

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, ASHEBORO CITY HALL
THURSDAY, NOVEMBER 10, 2022
7:00 P.M.**

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

David H. Smith	) – Mayor Presiding
Clark R. Bell	)
Edward J. Burks	)
Kelly L. Heath	)
William M. McCaskill	) – Council Members Present
Walker B. Moffitt	)
Jane H. Redding	)
Charles A. Swiers	)

John N. Ogburn, III, City Manager
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
Jason A. Hanson, Police Major
Michael L. Leonard, PE, City Engineer
Trevor L. Nuttall, Community Development Director
Michael D. Rhoney, PE, Water Resources Director
Jeffrey C. Sugg, City Attorney
Willie Summers, Fire Chief

1. Call to Order

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

2. Moment of Silent Prayer and Pledge of Allegiance

After a moment of silence was observed in order to allow for private prayer and meditation, Mayor Smith asked everyone to stand and recite the pledge of allegiance.

3. Public Comment Period

Mayor Smith opened the floor for comments from the public.

Dwain Roberts commented on the council’s previous adoption of a resolution pertaining to the confederate statue at the Historic Randolph County Courthouse. No other speakers asked to be heard during the public comment period.

4. Consent Agenda

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

(a) Approval of the City Council Meeting Minutes for October 6, 2022

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

(b) Approval of the City Council Meeting Minutes for October 27, 2022

The meeting minutes for the city council's special meeting on October 27, 2022, were approved and have been filed in the city clerk's office. An electronic copy of the approved document has been posted on the city's website.

(c) Special Event Closure Order Approval – Veterans Parade

The council approved a special event closure order, including a temporary street closure, for the rescheduled Veterans Parade. The council rescinded the special event closure order entered on October 6, 2022, and adopted a new closure order for the Veterans Parade that has been rescheduled for November 19, 2022. The enacted temporary closure order will take effect at 0900 hours on November 19, 2022, and will end at 1200 hours on November 19, 2022. Pursuant to the special event closure order, the Zoo City Social District provisions will not be in effect on November 19, 2022, between 1100 hours and 1200 hours.

A copy of the map with the special event closure order is on file in the city clerk's office. As noted on the special event closure order, the council directed that the temporary street closure order section of the order is to be implemented in a manner that is consistent with any approvals issued for this event by the North Carolina Department of Transportation.

(d) Special Event Closure Order Approval – Christmas Parade

The council approved a special event closure order, including a temporary street closure, for the Christmas Parade on December 2, 2022. The temporary closure order will take effect at 1630 hours on December 2, 2022, and will end at 2100 hours on December 2, 2022. Pursuant to the special event closure order, the Zoo City Social District provisions will not be in effect on December 2, 2022.

A copy of the map with the special event closure order is on file in the city clerk's office. As noted on the special event closure order, the council directed that the temporary street closure order section of the order is to be implemented in a manner that is consistent with any approvals issued for this event by the North Carolina Department of Transportation.

(e) Special Event Closure Order Approval – Christmas Downtown

The council approved a special event closure order, including a temporary street closure, for the Christmas Downtown event on December 9, 2022. The temporary closure order will take effect at 1630 hours on December 9, 2022, and will end at 2200 hours on December 9, 2022. Pursuant to the special event closure order, the Zoo City Social District provisions will not be in effect on December 9, 2022.

A copy of the map with the special event closure order is on file in the city clerk's office. As noted on the special event closure order, the council directed that the temporary street closure order section of the order is to be implemented in a manner that is consistent with any approvals issued for this event by the North Carolina Department of Transportation.

(f) Special Event Closure Order Approval – Cigar, Food, & Whiskey Event Hosted by Leo's Whiskey Bar

The council approved a special event closure order, including the temporary street closure of a section of North Street, for the Cigar, Food, & Whiskey Event hosted by Leo's Whiskey Bar on December 16, 2022. The temporary closure order will take effect at 1400 hours on December 16, 2022, and will end at 2200 hours on December 16, 2022. Pursuant to the special event closure order, the Zoo City Social District

provisions will not be impacted. A copy of the map with the special event closure order is on file in the city clerk's office.

(g) Approval of an Audit Contract with Huneycutt, Parsley & Taylor, CPAs, PLLC

The above-referenced audit contract was approved by the council. The approved contract provides that the gross fee, including expenses, will not exceed \$36,800.00. Copies of the approved agreement are on file in the finance department and the city clerk's office.

(h) Scheduling of a Legislative Hearing for December 8, 2022

The council approved a request from the community development division to schedule for December 8, 2022, and to advertise, a legislative hearing on an application prepared by the city planning staff for the purpose of updating a broad range of subdivision review/approval regulations and in order to make technical corrections in the text of both the zoning and subdivision ordinances.

(i) Approval of Ordinance Amending Parking Regulations

ORDINANCE NUMBER 74 ORD 11-22

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**AN ORDINANCE TO AMEND SECTIONS 71.01 AND 72.02 OF
THE CODE OF ASHEBORO AND TO DESIGNATE A 4-HOUR
PARKING ZONE ON A SECTION OF SUNSET AVENUE**

WHEREAS, Section 160A-301(a) of the North Carolina General Statutes provides that the "city may by ordinance regulate, restrict, and prohibit the parking of vehicles on the public streets, alleys, and bridges within the city;" and

WHEREAS, Section 71.01 of the Code of Asheboro contains regulatory provisions concerning the establishment and marking of areas in which parking is prohibited or regulated; and

WHEREAS, Section 72.02 of the Code of Asheboro enumerates the subject matter of each of the schedules used to record the location of specific traffic and parking regulations enacted by the Asheboro City Council; and

WHEREAS, in response to concerns raised by stakeholders in the area commonly referred to as downtown Asheboro, the city staff has recommended the amendment of the Code of Asheboro in order to facilitate the designation of a 4-hour parking zone on a section of Sunset Avenue in downtown Asheboro; and

WHEREAS, the Asheboro City Council concurs with this recommendation.

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

Section 1. Section 71.01 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 71.01 DETERMINATION AND MARKING OF AREAS IN WHICH PARKING PROHIBITED OR REGULATED

(A) Pursuant to instructions given to him by the City Council from time to time and entered in the council minute book, the City Manager shall:

- (1) Cause all streets and parts of streets where parking shall be prohibited during prescribed time periods or at all times to be posted accordingly, or cause the curbs thereof to be painted yellow. He shall then notify the City Clerk, who shall enter the description of such streets or parts of streets in Schedule 1 of § 72.02.
- (2) Cause all streets and parts of streets where parking shall be limited to one hour during prescribed time periods or at all times to be posted accordingly. He shall then notify the City Clerk, who shall enter the description of such streets or parts of streets in Schedule 2 of § 72.02.
- (3) Cause all streets and parts of streets where parking shall be limited to two hours during prescribed time periods or at all times to be posted accordingly. He shall then notify the City Clerk, who shall enter the description of such streets or parts of streets in Schedule 3 of § 72.02.
- (4) Cause all streets and parts of streets where parking shall be limited to 15 minutes during prescribed time periods or at any time to be posted accordingly. He shall then notify the City Clerk, who shall enter the description of such streets and parts of streets in Schedule 4 of § 72.02.
- (5) Cause all areas designated as taxicab stands, bus stops, loading zones, reserved parking spaces, and similar limited-purpose parking areas to be posted or marked accordingly. He shall then notify the City Clerk, who shall enter the description and limitation of such areas in Schedule 5 of § 72.02.
- (6) Cause all streets and parts of streets where angle parking shall be required to be marked or posted so as to indicate where and at what angles vehicles shall be parked. He shall then notify the City Clerk, who shall enter the description of such streets and parts of streets, and the angle-parking requirements thereof, in Schedule 13 of § 72.02.
- (7) Cause all streets and parts of streets where parking shall be limited to 30 minutes during prescribed time periods or at any time to be posted accordingly. He shall then notify the City Clerk, who shall enter the description of such streets and parts of streets in Schedule 18 of § 72.02.

