

**REGULAR MEETING
ASHEBORO CITY COUNCIL
THURSDAY, MARCH 4, 2004
7:00 PM**

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

David Jarrell) –Mayor Presiding

Talmadge Baker)
Linda Carter)
Keith Crisco) –Council Members Present
John McGlohon)
Archie Priest)
David Smith)

Nancy Hunter) –Council Member Absent

John N. Ogburn, City Manager
Carol J. Cole, CMC, City Clerk
Dumont Bunker, P. E., City Engineer
Debbie Juberg, Finance Director
Reynolds Neely, Planning Director
Lynn Priest, CD Director
Wendell Holland, Zoning Administrator
Gary Mason, Police Chief
Allen Oliver, Parks & Recreation Director
Myers Johnson, Human Resources Director
Jeff Sugg, City Attorney

A quorum thus being present, Mayor Jarrell called the meeting to order for the transaction of business, and business was transacted as follows:

1. Pledge of Allegiance and Invocation.

Mayor Jarrell asked everyone to stand and repeat the Pledge of Allegiance. Reverend Dale Kennedy, pastor of First Evangelical & Reformed United Church of Christ, gave the invocation.

2. Approval of Minutes of Previous Meeting.

The minutes of the regular meeting of February 5, 2004, were approved as presented.

3. Approval of Findings of Fact for CUP-03-47.

Upon motion by Mr. McGlohon and seconded by Mr. Smith, council voted unanimously to approve the following Findings of Fact for CUP-03-47:

Case No. CUP-03-47
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF BENNY RAY COLLINS FOR A
CONDITIONAL USE PERMIT ALLOWING A USE THAT IS CLASSIFIED AS
MANUFACTURING, PROCESSING, AND ASSEMBLING, LIGHT,
SPECIFICALLY MOTOR VEHICLE REPAIR –MAJOR

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING THE
REQUESTED CONDITIONAL USE PERMIT

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during the Council's regularly scheduled meeting on December 4, 2003. Having considered all competent evidence and argument, the Council, on the basis of competent, material, and substantial evidence, does hereby make the following:

FINDINGS OF FACT

1. The applicant, Benny Ray Collins, (hereinafter referred to as the "Applicant") has properly submitted an application to have certain property owned by him and located at 172 Dublin Square Road rezoned to a Conditional Use B2 zoning district.

2. In addition to requesting that the Council legislatively rezone the above-referenced property, the Applicant has also requested that the Council conduct a quasi-judicial proceeding and issue a Conditional Use Permit allowing a use that is classified under the Asheboro Zoning Ordinance as Manufacturing, Processing, and Assembling, Light, specifically Motor Vehicle Repair –Major.

3. The Applicant's property is located in an area that is designated on the Growth Strategy Map as a "Primary Growth" area, and said area is identified on the Proposed Land Development Plan Map as "Urban Residential."

4. Said property (hereinafter referred to as the "Zoning Lot") is currently located in an R7.5 zoning district, and the existing land use on the property is classified as a legal non-conforming use as a garage.

5. The Zoning Lot consists of approximately 20,294 square feet.

6. The Zoning Lot is more specifically identified by Randolph County Parcel Identification Number 7761329086.

7. Dublin Square Road is a major thoroughfare.

8. The Zoning Lot is served by all city services.

9. The Zoning Lot is located in an area characterized by a mix of uses including commercial and residential uses.

10. The structure located on the Zoning Lot has been around for approximately twenty (20) years and has been used primarily as a garage even though the structure is located in a residential zoning district. The garage existed prior to other development, and this prior use is consistent with the proposed future use of the structure.

11. Prior to addressing the question of the issuance of the requested Conditional Use Permit, the Council, consistent with the recommendation of the Planning Board, rezoned the Zoning Lot from an R7.5 zoning district to a Conditional Use B2 zoning district. The proposed use would be a conforming use in a B2 zoning district.

12. The Applicant has submitted a proper application, including a site plan, for the requested Conditional Use Permit. Furthermore, the Applicant's representative, Mr. Jerry King, testified during the hearing of this matter that the Applicant is prepared to accept any reasonable conditions that are proposed by the Council in order to ensure the continued compatibility of the existing land use with surrounding land uses.

13. The available evidence indicates that the Applicant's intention to continue the existing use of the Zoning Lot for garage/motor vehicle repair operations will not have any appreciable negative impact on the public health and safety or on the value of surrounding parcels of land.

14. The Applicant's proposed use of the Zoning Lot appears to meet all of the specifications and requirements of the Asheboro Zoning Ordinance.

15. No testimony was presented in opposition to the Applicant's request for a Conditional Use Permit.

Based on the foregoing findings of fact, the Council makes the following:

CONCLUSIONS OF LAW

1. The Council has concluded that the proposed use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved. The site plan and other documentation submitted by the Applicant has

led the Council to conclude that the overall proposal is designed in a manner that poses no material danger to the public health and safety.

2. The evidence received during the public hearing established that the proposed use does meet all of the required conditions and specifications of the Asheboro Zoning Ordinance.

3. No evidence was presented during the course of the hearing of this matter to indicate that the proposed use will substantially injure the value of the adjoining or abutting property.

4. The location and character of the Applicant's proposed use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Asheboro and its environs.

Based on the above-recited findings of fact and conclusions of law, the Council hereby enters the following:

ORDER

The above-referenced application submitted by Benny Ray Collins for a Conditional Use Permit allowing Manufacturing, Processing, and Assembling, Light, specifically Motor Vehicle Repair –Major is hereby approved on the express condition that the Applicant and his heirs, executors, administrators, successors, and assigns meet and remain in compliance with the following conditions:

1. The use approved shall be Manufacturing, Processing, and Assembling, Light, specifically Motor Vehicle Repair –Major.

2. The development shall be as per the site plan approved in accordance with and subject to Section 1013 of the Asheboro Zoning Ordinance.

