not been altered.

Section 10. The franchise granted by this ordinance shall have a term of fifteen (15) years.

Section 11. The Franchisee agrees to operate the Landfill in accordance with all applicable laws and regulations and shall comply with any permit(s) issued by the State of North Carolina.

Section 12. The Franchisee shall require anyone using the Landfill to comply with Section 20-116(g) of the North Carolina General Statutes.

Section 13. The effective date of this franchise ordinance shall be February 26, 2010.

Section 14. All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed effective February 26, 2010.

This ordinance was adopted by the Asheboro City Council during a regular meeting while in open session and after a first reading of the ordinance on the 7th day of January, 2010.

This ordinance was adopted by the Asheboro City Council during a regular meeting while in open session and after a second reading of the ordinance on the 4th day of February, 2010.

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

ATTEST:

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

CERTIFICATION

I, Holly H. Doerr, City Clerk for the City of Asheboro, North Carolina, do hereby certify that this ORDINANCE GRANTING A CONSTRUCTION AND DEMOLITION DEBRIS LANDFILL FRANCHISE TO MORTON AND SEWELL LAND COMPANY, LLC, with an effective date of February 26, 2010, was duly passed by the City Council of the City of Asheboro during the first reading of the ordinance on the 7th day of January, 2010, and during the second reading of the ordinance on the 4th day of February, 2010.

WITNESS my hand and seal, this _____ day of February, 2010.

Holly H. Doerr, City Clerk

EXHIBIT A

Price List for Construction and Demolition Debris:

- a. Standard Charge = \$31.00 per ton
- b. Roofing = \$36.00 per ton
- c. Clean Concrete = \$10.00 per ton
- d. Asbestos = \$45.00 per cubic yard
- e. Minimum Charge = \$10.00 per ton

*This price list, as with the franchise ordinance itself, only addresses the Construction and Demolition Debris Landfill charges and is not inclusive of all user charges incurred at Gold Hill Road Landscape Supply and LCID Landfill.

9. Public Comment Period.

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

10. Request from Zimmerman Vineyards to amend Section 130.03 of the Code of Asheboro to allow locally grown wines to be sold at the Downtown Farmers' Market for off premise consumption.

[This item was moved by Mayor Smith to be considered with agenda item number 7(b).]

11. Communication items:

(a) Approval of social media policy.

Ms. Fletcher presented and recommended adoption, by reference, of a social media policy for the City of Asheboro.

Upon motion by Mr. Baker and seconded by Mr. Burks, Council voted unanimously to adopt the social media policy.

[A copy of the adopted social media policy is on file in the City Clerk's office.]

(b) Approval of proposal for government Channel 8.

Ms. Fletcher presented a proposal that the city should manage of its government access channel, Time Warner Channel 8. By doing so, the city would be able to provide a variety of information about programs, services, upcoming meetings, and special events sponsored by the City of Asheboro. This information would be available to citizens 24 hours a day in an electronic bulletin board format. Information regarding private businesses or non-governmental agencies would not be posted on this channel. WKXR has agreed to the city's utilization of its audio broadcast for this channel.

Additionally, Ms. Fletcher recommended that equipment from Mega Hertz be purchased in order to facilitate this channel. The cost of the equipment is approximately \$4,183.90.

Upon motion by Mr. Burks and seconded by Dr. Fountain, Council unanimously approved that the city assume responsibility for Time Warner Channel 8 as the government access channel, and purchase the above-referenced equipment.

Mr. Bell then requested that the city explore the idea of requesting that Time Warner Cable designate channel one (1) and channel five (5) as community bulletin board channels or public access/educational/governmental channels.

12. Update on curbside recycling.

Mr. Kermit Williamson, the city's Sanitation Department Superintendent, gave an update on the city's recycling program. Mr. Williamson reported that cans have been distributed to four (4) routes, and that cans are currently being distributed to a fifth route. The first collection for this fifth route is scheduled for February 18, 2010. Additionally, Mr. Williamson reported that a sixth route will be added once the city receives an additional 250 cans.