(8) Cause all streets and parts of streets where parking shall be limited to four hours during prescribed time periods or at any time to be posted accordingly. He shall then notify the City Clerk, who shall enter the description of such streets and parts of streets in Schedule 21 of § 72.02.

(B) The City Manager, and the Chief of Police through the City Manager, shall from time to time recommend to the City Council such proposed amendments to Schedules 1 to 5 and Schedule 13 through 21 of § 72.02 as they shall deem necessary for the benefit of the city.

Section 2. Section 72.02 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 72.02 ENUMERATED BY SUBJECT MATTER

Schedule 1. Where parking prohibited.

Schedule 2. Where parking limited to one hour.

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Schedule 3.	Where parking limited to two hours.
Schedule 4.	Where parking limited to 15 minutes.
Schedule 5.	Places reserved for stands for specific purposes.
Schedule 6.	Through streets.
Schedule 7.	Stop intersections.
Schedule 8.	One-way streets.
Schedule 9.	Where left turns to be made at left of center of intersection.
Schedule 10.	Intersections at which left turns prohibited.
Schedule 11.	Intersections at which right turns prohibited.
Schedule 12.	Intersections at which U turns prohibited.
Schedule 13.	Places where angle parking required.
Schedule 14.	Places where “children playing” signs erected.
Schedule 15.	Places where “yield right of way” signs erected.
Schedule 16.	Speed restrictions.
Schedule 17.	Parking prohibited on privately owned property.
Schedule 18.	Parking limited to 30 minutes.
Schedule 19.	Restrictions on use of play vehicles on private property.
Schedule 20.	Municipal off-street parking lot regulations (adopted on or after October 1, 2010).

Schedule 21. **Where parking limited to four hours.**

Section 3. With the exception of Saturdays, Sundays, and legal holidays, on-street parking on both sides of the section of Sunset Avenue located between the western margin of the railroad right-of-way and the eastern margin of the public right-of-way for Church Street shall be limited to four hours during the time period extending from 7:00 a.m. to 7:00 p.m. Notwithstanding any other provision found within this Ordinance, if a conflict develops between this Ordinance and another statutory or ordinance provision prohibiting parking at any time in the described location (e.g., a prohibition of parking at any time due to sight distance concerns at the intersection of street rights-of-way), the legal provision prohibiting parking at any time shall control.

Section 4. The City Manager is hereby authorized and directed to cause the section of Sunset Avenue described in Section 3 of this Ordinance to be posted in accordance with the provisions of Section 71.01(A)(8) of the Code of Asheboro and in accordance with the provisions of Section 3 of this Ordinance.

Section 5. The City Manager and the City Clerk are hereby directed to revise Schedule 21 of Section 72.02 of the Code of Asheboro to reflect the on-street parking regulations prescribed by this Ordinance.

Section 6. Except as specifically noted herein, all ordinances and clauses of ordinances in conflict with this Ordinance are hereby repealed.

Section 7. This Ordinance shall take effect and be in force from 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 November 10, 2022.

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

ATTEST:

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

5. Potential Enlargement of the Zoo City Social District

Amy Rudisill and Al LaPrade of Downtown Asheboro Inc. presented a request on behalf of the Farm at Little River, LLC, which owns the property at 130 South Church Street, to expand the boundaries of the Zoo City Social District. The specific request was to extend the district boundary line southward down South Church Street toward Hill Street.

After some discussion, Council Member Bell moved to direct city staff to draft an ordinance that would implement an extension of the Zoo City Social District boundary line. Council Member Moffitt seconded the motion. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

The requested ordinance amendment will be presented for council review and action during the next regular council meeting.

6. Update on the Third Fire Station/Emergency Operations Center Project

Chief Summers utilized a slide show in order to provide an overview of the plans for a third fire station, including an emergency operations center. The contemplated facility is currently proposed to include three (3) bays, an exercise room, a kitchen, a day room, a laundry room, an emergency operations center, and bunker gear storage. The acquisition of a site for the construction of the facility is the next step in the process.

Council approval will be sought for final site selection and real property acquisition after additional due diligence is completed by city staff. No action was requested of the council at this time, and none was taken.

7. Community Development Division Agenda Items

(a) Legislative Hearing – Case No. RZ-22-11

Mayor Smith opened the legislative hearing on a zoning map amendment application seeking the rezoning of approximately 1.69 acres of land on the west side of Zoo Parkway, approximately 200 feet north of the intersection with Ridge Street, from the existing B2 general commercial zoning district to I1 light industrial zoning. The parcel of land for which I1 zoning is requested (the “Zoning Lot”) has a street address of 1622 Zoo Parkway and is more specifically identified by Randolph County Parcel Identification Number 7750955151.

JBBC Properties, LLC (the “Applicant”) filed the application for the requested zoning map amendment. The Applicant is the owner of the Zoning Lot.

Community Development Director Trevor Nuttall was the first speaker during the legislative hearing. In addition to informing the governing board that the required legal notice of the hearing was mailed, published, and posted on the Zoning Lot, Mr. Nuttall utilized a slide show to present the planning staff’s analysis of the application. This analysis included the following information:

1. The property is located within the city limits.

2. Zoo Parkway (NC 159) is a state-maintained major thoroughfare. B2 building design standards (i.e., permissible building materials to be used on a street facing façade) are enforced in industrial districts located on such thoroughfares.
3. This section of Zoo Parkway, between East Dixie Drive and Ridge Street, primarily is commercially zoned and developed, with limited interspersed industrial and residential zoning.
4. The zoning ordinance describes the I1 zoning district as intended “to produce areas for manufacturing, processing and assembly uses, commercial uses, distribution and servicing enterprises, controlled by performance standards to limit the effect of such uses on uses within the district and on adjacent districts.”
5. Earlier in 2022, the city council approved a B2-CZ district on the adjacent property to the north for manufacturing, processing, and assembly and retail shoppers & convenience goods uses.
6. The Land Development Plan Central Small Area Plan recommends the following for new industrial use: “industrial uses are designated throughout the planning area, to accommodate existing industrial development, and provide opportunities for some new industrial development.” It also identifies “preservation and revitalization of existing residential neighborhoods” as a key issue.
7. The Land Development Categories intent for industrial districts is as follows: “to expand existing and develop new industrial uses, requiring transitional uses & buffers.” The Land Categories description further states that “special emphasis should be placed on providing adequate buffering and screening between industrial uses and adjacent residential and commercial uses. Whenever possible, appropriate transitional uses will be provided to surround and soften the impact of industrial uses.”
8. The LDP Proposed Land Use map designates the Zoning Lot for commercial development. The plan projected new industrial development to occur along the north side of Ridge Street.

Mr. Nuttall noted that, when evaluating a rezoning application, careful consideration must be given to each goal and policy as outlined in the Land Development Plan.

Proposed Land Use Map Designation:	Commercial
Small Area Plan:	Central
Growth Strategy Map Designation:	Primary Growth

LDP Goals/Policies Which Support the Request:

<u>Checklist Item 3:</u>	The property on which the rezoning district is proposed fits the description of the Zoning Ordinance. <i>(Article 200, Section 210, Schedule of Statements of Intent)</i>
<u>Checklist Item 5:</u>	Complies with Growth Strategy Map
<u>Checklist Item 7:</u>	The proposed rezoning is compatible with the applicable Small Area Plan.

Checklist Items 12, 13, and 14:

12.) Property is located outside of watershed 13.) The property is located outside of Special Hazard Flood Area. 14.) Rezoning is not located on steep slopes of greater than 20%.

LDP Goals/Policies Which Do Not Support the Request:

Checklist Item 1:

Rezoning is not compliant with the Proposed Land Use Map.

Checklist Item 10:

Rezoning is not consistent with land category descriptions

2.1.1

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

The city planning staff provided the following analysis of the consistency of the proposed development with the adopted comprehensive plans as well as the reasonableness of the proposal and whether the proposal is in the public interest.