3. Buffering and screening shall be installed and maintained as required by Article 304A of the Asheboro Zoning Ordinance.

4. Off street parking shall be provided as indicated on the approved site plan.

5. Signage shall be as provided in Article 500 of the Asheboro Zoning Ordinance.

6. No outdoor storage of materials, parts, or debris of any kind shall be permitted. Junked automobiles shall not be allowed to be stored more than the customary and usual time for disposition, not to exceed ninety (90) days.

Adopted by the Asheboro City Council in regular session on this 4th day of March, 2004.

ATTEST:

S/ David H. Jarrell
David H. Jarrell, Mayor

S/ Carol J. Cole
Carol J. Cole, CMC, City Clerk

4. Approval of Findings of Fact for CUP–04-06.

Mayor Jarrell deferred this item until the April 8th meeting.

5. Presentation of Retirement Plaque to Melvin Allen.

Mr. Ogburn read and presented a retirement plaque to Melvin Allen, honoring him upon his retirement after 42 years of dedicated service to the city of Asheboro. Mr. Allen served as the director of water resources.

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6. Appearance and Recognition of Guests and Citizens.

Mayor Jarrell recognized Boy Scout Troop 501 and a Randolph Community College student and welcomed everyone in attendance.

7. Consent Agenda.

Upon motion by Mr. Baker and seconded by Mr. Crisco, council voted unanimously to

adopt the following Consent Agenda items:

- (a) Resolution Establishing the Asheboro Central Business District Facade Improvement Program

12 RES 3-04

**Resolution Establishing the Asheboro Central Business
District Facade Improvement Program**

WHEREAS, the Asheboro Redevelopment Commission desires to establish a Facade Improvement Program; and

WHEREAS, the Asheboro Redevelopment Commission has developed guidelines for a Facade Improvement Program; and

WHEREAS, the Asheboro Central Business District Redevelopment area is designated to receive assistance through the program; and

WHEREAS, the Asheboro Redevelopment Commission requests that the Asheboro City Council approve a Facade Improvement Program.

NOW, THEREFORE BE IT RESOLVED that the Asheboro City Council concurs to the establishment of a Facade Improvement Program.

NOW, THEREFORE BE IT FURTHER RESOLVED that the Asheboro Redevelopment Commission should administer the Facade Improvement Program.

Adopted this the 4th day of March, 2004.

S/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole
Carol J. Cole, City Clerk

- (b) Resolution Authorizing the City Manager to Enter Into a Grant Agreement Between the NC Department of Transportation and the City of Asheboro for the City to Receive a Federal AIR 21 Grant in the Amount of \$150,000 for the Aircraft Ramp Expansion and a New T-Hangar Taxilane at the Asheboro Municipal Airport

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13 RES 3-04

Resolution

WHEREAS, a Grant in the amount of \$150,000 has been approved by the Department based on total estimated cost of \$166,667; and

WHEREAS, an amount equal to or greater than ten percent (10%) of the total estimated project cost has been appropriated by the Sponsor for this Project.

NOW THEREFORE, BE AND IT IS RESOLVED THAT THE City Manager of the Sponsor be and he hereby is authorized and empowered to enter into a Grant Agreement with the Department, thereby binding the Sponsor to the fulfillment of its obligation incurred under this Grant Agreement or any mutually agreed upon modification thereof.

Adopted this the 4th day of March, 2004.

S/ Carol J. Cole
Carol J. Cole, City Clerk
City of Asheboro

- (c) Acceptance of Audit Proposal From Maxton McDowell, CPA, to Perform the Audit for the Year Ending June 30, 2004

The audit and preparation of the financial statements will not exceed \$31,000.

8. Consideration of Petition Received From Turtle Lake Properties, LLC, Requesting Contiguous Annexation of 31.128 Acres on the North Side of Caudle Road.

Mr. Bunker reported that notice to the public was published in *The Randolph Guide* on February 11, 2004, stating that a public hearing would be held on this date to consider the adoption of an ordinance annexing said area to the City of Asheboro.

Mayor Jarrell opened the public hearing.

There being no comments nor opposition from the public, Mayor Jarrell closed the public hearing.

Mr. Bunker presented and recommended adoption of an ordinance, prepared by the city attorney, to extend the corporate limits of the City of Asheboro.

Upon motion by Mr. Smith and seconded by Mr. Priest, council voted unanimously to adopt the following ordinance by reference:

07 ORD 3-04

**ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
CITY OF ASHEBORO
(31.128 Acres of Land Located on the North Side of Caudle Road)**

WHEREAS, pursuant to Section 160A-31 of the North Carolina General Statutes, a petition signed by the owners of all the real property within the area hereinafter described was heretofore presented to the City Council, by which petition a request was made that an area be annexed to the City of Asheboro; and

WHEREAS, the City Council has by resolution directed the City Clerk of the City of Asheboro to investigate the sufficiency of the petition, and the City Clerk has certified the sufficiency of said petition; and

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WHEREAS, the City Council did publish notice to the public on the 11th day of February, 2004, in *The Randolph Guide*, a newspaper having general circulation in the City of Asheboro, setting forth that a public hearing would be held at 7:00 o'clock p.m. on the 4th day of March, 2004, at the City of Asheboro Municipal Building to consider the adoption of an ordinance annexing said area to the City of Asheboro; and

WHEREAS, during said public hearing that was in fact held on the 4th day of March, 2004, no person owning property within the area to be annexed alleged an error in the petition, and no resident of the municipality questioned the necessity of annexation; and