Mr. Kim Markham of Asheboro Recycling Center reported that the city's recycling efforts have been very successful since the city began the curbside recycling program.

13. Staff report of results of rental inspection program research.

Mr. Eddie Brown, the city's Code Enforcement Officer, reported on his research of a rental inspection program. Mr. Brown met with Greensboro officials in regards to their Rental Unit Certificate of Occupancy (RUCO) ordinance. With this program, Greensboro inspectors check rental units, both occupied and vacant, for compliance with the International Property Maintenance Code (IPMC). Units that pass inspection are then issued a rental unit certificate of occupancy.

Mr. Brown further reported that complaints filed on a RUCO-certified property will be investigated, and if violations are found, then the owner of the property has approximately 45 days to correct such problems. If corrections are not made, then the certificate is revoked and the unit must be vacated until corrections are made and the certificate is restored. The cost first restoration of the certificate is approximately \$250 and \$500 the second time it is restored.

Mr. Ogburn noted that this is a preliminary study, and that city staff will continue researching possible standards in order to develop a similar policy for Council's review in the future.

14. Consideration of Community ID Proposal, which is a retail development strategy, submitted by the Buxton Company.

Mr. Ogburn presented an agreement for the performance by the Buxton Company of services that are designed to produce an effective retail development strategy.

Upon motion by Mr. Moffitt and seconded by Mr. Bell, Council voted unanimously to approve the above-referenced proposal.

[A copy of the proposal is on file in the City Clerk's office.]

15. Approval of Building Reuse and Restoration Program Grant for Premier Fibers in the amount of \$40,000 sponsored by the Rural Center.

Mr. Ogburn reported that the City of Asheboro is continuing to successfully pursue for the Premier Fibers Project the Building Reuse and Restoration Program Grant sponsored by the North Carolina Rural Center. Premier Fibers is looking to repair and make upgrades to an existing building located at 749 Pineview Street in Asheboro. A grant in the amount of \$40,000 is being sought in order to assist with these repairs.

Upon motion by Dr. Fountain and seconded by Mr. Baker, Council voted unanimously to approve the city's continued pursuit of and participation in the process required to obtain a \$40,000 grant for this project.

16. Consideration of an ordinance amending Chapter 70 (Traffic Regulations) of the Code of Asheboro in order to regulate the operation of golf carts on certain public streets.

Mr. Sugg presented and recommended adoption, by reference, of the aforementioned ordinance.

Upon motion by Dr. Fountain and seconded by Mr. Baker, Council voted unanimously to adopt the following ordinance by reference.

10 ORD 2-10

AN ORDINANCE PERMITTING AND REGULATING THE OPERATION OF GOLF CARTS ON PUBLIC STREETS WITHIN THE CORPORATE LIMITS OF THE CITY OF ASHEBORO

WHEREAS, Section 160A-300.6 of the North Carolina General Statutes authorizes a city, by ordinance, to regulate the operation of golf carts on any property owned or leased by the city and on any public street, road, or highway within the municipality's corporate limits where the speed limit is 35 miles per hour or less; and

WHEREAS, the Asheboro City Council recognizes that a public interest in the limited use of golf carts as a cost effective and energy efficient alternative to the use of traditional passenger motor vehicles for local travel does exist; and

WHEREAS, the Asheboro City Council has determined that the safe operation of golf carts on specified public streets, roads, and highways is in the public interest and, if properly regulated, will promote the public health, safety, and welfare.

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

Section 1. Chapter 70 (Traffic Regulations) of the Code of Asheboro is hereby amended by adding a new Section 70.61 to regulate the operation of golf carts on public streets, roads, and highways within the corporate limits of the City of Asheboro. Section 70.61 of the Code of Asheboro is hereby enacted as follows:

§ 70.61 Golf Carts

(A) Unless the context requires otherwise, the definitions found in Section 20-4.01 of the North Carolina General Statutes apply throughout this section. As specified in Section 20-4.01(12a) of the North Carolina General Statutes, a golf cart is a vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour. The definition of golf cart is republished here for convenience only, and the definition set out in the North Carolina General Statutes, as amended from time to time, is controlling for all purposes.