The Land Development Plan (LDP), recognizing Oliver Rubber's large footprint, contemplates limited industrial expansion in the area. The Proposed Land Use map forecasts such industrial growth to occur along Ridge Street instead of Zoo Parkway. However, there remains a stable neighborhood of homes on Ridge Street and the industrial growth that had been expected has not happened. Instead, City Council recently authorized a manufacturing processing and assembly operation and related retail use (RZ-22-01) on Zoo Parkway to the north of the property requested for rezoning. That property is currently vacant and at one time also was owned by the applicant.

Approval of this request, when combined with the RZ-22-01 approval, would accommodate the limited industrial growth envisioned by the Land Development Plan while preserving the residential continuity that exists on Ridge Street. While a general non-conditioned zoning district does introduce uncertainty in terms of how the property ultimately will be used, the zoning ordinance contains development standards addressing light, noise, odor, parking, and landscaping requirements. In addition, the relatively small size of the property and adjacent B2 and B2-CZ zoning helps to assuage compatibility concerns.

The report presented by the community development director noted that the City of Asheboro Planning Board concurred with the planning staff's analysis. Consequently, the planning board recommended approval of the requested rezoning.

In response to Mayor Smith inviting testimony from the public, Bobby Crumley and Chris Scott presented comments in support of the rezoning application. No other comments were offered from the public, and Mayor Smith then transitioned to the deliberative phase of the process.

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

1. In view of Oliver Rubber's large footprint, the LDP contemplates limited industrial expansion in the area. While the Proposed Land Use map forecasts such industrial growth to occur along Ridge Street instead of Zoo Parkway, there remains a stable neighborhood of homes on Ridge Street. The contemplated industrial growth has not happened.

A manufacturing processing and assembly operation and related retail use was authorized under case number RZ-22-01 on Zoo Parkway to the north of the Zoning Lot. When combined with the earlier RZ-22-01 authorization, the approval of the Applicant's request would accommodate the limited industrial growth envisioned by the Land Development Plan while preserving the residential continuity that exists on Ridge Street. A general non-conditioned zoning district does introduce uncertainty in terms of how the property ultimately will be used. However, the zoning ordinance contains development standards addressing light, noise, odor, parking, and landscaping requirements. In addition, the relatively small size of the Zoning Lot and the adjacent B2 and B2-CZ zoning helps to assuage compatibility concerns. For all of the above-stated reasons, the requested zoning map amendment, on balance, is deemed to be consistent with the adopted plans, reasonable, and in the public interest.

2. In light of the above-stated analysis, the above-described zoning ordinance map amendment application is approved.

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

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

(b) Agreement with the North Carolina Department of Transportation – Sidewalk Construction Costs

Mr. Nuttall requested authorization for the execution of an agreement pertaining to sidewalk construction costs with the North Carolina Department of Transportation. Under the agreement recommended for approval by city staff, the city would participate in the cost to construct sidewalks as part of TIP Number U-5813 (improvements to U.S. 64 from the Asheboro Bypass to east of I-74/I-74/U.S. 220). The estimated cost share amount for the city is \$137,655.

After discussing the staff recommendation, Council Member Bell moved, and Council Member Heath seconded the motion, to authorize the execution of the above-described agreement. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

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

(c) Announcement of Public Workshops

Mr. Nuttall announced that the city's community development division will be holding public workshops in order to seek public input related to the ongoing update of the city's land development plan. The workshops will take place on Monday, November 28, 2022, at the Department of Social Services from 11:00 a.m. until 3:00 p.m.; Tuesday, November 29, 2022, at Randolph Community College from 11:00 a.m. until 3:00 p.m.; and on Wednesday, November 30, 2022, at Asheboro Public Library from 4:00 p.m. until 7:00 p.m.

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

8. **Engineering Department Agenda Items**

Annexation Petition

In Excess of 65 Acres of Land Owned by The Moses H. Cone Memorial Hospital on the West Side of I73/I74

Prior to the consideration of agenda items pertaining to the annexation petition received from The Moses H. Cone Memorial Hospital, Council Member Redding disclosed that transactions related to the property at issue created a conflict of interest for her, and she requested to be recused from participating in the agenda items related to the above-described annexation petition. In response, Council Member Bell moved to excuse Council Member Redding from participating in all discussions and votes pertaining to the stated annexation petition. Council Member Burks seconded the motion. Council Members Bell, Burks, Heath, McCaskill, Moffitt, and Swiers voted aye. There were no dissenting votes.

(a) Resolution Directing the Investigation of the Annexation Petition

City Engineer Michael Leonard, PE then provided an overview of the annexation petition submitted by The Moses H. Cone Memorial Hospital. This petition pertains to four parcels of land owned by the hospital along the western side of Interstate 73/74.

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

RESOLUTION NUMBER 38 RES 11-22

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE THE
SUFFICIENCY OF THE ANNEXATION PETITION SUBMITTED BY
THE MOSES H. CONE MEMORIAL HOSPITAL**

WHEREAS, the Moses H. Cone Memorial Hospital, (the “Petitioner”) has submitted a petition requesting the annexation into Asheboro of four parcels of land (Randolph County Parcel Identification Numbers 7752396762, 7752398870, 7752399337, and 7752389302) owned by the hospital along the western side of Interstate 73/74; and

WHEREAS, the Petitioner’s above-referenced land is deemed to be contiguous to Asheboro’s primary city limits; and

WHEREAS, Section 160A-31 of the General Statutes of North Carolina provides that the sufficiency of the petition shall be investigated by the city clerk before further annexation proceedings may take place; and

WHEREAS, the Asheboro City Council has decided to proceed with the statutorily prescribed voluntary annexation process.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the city clerk is hereby directed to investigate the sufficiency of the above-described annexation petition and to certify to the council the results of her investigation.

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

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

ATTEST:

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

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

CERTIFICATE OF SUFFICIENCY
(Annexation Petition Submitted by
The Moses H. Cone Memorial Hospital)

TO: The City Council of the City of Asheboro, North Carolina

I, Holly H. Doerr, am the City Clerk for the City of Asheboro. I hereby certify that, with the assistance of staff members in various city departments, I have investigated the annexation petition submitted by the Moses H. Cone Memorial Hospital (the "Petitioner"). I further certify that the following paragraphs accurately state the information obtained during the course of my investigation of the annexation petition.

The Petitioner has requested the annexation into Asheboro of four parcels of land (Randolph County Parcel Identification Numbers 7752396762, 7752398870, 7752399337, and 7752389302) owned by the hospital along the western side of Interstate 73/74 (the "Annexation Territory"). This land is contiguous to the primary corporate limits of the City of Asheboro.

On the basis of my investigation, I have concluded that all of the owners of the real property lying in the Annexation Territory have signed the prescribed petition. The petition appears to be sufficient to satisfy the provisions of Section 160A-31 of the General Statutes of North Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Asheboro in order to make this certification effective as of November 10, 2022.

(CITY SEAL)

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

(b) Resolution Setting the Date for a Public Hearing

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

RESOLUTION NUMBER 39 RES 11-22

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

RESOLUTION SETTING THE DATE FOR A PUBLIC HEARING ON THE QUESTION OF THE REQUESTED ANNEXATION OF APPROXIMATELY 69.189 ACRES OF LAND LOCATED ALONG THE WEST SIDE OF INTERSTATE 73/74

WHEREAS, the Moses H. Cone Memorial Hospital has submitted a petition requesting the annexation into Asheboro of four parcels of land along the west side of Interstate 73/74 (this land is identified by Randolph County Parcel Identification Numbers 7752396762, 7752398870, 7752399337, and 7752389302); and

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

WHEREAS, the city clerk has certified the sufficiency of the petition for proceeding with setting the date for a public hearing on the question of the requested annexation pursuant to Section 160A-31 of the General Statutes of North Carolina.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that a public hearing on the question of annexing the territory shown on the plat attached to this Resolution as EXHIBIT 1 will be held in the council chamber on the second floor of Asheboro City Hall at 146 North Church Street, Asheboro, North Carolina 27203 during a regular meeting of the Asheboro City Council that will begin at 7:00 p.m. on December 8, 2022; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that notice of the public hearing scheduled pursuant to this Resolution shall be published in *The Courier-Tribune*, which is a newspaper having general circulation in the City of Asheboro, at least ten (10) days prior to the date of the public hearing.