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

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

Section 1. By virtue of the authority granted in the General Statutes of North Carolina, Chapter 160A, Article 4A, Part 1, the following area is annexed and attached to, and hereby becomes a part of the City of Asheboro, and is described as follows:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at an existing iron rod that is set on the northern right-of-way line of Caudle Road (North Carolina Secondary Road 2123) and is located by means of the North Carolina Coordinate System at the coordinates of North 741,840.363 feet and East 1,760,948.269 feet (NAD 27); thence from said Beginning point following the existing corporate limits line of the City of Asheboro North 03 degrees 22 minutes 44 seconds East 1116.53 feet to a set new iron rod; thence along the jurisdictional boundary line between the City of Randleman and the City of Asheboro North 90 degrees 00 minutes 00 seconds East 1581.70 feet to a set new iron rod; thence South 02 degrees 02 minutes 09 seconds West 503.17 feet to an existing iron pipe and stone; thence along the Thomas Burrow, Jr. property described in Deed Book 1723, Page 948 of the Randolph County Registry the following courses and distances: North 87 degrees 26 minutes 14 seconds West 817.43 feet to an existing iron pipe; thence South 02 degrees 54 minutes 07 seconds West 883.94 feet to an existing iron pipe located on the northern right-of-way line of Caudle Road; thence along the northern right-of-way line of Caudle Road the following courses and distances: North 74 degrees 35 minutes 19 seconds West 106.63 feet to a point not set; thence North 74 degrees 14 minutes 43 seconds West 387.34 feet to a point not set; thence North 73 degrees 33 minutes 29 seconds West 102.98 feet to a point not set; thence North 70 degrees 03 minutes 04 seconds West 110.84 feet to an existing iron pipe; thence North 69 degrees 12 minutes 58 seconds West 95.97 feet to the point and place of the BEGINNING, and containing 31.128 acres, more or less.

This description is in accordance with a plat of survey entitled "ANNEXATION PLAT FOR TURTLE LAKE PROPERTIES. LLC (sic)". This plat of survey was drawn under the supervision of Roland D. Ward, Professional Land Surveyor with Registration Number L-2728, from an actual survey made under his supervision. Said plat of survey bears an original date of December 16, 2003, and was revised on December 23, 2003; December 30, 2003; and January 28, 2004.

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

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

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

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Section 5. This ordinance shall be in full force and effect from the 4th day of March, 2004.

Adopted this the 4th day of March, 2004.

ATTEST:

S/ Carol J. Cole
Carol J. Cole, CMC
City Clerk of the City of Asheboro

S/ David H. Jarrell
David H. Jarrell,
Mayor of the City of Asheboro

Approved as to form:

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

9. **Public Hearings on Zoning Matters.**

Mayor Jarrell opened the public hearing on the following request:

- (a) From Randolph County Zoning to R-15 Residential: The property of Turtle Lake Properties, LLC located at 299 Caudle Road, totaling approximately 75.05 acres, more specifically identified by Randolph County Parcel ID Number 7764137024. C. J. Thomas is the applicant.

Mr. Neely described the aforementioned property and stated that the site is currently within Randolph County's jurisdiction. The property abuts Asheboro City Limits. The applicant is requesting annexation and zoning by the City of Asheboro of approximately 29.06 acres of the tract. The balance of the tract will be developed under the jurisdiction of the City of Randleman. This area is residential in character. Caudle Road is a local street.

The planning board recommended approval, as the request complies with the goals and policies and map of the Land Development Plan.

Mr. C. J. Thomas, applicant, was present to answer any questions.

There being no further comments nor opposition from the public, Mayor Jarrell closed the public hearing.

Upon motion by Mr. Smith and seconded by Mr. Crisco, council unanimously ordained to accept the recommendation from the planning board for approval.

Mayor Jarrell opened the public hearing on the following request:

- (b) From R-40 Residential to CU-B-2 Commercial: The property of William Darrell Beane and wife, Dianne K. Beane, located at 218 Vista Parkway, totaling approximately 31,775 sq. ft., more specifically identified by Randolph County Parcel ID Number 7771035079. William Beane is the applicant.

Mr. Neely was sworn in and submitted the site plan and elevation of the building. The site plan has been corrected by moving the dumpster to the left. He stated that the property is located outside the city limits and is not served by city services. Vista Parkway is a local street. The business located on this property has operated since 1974. The business was operating on this site prior to the 1987 expansion of Asheboro's ETJ. As part of the ETJ expansion process, existing nonconforming uses located within the expansion area were considered for zoning change. This property was not brought up for consideration. The request is for a continuation of the existing use.

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Mr. Neely stated some suggested conditions for council's consideration if it finds in favor of the request.

The planning board recommended approval of the district rezoning, as it will allow the existing nonconforming situations to be brought up to current standards. The CU Permit could mitigate conflicts with the LDP. The planning board also commented that consideration be given to conditions requiring compliance with current regulations.

Messrs. William and Randy Beane were sworn in and stated that the request is to expand the facility, not the business. They addressed the four standard tests. (1) The use will not endanger the public health or safety, as there will be no hazardous chemicals. The use is a low-traffic business, and they have adequate fire extinguishers. (2) The use will meet all required conditions and specifications of the Asheboro Zoning Ordinance. (3) The use will not injure the value of adjoining or abutting property. The business has been at this site for 30 years. Since this time, seven (7) new homes have been built on Vista Parkway. Also, the Beanes have a written opinion from Harold Brubaker, State Certified Real Estate Appraiser, that the proposed expansion of the facility will not adversely affect the values of the neighborhood homes. (4) The use will be in harmony with the area, as the business has been in existence for 30 years, and he has not had any complaints. There will be no ground sign, and they have worked with the planning department on design of the site plan.

After council's discussion of the conditions, Condition No. 4 was amended to read "All road frontage, except driveway access, shall be screened as shown on the site plan."