(B) The operation of golf carts on designated public streets, roads, and highways within the corporate limits of the City of Asheboro in compliance with the provisions of this section is permitted; however, it shall be unlawful to operate any golf cart at any place or in any manner that is not authorized herein. Notwithstanding the immediately preceding sentence, the operation of golf carts is not subject to the provisions of this section under the following circumstances:

- (1) The operation of golf carts at golf courses, private clubs, or on private property with the consent of the owner of the property;
- (2) The operation of golf carts within gated or limited access communities unless the streets of the community are dedicated for public use and maintained by the city;
- (3) The use of golf carts by city personnel for official business on property owned or leased by the city; and
- (4) The operation of golf carts in connection with a properly permitted parade or a street festival/special event so long as the person or entity in charge of the parade or event consents to the use of the golf cart, the golf cart is only used during the parade or event, and the public street, road, or highway upon which the golf cart is operated has been closed by order of the proper governmental authorities.

(C) Golf carts may be operated on the following streets so long as such use of the public streets is conducted in full compliance with the provisions of this section:

- (1) Deer Ridge Road
- (2) Grey Rabbit Run
- (3) Stable Brook Road

- (4) Stone Bridge Road
- (5) Fox Ridge Road
- (6) High Meadow Drive
- (7) Tot Hill Trail
- (8) Johns Ridge Drive
- (9) Maple Hill Court
- (10) Stonewall Court

(D) No person who is less than 16 years of age may operate a golf cart on any public street, road, or highway within the city. Additionally, it is unlawful for a person to operate a golf cart on any public street, road, or highway within the city without having in his or her possession a valid driver's license issued in accordance with the laws of North Carolina or another state.

(E) No golf cart may be operated on any public street, road, or highway within the city unless the golf cart has been registered with the City of Asheboro Police Department. The registration shall be renewed thereafter in accordance with the provisions of this section. Upon successful completion of the registration process, a biennial permit shall be issued to the owner of the registered golf cart by the Asheboro Chief of Police or his designee, and this sticker shall be attached to the rear fender of the registered golf cart in a manner that will render the sticker readily observable to the occupant of a motor vehicle approaching the rear of the golf cart. At a minimum, this registration sticker shall display the registration number assigned to the golf cart and the sticker's expiration date. The type and format of registration sticker to be utilized on golf carts shall be developed and approved by the Asheboro Chief of Police. For purposes of administrative efficiency, the Chief of Police is hereby authorized to establish standardized pre-printed expiration dates for the registration stickers so long as each registration sticker is valid, as measured from the date of the physical issuance of the sticker, for a minimum duration of twenty-four (24) calendar months.

(F) An application to initially register or renew the registration of a golf cart shall be submitted on a form developed and approved by the Asheboro Chief of Police. At a minimum, the approved form shall obtain the owner's name, street address, mailing address, a contact number, and the make, model, and identification or serial number of the golf cart to be registered. Additionally, with the submission of the approved form, an applicant shall acknowledge the city's disclaimer of liability and notification of assumption of risk by the applicant for accidents involving the registered golf cart.

(G) Prior to issuing the initial registration permit or any renewal thereof, a registration fee of twenty-five and no/100 dollars (\$25.00) per golf cart shall be collected by the police department, and the golf cart shall be inspected by the Chief of Police or his designee to ensure compliance with the following standards:

- (1) The golf cart is equipped with a rear vision mirror and at least two (2) red reflectors that are at least three inches (3") in height and width on the rear of the golf cart;
- (2) The golf cart is equipped with a reflective "slow moving vehicle" sign on the rear of the golf cart that conforms with generally accepted highway safety standards in North Carolina;
- (3) The brakes provided by the manufacturer of the golf cart are in proper working order;
- (4) The golf cart has all of the standard safety features provided by the manufacturer and has not been modified to exceed a speed of 20 miles per hour nor otherwise modified in any way that creates a hazard; and
- (5) The golf cart is equipped with any other mechanical systems and safety equipment required for compliance with the provisions found in this section.