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

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

ATTEST:

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

[The attachment identified in the immediately preceding resolution as EXHIBIT 1 is on file in the city clerk's office.]

Public Streets

(a) Update on a Traffic Study at the Intersection of Salisbury Street and Old Lexington Road

Mr. Leonard announced that a traffic study proposal has been received from Randy Kemp Associates and work is to be completed in the coming weeks. A report on the findings of the study is anticipated to be ready for the council's regular meeting in December 2022.

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

(b) Resolution of Intent to Permanently Close a Section of West Pritchard Street

Prior to the consideration of the above-referenced permanent street closure, and due to a familial connection to an adjoining property owner impacted by the proposed street closure, Council Member Redding disclosed that this agenda item created a conflict of interest for her, and she requested to be recused from participating in any discussion or votes concerning this agenda item. In response, Council Member Bell moved to excuse Council Member Redding from participating in all discussions and any voting pertaining to the permanent street closure under consideration. Council Member Heath seconded the motion. Council Members Bell, Burks, Heath, McCaskill, Moffitt, and Swiers voted aye. There were no dissenting votes.

Mr. Leonard then presented and recommended the adoption, by reference, of a resolution of intent to permanently close a portion of the public right-of-way for West Pritchard Street at the western margin of North Fayetteville Street. After considering the staff recommendation, Council Member Bell moved, and Council Member Burks seconded the motion, to adopt/approve the following resolution by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, and Swiers voted aye. There were no dissenting votes.

RESOLUTION NUMBER 40 RES 11-22

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**RESOLUTION OF INTENT TO PERMANENTLY CLOSE A PORTION OF THE
PUBLIC RIGHT-OF-WAY FOR WEST PRITCHARD STREET AT THE
WESTERN MARGIN OF NORTH FAYETTEVILLE STREET**

WHEREAS, Section 160A-299 of the North Carolina General Statutes prescribes the procedure to be followed by a city in order to permanently close a street or alley; and

WHEREAS, West Prichard Street is a public street within the corporate limits of the City of Asheboro that is under the general authority and control of the city; and

WHEREAS, the city manager, in consultation with the city's engineering department, has advised the Asheboro City Council that a portion of the public right-of-way for West Pritchard Street at the western margin of the public right-of-way for North Fayetteville Street (US 220 Business) is no longer needed for public right-of-way in this location; and

WHEREAS, the Asheboro City Council has concluded that unneeded public right-of-way should be permanently closed; and

WHEREAS, in order for the city to lawfully permanently close a street or any portion thereof, Section 160A-299 of the North Carolina General Statutes requires the city council to first adopt a resolution declaring the governing board's intent to permanently close the street, or a portion of the street, in question and then call a public hearing on the question.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, on this the 10th day of November, 2022, as follows:

Section 1. It is the intent of the City Council of the City of Asheboro to permanently close a total of approximately 9,791 square feet of the public right-of-way for West Pritchard Street that is located at the western margin of the public right-of-way for North Fayetteville Street (US 220 Business). The section of public right-of-way proposed for permanent closure is located within the corporate limits of the City of Asheboro, is not part of a public right-of-way controlled by the North Carolina Department of Transportation, and is shown on the map attached to this Resolution as EXHIBIT 1.

Section 2. A public hearing on the above-described proposal to permanently close the above-described section of public right-of-way for West Pritchard Street is hereby called and is to be held during a regular meeting of the Asheboro City Council that will begin at 7:00 p.m. on January 5, 2023, in the council chamber on the second floor of Asheboro City Hall, 146 North Church Street, Asheboro, North Carolina 27203. At this public hearing, any person may be heard on the question of whether or not the intended closing of the above-identified portion of West Pritchard Street would be detrimental to the public interest or the property rights of any individual.

Section 3. The city clerk is hereby directed to cause the publication of notice of this Resolution of Intent once a week for four (4) successive weeks prior to the above-referenced public hearing in *The Courier-Tribune*, a newspaper of general circulation in the City of Asheboro.

Section 4. The city clerk is further directed to transmit a copy of the notice of this Resolution of Intent by registered or certified mail to each owner of property adjoining the portion of West Pritchard Street identified in Section 1 of this Resolution. The identity of any impacted property owner is to be determined on the basis of records maintained by the Randolph County Tax Department.

Section 5. The city clerk is further directed to cause the prominent posting of this Resolution of Intent in a minimum of two (2) locations along the portion of West Pritchard Street identified in Section 1 of this Resolution.

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

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

ATTEST:

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

[The attachment identified in the immediately preceding resolution as EXHIBIT 1 is on file in the city clerk's office.]

Public Contracting

The Exemption of Competitive Bidding Requirements

Mr. Leonard presented and recommended adoption of a resolution authorizing the exemption of competitive bidding requirements due to sole source products as related to the Zoo City Sportsplex.

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

RESOLUTION NUMBER 41 RES 11-22

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

A RESOLUTION AUTHORIZING THE EXEMPTION OF COMPETITIVE BIDDING REQUIREMENTS DUE TO SOLE SOURCE PRODUCTS AS RELATED TO ZOO CITY SPORTSPLEX

WHEREAS, to maintain standardization and compatibility with the playing surface that has been previously installed at the Zoo City Sportsplex, which is owned by the City of

Asheboro, staff is requesting approval to purchase and install 15,944 sq.ft. of 1.5” tall Max Natural EasyTurf around the Beach Volleyball Courts.

WHEREAS, North Carolina General Statutes 143-129(e)(6) provides that purchases of apparatus, supplies materials, or equipment, the governing body of any political subdivision of the State may, subject to any restriction as to dollar amount, or other conditions that the governing body elects to impose, delegate to the City Manager are exempt from the bidding process when:

- A Performance or price competition for a product are not available
- B The needed product is exclusively available from only one source of supply
- C Standardization or compatibility is the overriding consideration; and

WHEREAS, the Max Natural EasyTurf is available from one supply source; and

WHEREAS, this exception to the bidding requirements are referred to as “Sole Source” must be approved by the City Council of the City of Asheboro prior to purchase;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the Council hereby confirms the purchase of \$208,900.00 from Hicks Landscape Contractors, Inc., as a sole source vendor as outlined in the North Carolina General Statutes 143-129(e)(6).

THIS Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on November 10, 2022.

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

ATTEST:

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

9. Budget and Project Fund Amendments

(a) Ordinance to Amend the General Fund – Turf around the Zoo City Sportsplex Beach Volleyball Courts

City Manager John Ogburn presented an ordinance to amend the General Fund pertaining to the turf around the Zoo City Sportsplex Beach Volleyball Courts. In response, Council Member Bell moved, and Council Member Heath seconded the motion, to adopt/approve the following ordinance by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

75 ORD 11-22

**ORDINANCE TO AMEND THE GENERAL FUND
FY 2022-2023**

WHEREAS, The City of Asheboro wishes to purchase and install 15,944 sq. ft. of 1.5” tall Max Natural Easy Turf around the Beach Volleyball courts at the Zoo City Sportsplex to maintain standardization and compatibility with the playing surface that has previously been installed at the Zoo City Sportsplex

WHEREAS, the estimated cost for the purchase is not to exceed \$209,000.

WHEREAS, the City desires to appropriate General Fund Balance for this expense.

WHEREAS, the City of Asheboro desires amend the 2022-2023 General Fund budget to as required by law to adjust for changes in revenues and expenditures in comparison to the current adopted budget.

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

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

That the following Revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
10-000-399.0000	Fund Balance Allocation	209,000

That the following expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
10-620-574.7400	Contribution to Zoo City Sportsplex Fund	209,000

Adopted this the 10th day of November 2022.