Mayor Jarrell asked the applicants if they were in agreement with the conditions. They accepted the conditions as stated by Mr. Neely and amended.

There being no further comments nor opposition, Mayor Jarrell closed the public hearing.

Upon motion by Mr. McGlohon and seconded by Mr. Crisco, council unanimously ordained to accept the recommendation from the planning board for approval of the district rezoning. Upon motion by Mr. Smith and seconded by Mrs. Carter, council voted unanimously to approve the CU Permit with the conditions as stated by Mr. Neely and amended, based on the four standard tests being met per testimony by the Beans.

The conditions will be further detailed in the city attorney's Findings of Fact, Conclusions of Law, and Order Granting the Requested Conditional Use Permit to be approved by council at its April meeting.

Mayor Jarrell opened the public hearing on the following request:

- (c) From RA-6 Residential to OA-6 Commercial: The property of Archie L. Odell and wife, Brenda J. Odell, located at 727 South Cox Street, totaling approximately 12,461 sq. ft., more specifically identified by Randolph County Parcel ID Number 7750892836.

Mr. Neely described the aforementioned property and stated that South Cox Street is a major thoroughfare. The site is served by all city services. The area is characterized by a mix of uses –single family, multifamily development, institutional and offices. South Cox Street is a transitional area between the commercial on Fayetteville Street and the residential development off of Cox Street to the east.

The planning board recommended approval, as the request complies with the goals and policies and map of the Land Development Plan.

Mr. Archie Odell, applicant, was present to answer any questions.

There being no further comments nor opposition, Mayor Jarrell closed the public hearing.

Upon motion by Mr. Smith and seconded by Mr. McGlohon, council unanimously ordained to accept the recommendation from the planning board for approval.

10. Presentation of Asheboro Police Department Annual Report.

Police Chief Gary Mason reviewed the police department's detailed annual report for 2003. Chief Mason reported that drugs, with a street value of approximately \$3.3 million, were confiscated, resulting in 615 arrests, 55 search warrants executed, and 25 weapons seized.

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11. Proposed Changes in Parks and Recreation User Fees.

Parks & Receptions Director Allen Oliver reported that each year the user fees at all recreation facilities are evaluated according to operating cost, participation, and programs offered. Mr. Oliver and his staff are recommending the following changes:

- ? A reduction in the boat launch fee for Lake Reese to bring it in line with the launch fee for Lake Lucas (from \$10 to \$7.00)
- ? An increase in the fee for swim lessons to help cover the cost of supplies and materials for the classes (from \$20 to \$25)
- ? A 5% increase for golf memberships in all categories

The new fees will become effective April 1, 2004.

Upon motion by Mr. Crisco and seconded by Mrs. Carter, council voted unanimously to approve the new user fees as requested by Mr. Oliver, to become effective April 1, 2004.

12. Proposed Changes in Parks and Recreation Policy Manual.

Mr. Oliver presented the revised Parks & Recreation Policy Manual for council's review and asked that consideration be given this policy at council's April meeting. The recommended changes are the results of general updating of policies, the retirement of the golf pro and the reorganization of the tennis center operations.

13. Recreation Director's Report on Randolph County Recreation Master Plan.

Mr. Oliver stated that the City of Asheboro adopted its Recreation Master Plan in 1998. He reviewed the county's proposed Master Plan and explained how both of the Plans mesh.

14. Consideration of a Resolution in Support of Randolph County Recreation Master Plan.

Mr. Ogburn read the aforementioned resolution.

Mr. Smith moved that this resolution be approved, and Mr. Crisco seconded the motion. After discussion, Mr. Crisco moved that the resolution be amended to include that the County be urged to incorporate expenditures out of its FY 2004-2005 budget to begin implementation of the Plan. After further discussion, Mr. Crisco moved and Mr. Smith seconded a motion to table the amended motion until its work session on March 23, 2004. This motion was carried unanimously.

15. Consideration of Removal of the City of Asheboro Personnel Policies and Procedures Manual From the Code of Asheboro.

City Attorney Jeff Sugg reported that notice of this public hearing to consider the removal of Section 35.01 from the City of Asheboro's Code of Ordinances was published in *The Courier-Tribune* on February 22, 2004.

Mayor Jarrell opened the public hearing.

Mr. Sugg stated that the recommendation to remove Section 35.01 from the Code of Ordinances came from the city manager, director of human resources and himself. They felt that the long-term management of the work force employed by the City of Asheboro would be enhanced in terms of effectiveness and efficiency if employees of the City of Asheboro were subject to personnel policies that are simply approved by motion or resolution of the city council.

There being no comments nor opposition from the public, Mayor Jarrell closed the public hearing.

After council's questions had been satisfied, Mr. Crisco moved to adopt an Ordinance Repealing Section 35.01 of the Code of Asheboro. Mr. Baker seconded the motion, which carried unanimously.

Upon motion by Mr. McGlohon and seconded by Mr. Priest, council voted unanimously to approve the City of Asheboro's Personnel Policies and Procedures Manual by resolution.