(H) The registration of a golf cart may be denied or subsequently revoked by the Asheboro Chief of Police or his designee if it is determined that:

- (1) The submitted application contains any material misrepresentation;
- (2) The golf cart is not in compliance with one (1) or more of the requirements prescribed by this section.
- (3) The golf cart has been altered or customized and no longer meets the definition of a "golf cart;" or
- (4) Equipment installed by the manufacturer, specifically including without limitation safety equipment and the vehicle identification or serial number, has been removed from the golf cart.

(I) It is unlawful to operate a golf cart on a public street designated for golf carts in any manner that fails to comply with the following requirements:

- (1) Only the number of people the golf cart was designed to seat may ride on the golf cart at any single point in time. By way of illustration and not limitation, passengers shall not be transported on the part of a golf cart designed to carry golf bags.
- (2) A golf cart must not be operated at a speed greater than reasonable and prudent for the existing conditions, and in no instance at a speed greater than 20 miles per hour.
- (3) No golf cart may be operated in a careless and reckless manner.

- (4) Golf carts must be operated to the extreme right of the roadway and must yield to all vehicular and pedestrian traffic.
- (5) Golf carts are permitted to operate on public streets only during daylight hours unless the cart is equipped with at least one (1) operating headlight that has, at a minimum, a 55 watt halogen, or equal, bulb on the front of the golf cart and two (2) operating tail lights on either side of the rear of the golf cart. If the lighting specified in the immediately preceding sentence is installed and operational, such a golf cart may operate for one (1) hour before sunrise and one (1) hour past sunset.
- (6) Golf carts must be operated in accordance with all applicable state and local laws and ordinances, including without limitation all laws, regulations, and ordinances pertaining to the possession and use of alcoholic beverages.

(J) Notwithstanding any other provision in this section, golf carts that are operated on public streets for the limited purposes of (i) crossing the streets listed in subsection (C) at designated crossing points marked with signage installed by the city and/or (ii) utilizing Tot Hill Trail in furtherance of golfing activities are exempt from the requirements prescribed by subsections (E), (F), (G), and (H).

(K) All terrain vehicles, 4-wheel utility vehicles, and other similar utility vehicles that are not manufactured for operation on a golf course as well as golf carts that have been modified so as to no longer conform with the prescribed definition of "golf cart" may not be registered under this section, and these types of vehicles are not permitted to operate on the public roads, streets, and highways within the city unless such vehicles are otherwise registered with and allowed under the motor vehicle laws of the State of North Carolina.

(L) Golf carts are neither designed for nor manufactured to be used on public streets, and the City of Asheboro neither advocates nor endorses the golf cart as a safe means of travel on public streets, roads, and highways. Any person who operates or rides upon a golf cart on a public street, road, or highway within the city, or encourages others to use a golf cart owned by the individual for such purposes and activities, does so at his or her own risk and peril and assumes all liability resulting from the operation of the golf cart.

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

Section 3. This ordinance shall take effect and be in force from and after April 1, 2010.

This ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 4th day of February, 2010.

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

ATTEST:

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

17. Discussion of potential dates for February council workshop on possible zoning ordinance amendments.

With the general consent of the Council, Mayor Smith announced that there will be a Special Council meeting on Monday, February 15, 2010 at 5:30 p.m. in the Council Chamber of the Asheboro Municipal Building.

18. Items not on the agenda.

With the general consent of the Council, Mayor Smith agreed to serve on the Zoo Study Task Force.

There being no further business, the meeting was adjourned at 9:27 p.m.

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

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