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

ATTEST:

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

(b) Ordinance to Amend the Zoo City Sportsplex Fund – Beach Volleyball Courts

Mr. Ogburn presented and recommended adoption, by reference, of an ordinance to amend the Zoo City Sportsplex Fund pertaining to the Beach Volleyball Courts. In response, Council Member Bell moved, and Council Member Swiers seconded the motion, to adopt/approve the following ordinance by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

76 ORD 11-22

**ORDINANCE TO AMEND THE ZOO CITY SPORTSPLEX FUND
FY 2022-2023**

WHEREAS, The City of Asheboro wishes to purchase and install 15,944 sq. ft. of 1.5” tall Max Natural Easy Turf around the Beach Volleyball courts at the Zoo City Sportsplex to maintain standardization and compatibility with the playing surface that has previously been installed at the Zoo City Sportsplex

WHEREAS, the estimated cost for the purchase is not to exceed \$209,000.

WHEREAS, the City desires to recognize funding from the General Fund and appropriate for this expense in the Zoo City Sportsplex fund.

WHEREAS, the City of Asheboro desires amend the 2022-2023 capital project fund budget to as required by law to adjust for changes in revenues and expenditures in comparison to the current adopted budget.

November 10, 2022

WHEREAS, the total combined appropriation of General Fund Balance is \$533,500 as a transfer to the Zoo City Sportsplex fund.

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WHEREAS, the City of Asheboro desires amend the 2022-2023 General Fund operating budget to as required by law to adjust for changes in revenues and expenditures in comparison to the current adopted budget.

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

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

That the following Revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
10-000-399.0000	Fund Balance Allocation	533,500

That the following expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
10-620-574.7400	Contribution to Zoo City Sportsplex Fund	533,500

Adopted this the 10th day of November 2022.

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

ATTEST:

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

(d) **Ordinance to Amend the Zoo City Sportsplex Fund – Playground and Other Miscellaneous Expenses**

Mr. Ogburn presented and recommended adoption, by reference, of an ordinance to amend the Zoo City Sportsplex Fund pertaining to the playground and other miscellaneous expenses. In response, Council Member Bell moved, and Council Member Burks seconded the motion, to adopt/approve the following ordinance by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

78 ORD 11-22

**ORDINANCE TO AMEND THE ZOO CITY SPORTSPLEX FUND
FY 2022-2023**

WHEREAS, at the October 2022 City Council Meeting, the City Recognized the YMCA contribution of \$300,000 toward a playground at Zoo City Sportsplex.

WHEREAS, the estimated contract for installation and the purchase of the playground equipment is estimated not to exceed \$533,500.

WHEREAS, the City desires to appropriate \$233,500 to cover the difference between the estimated contract cost and the donation from the YMCA for the playground.

WHEREAS, the City of Asheboro desires to appropriate \$300,000 for miscellaneous expenses at Zoo City Sportsplex that fall outside of the scope of the executed contracts to construct the park.

WHEREAS, the City desires to recognize funding from the General Fund and appropriate for these expenses in the Zoo City Sportsplex fund.

WHEREAS, the City of Asheboro desires amend the 2022-2023 capital project fund budget to as required by law to adjust for changes in revenues and expenditures in comparison to the current adopted budget.

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

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

That the following Revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
74-000-370.0000	Contribution from General Fund	233,500
74-000-370.0000	Contribution from General Fund	300,000
		<u>\$533,500</u>

That the following expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
74-000-400.9005	Miscellaneous Expense- unallocated	300,000
74-000-400.9006	Playground	233,500
		<u>\$533,500</u>

Adopted this the 10th day of November 2022.

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

ATTEST:

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

(e) Ordinance to Amend the Water and Sewer Fund – Zoo City Sportsplex Pump Stations

Mr. Ogburn presented and recommended adoption, by reference, of an ordinance to amend the Water and Sewer Fund pertaining to the Zoo City Sportsplex pump stations. In response, Council Member Heath moved, and Council Member Bell seconded the motion, to adopt/approve the following ordinance by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

79 ORD 11-22

**ORDINANCE TO AMEND
THE WATER & SEWER FUND
FY 2022-2023**

WHEREAS, the City of Asheboro is installing pump stations at the Zoo City Sportsplex.

WHEREAS, these are water & sewer fund activities and the funding for these activities needs to be recognized in the Water & Sewer Fund but the expense needs to be recognized in the Zoo City Sportsplex project fund.

WHEREAS, the City of Asheboro desires amend the 2022-2023 Water & Sewer Fund operating budget to as required by law to adjust for changes in revenues and expenditures in comparison to the current adopted budget.

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

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

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

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>
30-000-399.0000	Fund Balance Appropriation	\$50,000

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

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>
30-870-574.7400	Contribution to ZCSP fund	\$50,000

Adopted this 10th day of November, 2022.

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

ATTEST:

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

(f) Ordinance to Amend the Zoo City Sportsplex Fund – Pump Stations

Mr. Ogburn presented and recommended adoption, by reference, of an ordinance to amend the Zoo City Sportsplex pertaining to the pump stations. In response, Council Member Heath moved, and Council Member Swiers seconded the motion, to adopt/approve the following ordinance by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

80 ORD 11-22

**ORDINANCE TO AMEND
THE ZOO CITY SPORTSPLEX FUND
FY 2022-2023**

WHEREAS, the City of Asheboro is installing pump stations at the Zoo City Sportsplex.

WHEREAS, since these are water & sewer fund activities, the funding for these activities need to be recognized in the Water & Sewer Fund but the expense needs to be recognized in the Zoo City Sportsplex project fund.

WHEREAS, the City of Asheboro desires amend the 2022-2023 Zoo City Sportsplex project fund budget to as required by law to adjust for changes in revenues and expenditures in comparison to the current adopted budget.

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

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

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

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>
74-000-300.0000	Contribution from W&S Fund	\$50,000

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

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>
74-000-400.9007	Construction – Pump Stations	\$50,000

Adopted this 10th day of November, 2022.

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

ATTEST:

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

**(g) Ordinance to Amend the General Fund – McCrary Ballpark
Playground and Other Miscellaneous Expenses**

Mr. Ogburn presented and recommended adoption, by reference, of an ordinance to amend the General Fund pertaining to the McCrary Ballpark playground and other miscellaneous expenses. In response, Council Member Heath moved, and Council Member Burks seconded the motion, to adopt/approve the following ordinance by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

81 ORD 11-22

**ORDINANCE TO AMEND THE GENERAL FUND
FY 2022-2023**

WHEREAS, at the September 2022 City Council Meeting, the City recognized the Kiwanis Club contribution of \$50,000 toward a playground at McCrary Ballpark.

WHEREAS, the estimated contract for installation and the purchase of the playground equipment is not to exceed \$73,000.

WHEREAS, the City desires to appropriate \$23,000 from the General Fund Balance to cover the difference between the estimated contract cost and the donation from the Kiwanis Club for the playground.

WHEREAS, the City of Asheboro desires to appropriate \$250,000 from the General Fund Balance for miscellaneous expenses for the McCrary Ballpark renovation that fall outside of the scope of the executed construction contracts.

WHEREAS, the total combined appropriation of General Fund Balance is \$273,000 as a transfer to the McCrary Ballpark Improvements Fund.

WHEREAS, the City of Asheboro desires amend the 2022-2023 General Fund operating budget to as required by law to adjust for changes in revenues and expenditures in comparison to the current adopted budget.

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

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

That the following Revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
10-000-399.0000	Fund Balance Allocation	273,000

That the following expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
10-620-574.6500	Contribution to McCrary Ballpark Fund	273,000

Adopted this the 10th day of November 2022.

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

ATTEST:

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

(h) Ordinance to Amend the McCrary Ballpark Improvements Fund – Playground and Other Miscellaneous Expenses

Mr. Ogburn presented and recommended adoption, by reference, of an ordinance to amend the McCrary Ballpark Improvements Fund pertaining to the playground and other miscellaneous expenses. In response, Council Member Bell moved, and Council Member Burks seconded the motion, to adopt/approve the following ordinance by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

82 ORD 11-22

**ORDINANCE TO AMEND
THE MCCRARY BALLPARK IMPROVEMENTS FUND
FY 2022-2023**

WHEREAS, at the September 2022 City Council Meeting, the City recognized the Kiwanis Club contribution of \$50,000 toward a playground at McCrary Ballpark.

WHEREAS, the estimated contract for installation and the purchase of the playground equipment is not to exceed \$73,000.