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08 ORD 3-04

ORDINANCE REPEALING SECTION 35.01 OF THE CODE OF ASHEBORO

WHEREAS, Section 35.01 of Chapter 35 of the Code of Asheboro provides as follows:

§ 35.01 ADOPTION BY REFERENCE

The Personnel Policies and Procedures Manual adopted January 11, 1990, and as amended, are hereby adopted by reference and made a part of this code as if set forth at length herein; and

WHEREAS, by means of a resolution (Resolution Number 05 RES 2-04) adopted in regular session by the City Council of the City of Asheboro on February 5, 2004, the City Council has called a public hearing on the question of whether the above-listed provisions of § 35.01 of the Code of Asheboro should be repealed; and

WHEREAS, public notice of the above-referenced public hearing was published in the *Courier-Tribune*, a newspaper of general circulation in the City of Asheboro and the County of Randolph, on the 22nd day of February, 2004; and

WHEREAS, the City of Asheboro Personnel Committee, a representative body of city employees with management and non-management members, held a called meeting on February 18, 2004, to inform its members of the above-referenced public hearing and to consider the proposed repeal of Section 35.01 of the Code of Asheboro; and

WHEREAS, by a vote of eight (8) to three (3), said Personnel Committee recommended that the proposed ordinance repealing Section 35.01 of the Code of Asheboro be approved by the City Council; and

WHEREAS, the City Council has received a recommendation from the City Manager, the Director of Human Resources, and the City Attorney indicating that the long-term management of the work force employed by the City of Asheboro would be enhanced in terms of effectiveness and efficiency if employees of the City of Asheboro were subject to personnel policies that are simply approved by motion or resolution of the City Council; and

WHEREAS, with the exception of one officer of the city, Section 5.2 of Article V of the Charter of the City of Asheboro provides that "the city manager shall have the power to appoint

and remove all officers, department heads, and employees in the administrative service of the city . . . ;" and

WHEREAS, aside from upholding its statutory obligation under Section 160A-162(a) of the North Carolina General Statutes to approve the pay plan, the City Council reviews and ultimately approves the city's position classification plan and other personnel policies simply as a means of assisting the City Manager to establish uniform personnel policies that apply to employees throughout the city; and

WHEREAS, the purpose of the City Council's review and approval of policies found within the City of Asheboro Personnel Policies and Procedures Manual is not to create for city employees a property interest in their employment for due process purposes under the Fourteenth Amendment to the United States Constitution; and

WHEREAS, upon considering the information provided during the above-referenced public hearing, the City Council has determined that it is in the best interest of the City of Asheboro and its citizens to restore any and all of the employees of the City of Asheboro to the status of "at-will" employees;

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

Section 1. Section 35.01 of the Code of Asheboro is hereby repealed.

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

Section 3. This ordinance shall become effective upon adoption.

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Adopted by the City Council of the City of Asheboro in regular session on this 4th day of March, 2004.

S/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole
Carol J. Cole, CMC, City Clerk

16. Resolution Accepting an Offer to Purchase Surplus City-Owned Property Located at the Northeast Corner of the Intersection of West Salisbury Street and Peachtree Street.

Mr. Sugg reported that Mr. Charles Willard's offer to purchase the subject property for \$1,000 was advertised in *The Courier-Tribune* on February 22, 2004, and no upset bids have been received.

Mr. Sugg presented and recommended adoption of a resolution accepting Mr. Willard's offer of \$1,000 for the surplus city-owned real property located at the northeast corner of the intersection of West Salisbury Street and Peachtree Street.

Upon motion by Mr. Smith and seconded by Mr. Crisco, council voted unanimously to adopt the following resolution:

14 RES 3-04

RESOLUTION ACCEPTING AN OFFER OF \$1,000.00 FROM CHARLES G. WILLARD, JR. FOR SURPLUS CITY-OWNED REAL PROPERTY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF WEST SALISBURY STREET AND PEACHTREE STREET

WHEREAS, the City of Asheboro, North Carolina owns a parcel of land located at the northeast corner of the intersection of West Salisbury Street and Peachtree Street, and said land is more particularly described as follows:

Lot # 36 of the Subdivision of Property of Acme Hosiery Mills, recorded Map No. 2, which is found recorded in the Office of the Register of Deeds for Randolph County, North Carolina in Plat Book 2 at Page 16; and

WHEREAS, by means of Resolution Number 09 RES 2-04, the City Council of the City of Asheboro declared the above-described real property, hereinafter referred to as the "Property," to be surplus property and subject to sale pursuant to the provisions of Section 160A-269 of the North Carolina General Statutes; and

WHEREAS, subsequent to the adoption of Resolution Number 09 RES 2-04, Mr. Charles G. Willard, Jr. submitted an offer to purchase the Property for the sum of one thousand dollars (\$1,000.00); and

WHEREAS, on the basis of the fact that the said offer met the minimum price requirements set by the City Council and that a satisfactory bid deposit accompanied the offer, notice of Mr. Willard's offer was published in the Courier-Tribune on February 22, 2004, in accordance with the provisions of Section 160A-269 of the North Carolina General Statutes; and

WHEREAS, no qualifying upset bids have been received for the Property;

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NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the offer of one thousand dollars (\$1,000.00) submitted by Mr. Charles G. Willard, Jr. for the Property described in Resolution Number 09 RES 2-04 is hereby accepted; and

BE IT FURTHER RESOLVED that the City Attorney is hereby instructed to prepare for proper execution by the Mayor and the City Clerk a General Warranty Deed conveying the Property to Mr. Charles G. Willard, Jr. in fee simple.

Adopted by the City Council of the City of Asheboro in regular session this 4th day of March, 2004.

S/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole
Carol J. Cole, CMC, City

17. Resolution Authorizing the City Manager to Accept the Donation of a Motor Vehicle to the City of Asheboro for Use by the Asheboro Police Department.

Mr. Sugg reported that Ms. Leticia Gonzalez has expressed an interest in donating a used automobile for use by the Asheboro Police Department. Mr. Sugg presented and recommended adoption of a resolution authorizing the city manager to accept a donated motor vehicle. He also drafted a Bill of Sale in order to effectuate the transfer of ownership of the vehicle in question from Ms. Gonzalez to the City of Asheboro while minimizing the potential for unexpected costs that might be incurred by the City during the course of this transaction.

Upon motion by Mr. Smith and seconded by Mr. Priest, council voted unanimously to adopt the following resolution:

15 RES 3-04

RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A DONATED MOTOR VEHICLE

WHEREAS, Ms. Leticia Gonzalez has expressed an interest in donating a used automobile for use by the Asheboro Police Department; and

WHEREAS, pursuant to Section 160A-240.1 of the North Carolina General Statutes, the City may acquire by gift or any other lawful method real or personal property for use by the City;

and

WHEREAS, a proposed BILL OF SALE has been drafted by the city attorney in order to effectuate the transfer of ownership of the vehicle in question from Ms. Gonzalez to the City of Asheboro while minimizing the potential for unexpected costs that might be incurred by the city during the course of this transaction; and

WHEREAS, the BILL OF SALE referenced in the immediately preceding paragraph is attached to this resolution as EXHIBIT A and is hereby incorporated into this resolution by reference as if copied fully herein; and

WHEREAS, the City Council has determined that the BILL OF SALE found in EXHIBIT A will in fact allow the prospective donor to confer a tangible benefit on the city in a manner that is consistent with the long-term best interests of the City of Asheboro;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the City Manager is hereby authorized to accept the proposed donation of a used automobile from Ms. Leticia Gonzalez so long as the transaction is consummated in part by

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the execution by Ms. Gonzalez of a BILL OF SALE similar in all material respects to the BILL OF SALE found in EXHIBIT A; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to take all of the actions necessary to have the donated vehicle properly titled to the City of Asheboro by the North Carolina Division of Motor Vehicles and to procure liability insurance coverage for the vehicle.

Adopted by the City Council of the City of Asheboro in regular session this 4th day of March, 2004.

S/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole
Carol J. Cole, CMC, City Clerk

EXHIBIT A

STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH

BILL OF SALE

THIS BILL OF SALE is made this the ____ day of March, 2004, by LETICIA GONZALEZ, a resident of Randolph County, North Carolina, party of the first part, to the CITY OF ASHEBORO, a municipal corporation organized and existing under the laws of the State of North Carolina, party of the second part;

WITNESSETH:

That said party of the first part, in consideration of the agreement of the party of the second part to utilize the vehicle described below exclusively for law enforcement purposes for one (1) calendar year from the date listed above, has bargained and sold and by these presents doth bargain, sell, and convey unto said party of the second part free and clear title to the following vehicle:

A 1986 model year Chevrolet automobile that is more particularly identified by Vehicle Identification Number 1G1BN69H0G9124340.

Said party of the first part warrants to the party of second part that she has free and clear title to the above-described vehicle, and that she has the right to unconditionally convey said vehicle to the party of the second part. Furthermore, the said party of the first part acknowledges and agrees that, after the expiration of the above-referenced one (1) calendar year time period, the said party of the second part will have the right to utilize and dispose of the above-described vehicle in a manner that comes within the complete and sole discretion of the said party of the second part. With the exception of the commitment to use said vehicle for law enforcement

purposes for one (1) calendar year, absolutely no other consideration of any kind shall flow from the party of the second part to the party of the first part as a consequence of this transaction.

The said party of the second part shall be expressly deemed to have no obligation to certify the value of this transaction for the benefit of the party of the first part for tax purposes or otherwise.

IN TESTIMONY WHEREOF, said party of the first part has caused this instrument to be executed by authority duly given.

LETICIA GONZALEZ

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STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH

I, _____, a Notary Public of the County and State aforesaid, do hereby certify that Leticia Gonzalez personally appeared before me this day and acknowledged the due execution of the foregoing BILL OF SALE for the purposes herein expressed.

Witness my hand and notarial seal, this ___ day of March, 2004.

Notary Public

My commission expires:

18. Resolution Authorizing the Mayor and the City Clerk to Execute an Agreement Whereby the City Will Obligate Itself to Undertake Certain Landscaping Improvements at Oaklawn Cemetery Upon Receipt of a Specified Monetary Donation From Certain Individuals.

Mr. Sugg reported that Dr. James M. Rich, Jr. and others have expressed a desire to honor their father and mother by making a monetary donation that will enable the City of Asheboro to make certain landscaping and storm water improvements at Oaklawn Cemetery near the final resting place of their parents, Mr. and Mrs. James Rich.

Mr. Sugg presented and recommended adoption of a resolution authorizing the mayor and city clerk to execute on behalf of the City of Asheboro a Landscaping and Storm Water Improvement Agreement pertaining to Oaklawn Cemetery. City employees will provide the manpower for the installation and maintenance of said improvements.

Upon motion by Mr. Smith and seconded by Mr. Crisco, council voted unanimously to adopt the following resolution by reference:

16 RES 3-04

RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE ON BEHALF OF THE CITY OF ASHEBORO A LANDSCAPING AND STORM WATER IMPROVEMENT AGREEMENT PERTAINING TO OAKLAWN CEMETERY

WHEREAS, Dr. James M. Rich, Jr., Mrs. Candy Rich DiSabatino, and Mrs. Hazel Rich Hobbs have expressed a collective desire to honor their father and mother, Mr. James Rich and Mrs. Geneva Rich, by making a monetary donation that will enable the City of Asheboro to make certain landscaping and storm water improvements at Oaklawn Cemetery near the final resting place of Mr. and Mrs. James Rich; and

WHEREAS, pursuant to Section 160A-240.1 of the North Carolina General Statutes, the City may acquire by gift or any other lawful method real or personal property for use by the City; and

WHEREAS, members of the city's professional staff have designed a landscaping and storm water improvement agreement that, in the opinion of the professional staff, meets the city's needs and is acceptable to Dr. Rich, Mrs. DiSabatino, and Mrs. Hobbs; and

WHEREAS, the agreement referenced in the immediately preceding paragraph is attached to this resolution as EXHIBIT 1 and is hereby incorporated into this resolution by reference as if copied fully herein; and

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WHEREAS, the City Council has determined that the agreement found in EXHIBIT 1 satisfactorily addresses the wishes of the prospective donors and allows the prospective donors to confer a tangible benefit on the city in a manner that is consistent with the long-term best interests of the City of Asheboro;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the Mayor and the City Clerk are authorized and directed to properly execute the agreement found in EXHIBIT 1 on behalf of the City of Asheboro; and

BE IT FURTHER RESOLVED that the City Manager is authorized and directed to utilize city forces to implement in a timely manner the terms and conditions of the agreement found in EXHIBIT 1.