WHEREAS, the City desires to appropriate \$23,000 from the General Fund Balance to cover the difference between the estimated contract cost and the donation from the Kiwanis Club.

WHEREAS, the City of Asheboro desires to appropriate \$250,000 from the General Fund Balance for miscellaneous expenses for the McCrary Ballpark renovation that fall outside of the scope of the executed construction contracts.

WHEREAS, the City desires to recognize funding from the General Fund and appropriate for these expenses in the McCrary Ballpark Improvements fund.

WHEREAS, the City of Asheboro desires amend the 2022-2023 capital project fund budget to as required by law to adjust for changes in revenues and expenditures in comparison to the current adopted budget.

WHEREAS, the City of Asheboro desires 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: The following revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
65-000-300.0001	Contribution from General Fund	273,000

Section 2: The following expense line item be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
65-000-404.9000	Construction- Playground	23,000
65-000-405.0000	Miscellaneous	250,000
	Total	273,000

Adopted this the 10th day of November 2022.

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

ATTEST:

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

(i) Ordinance to Amend the General Fund – Vehicle Purchase

Mr. Ogburn presented and recommended adoption, by reference, of an ordinance to amend the General Fund pertaining to a vehicle purchase. In response, Council Member Heath moved, and Council Member Burks seconded the motion, to adopt/approve the following ordinance by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

83 ORD 11-22

**ORDINANCE TO AMEND THE GENERAL FUND
FY 2022-2023**

WHEREAS, the City Manager authorized the purchase of an SUV for City Hall use in 2017.

WHEREAS, the City Manager has identified a need to have a second vehicle assigned to City Hall.

WHEREAS, The City Manager feels that a 4x4 truck assigned to City Hall would be beneficial for emergency preparedness purposes.

WHEREAS, the current adopted 2022-2023 budget does not allocate funding for this expense.

WHEREAS, the City Manager approved moving funds from the Street Department budget to City Hall budget department in order to purchase a used vehicle.

November 10, 2022

WHEREAS, the City of Asheboro Budget Ordinance gives authority to the City Manager to make internal budgetary movement of funds between departments with follow up to the City Council at the next council meeting.

WHEREAS, the estimated cost of the vehicle is \$36,000.

WHEREAS, the City of Asheboro desires amend the 2022-2023 budget to as required by law to adjust for changes in revenues and expenditures in comparison to the current adopted budget.

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

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

That the following expense line items be decreased / increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
10-565-534.0002	Other supplies – asphalt (street dept)	(36,000)
10-500-574.0000	Capital Outlay	36,000
		<u>0</u>

Adopted this the 10th day of November 2022.

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

ATTEST:

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

(j) Ordinance to Amend the General Fund – Façade Grant

Prior to considering agenda item 9(j), Council Member Bell moved, and Council Member Redding seconded the motion, to excuse Council Member Heath and Mayor Smith from participating in the discussion and any voting pertaining to the façade grant. Council Member Heath and Mayor Smith were recused because of their service with the board of the nonprofit corporation known as Downtown Asheboro Inc. Council Members Bell, Burks, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

Due to Mayor Smith's recusal from this agenda item, Mayor Pro Tempore Moffitt assumed the role of presiding officer during the consideration of this specific agenda item. Mr. Ogburn then presented and recommended adoption, by reference, of an ordinance to amend the General Fund pertaining to a façade grant. In response, Council Member Bell moved, and Council Member Redding seconded the motion, to adopt/approve the following ordinance by reference. Council Members Bell, Burks, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

84 ORD 11-22

**ORDINANCE TO AMEND THE GENERAL FUND
FY 2021-2022**

WHEREAS in December 2021, the City Council approved funding the Downtown Asheboro Inc.(DAI) “Downtown Redevelopment Grant” program focused on spurring economic development in Downtown Asheboro Historic District by providing financial consideration to

incentivize owners and tenants to invest in property improvements that are focused on historic preservation of architectural character that is unique to Asheboro.

WHEREAS, the one hundred thousand dollars allocated for this grant were used for improvements to 6 locations in the historic downtown Asheboro district – 200 Block S. Fayetteville St., 135-139 Sunset Ave, 127 Trade Street, 216 S. Fayetteville St., 226 S. Fayetteville St, and 138 Sunset Ave.

WHEREAS, the DAI is excited with how the grant funding has helped encourage property owners invest in upgrades or beautifications to their downtown properties.

WHEREAS, DAI has more qualified applications than allocated grant funding could support and has requested a second round of grant funding from the City of Asheboro in the amount of one hundred thousand dollars for this program, and

WHEREAS, the City of Asheboro recognizes long term economic development aspect of investment in the Downtown Historic District and would like to appropriate fund balance for this purpose, and

WHEREAS, the City of Asheboro desires amend the 2022-2023 budget to be in compliance with all generally accepted accounting principles.

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

That the following Revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
10-000-399.0000	Fund Balance Allocation	\$100,000

That the following Expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
10-490-551.0000	Community Redevelopment	\$100,000

Adopted this the 10th day of November 2022.

/s/ Walker B. Moffitt
Walker B. Moffitt, Mayor Pro Tempore

ATTEST:

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

(k) Ordinance to Amend the Water and Sewer Fund – North Carolina Department of Transportation Utility Construction

Mr. Ogburn presented and recommended adoption, by reference, of an ordinance to amend the Water and Sewer Fund pertaining to North Carolina Department of Transportation utility construction. Council Member Heath moved, and Council Member Burks seconded the motion, to adopt/approve the following ordinance by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

**ORDINANCE TO AMEND
THE WATER & SEWER FUND
FY 2022-2023**

WHEREAS, the NC Department of Transportation is in the process of replacing bridge 750038 over Cedar Fork Creek on SR 3255 (Farmer Rd.).

WHEREAS, the bridge construction will impact existing water and sewer lines owned by the City of Asheboro.

WHEREAS, the City of Asheboro agreed to cover the cost for the utility relocation for an estimated amount of \$48,000.

WHEREAS, the City has requested that an existing 2" water main line be upgraded to a proposed 6" water main and this 6" betterment cost is approximately \$25,000.

WHEREAS, the City of Asheboro desires amend the 2022-2023 Water & Sewer Fund operating budget to as required by law to adjust for changes in revenues and expenditures in comparison to the current adopted budget.

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

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

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

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>
30-000-399.0000	Fund Balance Appropriation	\$72,000

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

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>
30-840-546.0000	Contracted Maintenance	49,000
30-850-546.0000	Contracted Maintenance	24,000
		<u>\$72,000</u>

Adopted this 10th day of November, 2022.

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

ATTEST:

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

10. Asheboro Regional Airport Items

(a) Civil Air Patrol Lease Agreement

City Attorney Jeff Sugg presented and recommended approval of a new 3-year lease agreement with the Civil Air Patrol. The existing 3-year agreement is about to expire, and the proposed agreement grants another 3-year lease term to the Civil Air Patrol on the same material terms and conditions found in the preceding hangar lease agreements.

In response, Council Member Bell moved, and Council Member Heath seconded the motion, to approve the following hangar lease agreement with the Civil Air Patrol. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

STATE OF NORTH CAROLINA

**ASHEBORO REGIONAL AIRPORT
HANGAR SPACE LEASE AGREEMENT**

COUNTY OF RANDOLPH

THIS AGREEMENT AND LEASE (the “Agreement”) is made and entered into, as of the date of the last signature affixed hereto, by and between the **CITY OF ASHEBORO (the “Lessor”)**, a North Carolina municipal corporation, and the **CIVIL AIR PATROL (the “Lessee”)**, incorporated under a Special Act of Congress approved July 1, 1946, Public Law 476, 79th Congress, for the use and benefit of the Randolph Composite Squadron.

WITNESSETH:

In consideration of the annual rental fee set forth below and other mutual promises contained herein, the parties agree as follows:

- (1) Lessor hereby leases to Lessee and Lessee hereby accepts the following area of rental space at the Asheboro Regional Airport for use during the lease term as an administrative/operational center and for an aircraft owned by the Lessee:

The area labeled as “C.A.P. Building” on Schedule “C” (as amended through October 2022) for the Asheboro Regional Airport; Schedule “C” is attached as EXHIBIT 1 to this Agreement and is hereby incorporated into this Agreement by reference as if fully copied herein.

- (2) The lease period shall be for a 3-year term commencing at 12:01 a.m. on January 1, 2023, and ending at midnight on December 31, 2025.
- (3) The rental rate under this Agreement is one and no hundredths dollars (\$1.00) per year. Because of the minimal amount charged for the entire 3-year term of this Agreement, and for administrative convenience, the total sum of rental charges due under this Agreement shall be paid in good funds by the Lessee to the Lessor in advance of the commencement of the 3-year lease term specified in the immediately preceding paragraph. Consequently, in advance of January 1, 2023, the Lessee shall pay to the Lessor the sum of three and no hundredths dollars (\$3.00), which is the total rental fee due under this Agreement.
- (4) Lessee hereby agrees to the following operating procedures and limitations:
 - (a) Lessee will not operate any aircraft engine inside the hangar and will not run-up any aircraft engine with propeller blast directed toward any hangar door, hangar, or other aircraft;
 - (b) Lessee will assure proper chocking and securing of aircraft after each usage;
 - (c) While not required, Lessee may leave hangar and aircraft keys with the Airport Manager for emergency use;
 - (d) Lessee will provide, install, and maintain a suitable portable fire extinguisher in the hangar; and

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- (e) Lessee will maintain the interior of the hangar in a clean and neat condition.
- (5) Lessee will bear all costs involving utilities to its hangar, *ad valorem* taxes to any extent that the same may in the future be charged in connection with the demised premises, insurance and permits for the demised premises, any cost of improvements to the demised premises, and required repairs to the interior space of the demised premises.
- (6) Lessee is prohibited from assigning this lease, and the Lessee is also prohibited from subleasing any portion of its hangar.
- (7) Lessor will not be liable for loss arising out of damage to or destruction of the hangar or its contents from any cause, except such loss as may be recoverable under Lessor's standard liability insurance policy.
- (8) It is expressly agreed that if the Lessee fails to perform or comply with any of the provision(s) of this Agreement and remains in default thereof for a period of 30 days after written notice from the Lessor calling attention to such default, the Lessor may declare this Agreement terminated and cancelled and take possession of the premises described herein without prejudice to any other legal remedy the Lessor may have on account of such default. The notice of default may be posted on the demised premises or given to the person at such time in charge of the premises. It is specifically understood and agreed that cancellation of this Agreement by the Lessor for cause can be done at any time during the 3-year lease term specified herein after failure by the Lessee to correct an event of default as aforesaid.
- (9) Upon the expiration of the current 3-year lease term, Lessee will have first refusal to rent the hangar at a rate and for a term set in the discretion of the Asheboro City Council.
- (10) The Lessee shall not engage in general competition with the fixed base operator or other operations at the Asheboro Regional Airport. This provision is not intended to create a monopoly for the present fixed base operator and is made a part of this Agreement solely on account of the nominal rental rate charged under this Agreement.
- (11) It is understood and agreed that the purpose of this lease is to provide a place for the Lessee to conduct operations and training essential to its mission and to store, maintain, repair, and service its aircraft. Any other use to be made of the premises shall be subject to the written approval of the Asheboro Airport Authority; and it is further expressly agreed that the demised property shall not, at any time during the term of this Agreement, be used for such purpose or in such manner that the sight, sound, or traffic into or out of the demised premises could reasonably be considered to be objectionable or hazardous to the facilities and operations of the Asheboro Regional Airport. Parking of the Lessee's emergency medical vehicle in the hangar is permitted.
- (12) The Asheboro Airport Authority shall have the right, at reasonable times, to inspect the premises and to enforce reasonably required safety and health regulations affecting the nature of the structure and the operations therein.
- (13) The Lessee hereby agrees to conform to and abide by the Rules and Regulations of the Asheboro Airport Authority in effect at the time of the commencement of this Agreement and as the same may be amended in the future.
- (14) The Lessee does hereby promise and agree to hold harmless and indemnify the Asheboro Airport Authority and the City of Asheboro for any costs, losses, and/or damages caused by the Lessee and its guests, licensees, successors, assigns, and/or contractors arising out of or in the course of the use of the demised property. The costs and damages that fall within the scope of this hold harmless and indemnification provision include, without limitation, any and all attorneys' fees, court costs, damage awards of any kind, and any other costs or charges arising out of any litigation based,

in whole or in part, on the intentional or negligent acts of the Lessee and its guests, licensees, successors, assigns, and/or contractors.

- (15) The Lessee shall be responsible for maintaining all insurance, including fire and extended coverage insurance.
- (16) E-Verify Compliance Section: Pursuant to Section 143-133.3 of the North Carolina General Statutes, the Asheboro City Council is prohibited from entering into contracts such as this Agreement unless the contractor, which is the Lessee in this case, and the contractor's subcontractors under the contract comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Article 2 of Chapter 64 establishes North Carolina's E-Verify requirements for employers. For the sole and limited purpose of creating a valid contract with the City of Asheboro, the Lessee hereby represents and covenants that the Lessee and its contractors and subcontractors who may perform work on the demised premises are compliant, and will remain compliant throughout the duration of this Agreement, with the cited requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. The Lessee acknowledges and agrees that the City of Asheboro is relying upon this E-Verify compliance section in order to enter into this Agreement. The parties agree to this contractual provision only to the extent authorized by law.
- (17) Lessor and Lessee each acknowledge and represent that it is duly organized, validly existing, and in good standing and has the right, power, and authority to enter into this Agreement and bind itself hereto through the official set forth below as signatory for the party.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

Lessor:

CITY OF ASHEBORO

By: _____

David H. Smith, Mayor
City of Asheboro, North Carolina

ATTEST:

Holly H. Doerr, CMC, NCCMC, City Clerk
City of Asheboro, North Carolina

**STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH**

I am a Notary Public of _____ County, North Carolina, and I do hereby certify that Holly H. Doerr, who is personally known to me, voluntarily appeared before me this day and acknowledged that she is the City Clerk for the City of Asheboro, a North Carolina municipal corporation, and that, by authority duly given and on behalf of the municipal corporation, the Mayor of the City of Asheboro executed the foregoing instrument for the purposes stated therein and that Ms. Doerr, as City Clerk, attested and sealed the instrument with the municipal corporation's seal.

WITNESS my hand and official stamp or seal, this the _____ day of _____, 2022.

Signature of Notary Public

Printed or Typed Name of Notary Public

My commission expires:

Lessee:

CIVIL AIR PATROL

By: _____
John Salvador, Chief Operating Officer
Civil Air Patrol

STATE OF _____
COUNTY OF _____

I am a Notary Public of _____ County, State of _____, and I do hereby certify that John Salvador personally appeared before me this day and acknowledged that, as Chief Operating Officer of the Civil Air Patrol, he is a corporate officer for the Civil Air Patrol and that, by authority duly given and on behalf of the Civil Air Patrol, he duly executed the foregoing instrument for the purposes therein expressed.

WITNESS my hand and official stamp or seal, this the _____ day of _____, 2022.

Signature of Notary Public

Printed or Typed Name of Notary Public

My commission expires:

[The attachment identified in the immediately preceding agreement as EXHIBIT 1 is on file in the city clerk's office.]

(b) Amended Fixed Based Operator Lease Agreement with Cardinal Air, LLC

Mr. Sugg presented and recommended approval of the following amendments to the fixed base operator lease agreement with Cardinal Air, LLC. These amendments were drafted in response to recommendations received from the Asheboro Airport Authority.