Adopted by the City Council of the City of Asheboro in regular session this 4th day of March, 2004.

S/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole
Carol J. Cole, CMC, City Clerk

"Exhibit 1" that is referenced in the above resolution is attached to the original resolution on file in the city clerk's office.

Mr. Ogburn presented and recommended adoption of a Project Ordinance setting up an account for the Cemetery Improvement Project.

Upon motion by Mr. Priest and seconded by Mrs. Carter, council voted unanimously to adopt the following ordinance:

09 ORD 3-04

**PROJECT ORDINANCE
CEMETERY IMPROVEMENT (GIFT) PROJECT**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO:

Pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following Project Ordinance is adopted:

Section 1: The Cemetery Improvement (Gift) Project is hereby authorized as a project with revenues and expenditures projected for the duration of the project.

Section 2: The officers of the City of Asheboro are hereby authorized to proceed with the project within the terms of the agreement approved by the City Council and the budget contained herein.

Section 3: The following revenues are anticipated to be available to complete this project:

LINE ITEM	DESCRIPTION	AMOUNT
76-335-0000	Donations (Rich)	\$8,876.00

Section 4: The following amounts are appropriated as expenditures for this project:

	LINE ITEM	DESCRIPTION	AMOUNT
Minutes Page 16 March 4, 2004	76-850-0000	Improvements (Rich)	\$8,876.00

Adopted this the 4th day of March, 2004.

S/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole
Carol J. Cole, City Clerk

19. Ordinance Amending Certain General Water Service Provisions Found in Chapter 50 of the Code of Asheboro.

Mr. Sugg reviewed and recommended adoption of the aforementioned ordinance.

Upon motion by Mrs. Carter and seconded by Mr. Priest, council voted unanimously to adopt the following ordinance by reference:

10 ORD 3-04

AN ORDINANCE AMENDING CHAPTER 50 OF THE CODE OF ASHEBORO

WHEREAS, Part 1 of Article 16 of Chapter 160A of the North Carolina General Statutes authorizes the City of Asheboro to own, operate, maintain, and regulate a water supply and distribution system; and

WHEREAS, Chapter 50 of the Code of Asheboro prescribes regulations governing the operation of the City of Asheboro water supply and distribution system; and

WHEREAS, Section 50.020 of the Code of Asheboro provides as follows:

§ 50.020 PERSONS NOT ENTITLED TO SERVICE.

(A) It shall be unlawful for any consumer of water from the city water system to supply water to any person whose supply has been cut off by the Water and Sewer Department for nonpayment of the water bill or for any other violation of this chapter or other provision of this Code, or for the consumer to permit any such person to take water from the fixtures on the consumer's premises.

(B) It shall be unlawful for any person not entitled to be supplied with water from the City Water System to take water from any fixture thereof; and

WHEREAS, Part 5 of Article 19 of Chapter 160A of the North Carolina General Statutes authorizes the City of Asheboro to create an inspection department and appoint inspectors empowered to enforce the State Building Code and local laws relating to the construction and maintenance of buildings and other structures in a safe, sanitary, and healthful condition; and

WHEREAS, Section 150.03 of the Code of Asheboro provides as follows:

§ 150.03 BUILDING INSPECTOR; DEPUTIES AND ASSISTANTS.

(A) Except as may be provided otherwise by state law or this Code, the Building Inspector shall administer and enforce within the city all provisions of this chapter (Chapter 150 of the Code of Asheboro pertaining to buildings) and of the North Carolina State Building Code, and he shall perform the duties and keep the records prescribed in G.S. §§ 160A-411 through 160A-416 for local building and electrical inspectors.

(B) The City Council may, by resolution or otherwise, provide for the appointment or designation of such deputy and assistant building inspectors as may be considered desirable; and

WHEREAS, Section 160A-381 of the North Carolina General Statutes grants the City of Asheboro the authority to enact a comprehensive zoning ordinance; and

WHEREAS, Section 154.01 of the Code of Asheboro provides as follows:

§ 154.01 ADOPTION BY REFERENCE.

The zoning ordinance as adopted January 6, 1966 and readopted February 10, 1977, as amended, copies of which are on file in the office of the City Clerk, is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein; and

WHEREAS, Section 1001 of Article 1000 of the Asheboro Zoning Ordinance provides that the Zoning Administrator, who is designated by the City Manager, shall be responsible for administering the provisions of the Asheboro Zoning Ordinance; and

WHEREAS, the City Council of the City of Asheboro has determined that the health, safety, and welfare of the citizens of Asheboro will be advanced in an efficient and equitable manner if the various departments within city government coordinate, to the degree possible and practicable, their activities so as to prevent one department from facilitating the activities of an entity when another department has found these same activities to be non-compliant with certain laws and regulations;

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

Section 1. Section 50.020 of the Code of Asheboro, which is entitled "**PERSONS NOT ENTITLED TO SERVICE**", shall be amended to provide as follows

§ 50.020 PERSONS NOT ENTITLED TO SERVICE.

(A) It shall be unlawful for any consumer of water from the city water system to supply water to any person whose supply has been cut off by the Water and Sewer Department for nonpayment of the water bill or for any other violation of this chapter or other provision of this Code, or for the consumer to permit any such person to take water from the fixtures on the consumer's premises.

(B) It shall be unlawful for any person not entitled to be supplied with water from the City Water System to take water from any fixture thereof.

(C) No person shall be entitled to be supplied with water from the city water system unless that person is in full compliance with the laws, ordinances, and regulations enforced by the city's Inspections Department and is also in full compliance with the Asheboro Zoning Ordinance. The term "person" shall be deemed to include natural persons and any other type of legal entity. Determinations as to whether or not a person is in full compliance with the State Building Code and the other ordinances and regulations administered by the city's Inspections Department shall be made by the Chief Building Inspector, and the Zoning Administrator shall make determinations as to whether or not a person has complied with the Asheboro Zoning Ordinance. In those cases where an application for water service and the required deposit have been accepted by the Water and Sewer Billing Department prior to that department's receipt of notification of a determination of non-compliance by the Chief Building Inspector and/or the Zoning Administrator, water service for the person and location in question shall be immediately discontinued by the Water and Sewer Department upon receipt of said notification. Upon discontinuance of water service pursuant to this division, the person that applied for water service may make a written election to withdraw the previously submitted application

for water service and receive a refund of any portion of the deposit previously tendered to the Water and Sewer Billing Department that is not needed to satisfy all or a portion of the payment owed to the city for water consumed prior to the discontinuance of service. In the absence of a written election to withdraw the previously submitted application for service and the accompanying deposit, said application and deposit will be held by the Water and Sewer Billing Department until the Chief Building Inspector and Zoning Administrator notify the Water and Sewer Billing Department that all of the regulatory compliance issues have been resolved. No interest or other form of credit will accrue in favor of any person that leaves a deposit in the custody of the city while regulatory compliance issues are resolved with the Inspections Department or the Zoning Administrator.

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

Section 3. This ordinance shall become effective upon adoption.

Adopted in regular session by the City Council of the City of Asheboro on this 4th day of March, 2004.

S/ David H. Jarrell
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole
Carol J. Cole, CMC, City Clerk

20. Resolution Authorizing the Mayor and City Clerk to Execute a Temporary Easement in Favor of Dr. Harry Killian and Mrs. Mary Killian for the Purpose of Allowing the Temporary Use of Little Lakes Trail Road Where it Crosses City-Owned Property for Certain Logging Operations.

Mr. Sugg presented and recommended adoption of the aforementioned resolution. The expiration date of said easement is December 31, 2004.

Upon motion by Mr. McGlohon and seconded by Mr. Crisco, council voted unanimously to adopt the following resolution:

17 RES 3-04

RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN INSTRUMENT GRANTING A TEMPORARY ACCESS EASEMENT FROM THE CITY OF ASHEBORO TO HARRY W. KILLIAN AND WIFE, MARY C. KILLIAN

WHEREAS, the City of Asheboro, hereinafter referred to as the "City," owns a certain tract of land at Lake Bunch that lies southwest of Old Lexington Road (North Carolina Secondary Road 1004) and is more particularly described in Deed Book 218, Page 134 and in Deed Book 261, Page 101, Randolph County Registry; and

WHEREAS, Harry W. Killian and wife, Mary C. Killian, hereinafter referred to as the "Killians," own a parcel of land that adjoins the city-owned property described in the preceding paragraph and that is more particularly described in Deed Book 1408, Page 989, Randolph County Registry; and

WHEREAS, the Killians have requested that the City grant a temporary easement to them for the use of, and to maintain a driveway for ingress, egress, and regress over Little Lakes Trail Road where said road crosses the above-described city-owned property; and

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WHEREAS, Section 160A-273 of the North Carolina General Statutes provides that a city has authority to grant easements over, through, under, or across any city-owned property; and

WHEREAS, the City Council of the City of Asheboro has determined that the proposed temporary non-exclusive right of easement that is found in the TEMPORARY EASEMENT instrument attached to this resolution as "EXHIBIT 1" is acceptable and should be granted by the City to the Killians, said EXHIBIT 1 is incorporated into this resolution by reference as if copied fully herein.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, this 4th day of March, 2004, that the Mayor and the City Clerk of the City of Asheboro are hereby authorized and directed to execute on behalf of the City of Asheboro a TEMPORARY EASEMENT that is substantially and materially similar to the TEMPORARY EASEMENT that is attached to this resolution as EXHIBIT 1.

ATTEST:

S/ David H. Jarrell
David H. Jarrell, Mayor

S/ Carol J. Cole
Carol J. Cole, CMC, City Clerk

"Exhibit 1" as referred to in this resolution is attached to the original resolution on file in the office of the city clerk.

21. Finance & Public Safety and Public Works Matters.

No official meetings have been held.

22. Items Not on the Agenda.

- (a) Mr. Ogburn announced that a public works committee meeting is scheduled for 4:00 PM, Thursday, March 18, 2004, to discuss providing sewer service to the proposed Food Lion Shopping Center at Pinewood Country Club.
- (b) A special council meeting is scheduled for 7:00 PM, Tuesday, March 23, 2004, to discuss Capital Improvement Projects.
- (c) Mr. Oliver reported that a variety of trees are proposed to be planted at the North Asheboro Park area in honor of past mayors. The area will be known as "Mayors' Grove." The trees have been donated by the First National Bank.

Upon motion by Mr. Crisco and seconded by Mr. Smith, council voted unanimously to approve the "Mayors' Grove" tree planting project.

There being no further business, the meeting was adjourned at 9:25 PM.

Carol J. Cole, CMC, City Clerk

David H. Jarrell, Mayor