After discussing the recommendation, Council Member Moffitt moved, and Council Member Burks seconded the motion, to approve the following amendments to the fixed base operator agreement with Cardinal Air, LLC. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

STATE OF NORTH CAROLINA

ASHEBORO REGIONAL AIRPORT FIXED
BASE OPERATOR LEASE AGREEMENT
AMENDMENTS 2023

COUNTY OF RANDOLPH

THESE ASHEBORO REGIONAL AIRPORT FIXED BASE OPERATOR LEASE AGREEMENT AMENDMENTS (the “2023 FBO Agreement Amendments”) are made and entered into, as of the dates indicated on the signature pages, by and between the **CITY OF ASHEBORO (hereinafter the “City” or “Lessor”)**, a North Carolina municipal corporation with its principal office located at 146 North Church Street, Asheboro, North Carolina 27203, and **CARDINAL AIR, LLC (hereinafter the “FBO,” “Cardinal Air,” or “Lessee”)**, a North Carolina limited liability company with its principal office located at 80 Aviation Drive, Siler City, North Carolina 27344.

WITNESSETH:

WHEREAS, the City owns the **ASHEBORO REGIONAL AIRPORT (the “Airport”)** located in Randolph County at 2222 Pilots View Road, Asheboro, North Carolina 27205; and

WHEREAS, pursuant to an existing **“Lease Agreement for Fixed Base Operator of the Asheboro Regional Airport,”** as amended, (the **“Pre-2023 FBO Agreement”**), Cardinal Air is the fixed base operator at the Airport (a copy of the Pre-2023 FBO Agreement is attached hereto as ATTACHMENT A and is incorporated into these 2023 FBO Agreement Amendments by reference as if copied fully herein); and

WHEREAS, based on recommendations from the Asheboro Airport Authority, the Asheboro City Council has concluded that the efficiency of the Airport’s operations will be enhanced by broadening the scope of certain utilities paid by the City at the terminal building and by leasing additional hangars to Cardinal Air for subleasing to third parties on a month-to-month basis; and

WHEREAS, Cardinal Air has expressed a willingness to join with the City in implementing the proposed changes so long as the financial consideration specified herein is provided to account for the added expenses and responsibilities to be assumed by the FBO under the modified hangar leasing arrangements; and

WHEREAS, the above-described changes in the operating arrangement at the Airport can be accomplished by amending the Pre-2023 FBO Agreement to reflect the mutually agreed upon modifications in the leasing arrangement between the City and Cardinal Air; and

WHEREAS, the Asheboro City Council finds that (a) the City has no alternative uses for the facilities/infrastructure to be leased to Cardinal Air during the lease term specified in the 2023 FBO Agreement Amendments, and (b) the adoption of the Asheboro Airport Authority recommendations is in the best interest of the City.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties agree as follows:

SECTION 1: AMENDMENT OF LEASED PREMISES

Article II (LEASED PREMISES) of the Pre-2023 FBO Agreement is hereby amended by rewriting Article II to provide as follows:

**ARTICLE II
LEASED PREMISES**

Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor the following described improvements that are identified and shown on Schedule "C" (**Amended October 2022**), which is attached hereto as EXHIBIT 1 and incorporated herein by reference, (the "Premises") together with the right of ingress and egress for both vehicles and aircraft.

- 1. "T" Hangars: Two 8-unit "T" hangars shown on Schedule "C."
- 2. Maintenance Building: Shown on Schedule "C."
- 3. FBO Administration Building (Terminal Building): The entire FBO Administration Building shown on Schedule "C," which includes the FBO office, manager's office, training room on the south side of the building, lounge, conference room, restrooms, and snack area. The lounge, conference room, restrooms, and snack area must be open to the public during normal operating hours.
- 4. Avgas and Jet Fuel Facilities.
- 5. North Apron: Shown on Schedule "C."
- 6. South Apron: Shown on Schedule "C."

7. Hangars B, C, D, E, F, K, N, and O as shown on Schedule "C." The effective date for the lease of the immediately preceding group of hangars to Cardinal Air under the 2023 FBO Agreement Amendments is January 1, 2023.

SECTION 2: ADDITION OF HANGAR RENTAL MANAGEMENT RESPONSIBILITIES

Paragraph B.6 of Article IV (APPURTENANT PRIVILIEGES) in the Pre-2023 FBO Agreement is hereby amended by rewriting the referenced paragraph to provide as highlighted below:

Specific duties and responsibilities of the Lessor and the Lessee for the maintenance, operation, and expenditures concerning assets of the Asheboro Regional Airport are itemized as follows:

<u>ASSET</u>	<u>LESSEE</u>	<u>LESSOR</u>
Airfield	Manages; Post NOTAMS	Pays Maintenance & Mowing
Runway/Lighting	Manages; Replaces Lamps	Pays Lamps, Maintenance, & Electricity; Removes Snow
Windsock	Manages; Replaces Lamps/ Sock	Pays Maintenance, Lamps, & Electricity
NDB/AWOS Monitors	Manages/Monitors	Pays Maintenance & NDB/AWOS Electricity

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Light Beacon	Manages	Pays Maintenance & Electricity
Apron-North	Manages; Receives Full Rent; Provides Tie Down Ropes (Rental Rate to be Approved by Asheboro Airport Authority)	Pays Maintenance; Removes Snow
Fuel Facilities	Rent Free Use; Monitors Fuel on Daily Basis; Provides Operational Maintenance (Filters, Quality Control, and Clean-Up); Pays 5% of Gross Receipts from Flowage Fee to Lessor when Sales Exceed 150,000 Gallons in a Calendar Year	Provides Facility Maintenance; Receives 5% of Gross Receipts from Flowage Fee When Sales Exceed 150,000 Gallons in a Calendar Year
Terminal/Furn.	Rent Free Use of Office, Training Room, & Manager's Office; Pays Operational Maintenance Costs	Pays Structural Maintenance Costs; Pays for Utilities, including Electricity and Communications Services Such as Internet Connectivity in the Building
Parking Lot	Manages; FBO Rental Car Use	Provides Maintenance; Removes Snow
Water System	Uses Free of Charge	Operates the Municipal Water Supply & Distribution System
Sewer System	Uses Free of Charge	Operates the Municipal Sanitary Sewer System
T Hangars (16)	Manages; Receives Full Rent; Provides Tie Down Ropes (Rental Rate to be Approved by Asheboro Airport Authority)	Pays Structural Maintenance
Maint. Hangar - East	Uses for Business Rent Free	Pays Structural Maintenance; Pays Heat & Electricity
Maint. Hangar - West	Uses for Business Rent Free	Pays Structural Maintenance; Pays Heat & Electricity
Air Compressor	Pays All Maintenance	No Obligation to Replace
Roads	Manages; Common Use	Pays Maintenance; Removes Snow

<u>ASSET</u>	<u>LESSEE</u>	<u>LESSOR</u>
Area Lighting	Manages; Calls for Maintenance	Pays for Service
Public Phone	Manages; Calls for Maintenance	Pays for Service
UNICOM	Furnishes & Operates	Reserves Access by Others
Apron South	Manages; Receives Full Rent; Provides Tie Down Ropes (Rental Rate to be Approved by Asheboro Airport Authority)	Reserves Right to Lease to Others; Pays Maintenance; Removes Snow
Other Non-Commercial Hangars or Facilities Existing and Those Developed in the Future	Manages, Subject to City Lease Agreement(s)	Subject to City Lease Agreement(s)
Fuel Truck	Provides Truck, Gas for Truck, & Maintenance of Truck, including Fueling Equipment, in Coordination with FBO’s Third Party Vendor(s) Beginning May 1, 2020	Provides Funding Directly to FBO for Airport Fuel Infrastructure in the Amount of \$1,200.00 per Month Beginning May 1, 2020
Trash Containers	Free Use of Containers; Monitors & Limits Unauthorized Use	Provides Containers; Empties Containers & Pays for Trash Disposal
Hangars B, C, D, E, F, K, N, and O	Manages Leasing of Hangars to Third Parties on a Month-to-Month Basis, Including Rental Billing and Collections; Retains 35% of Rental Fees Collected; Rental Rates Must Be Approved by the Asheboro Airport Authority; Rental Management Responsibilities Begin January 1, 2023	Pays Structural Maintenance; Pays Utilities Not Billed Directly to Subtenants

SECTION 3. **AMENDMENT OF PAYMENT PROVISIONS**

Paragraph A of Article VI (PAYMENTS) in the Pre-2023 FBO Agreement is hereby amended by rewriting the referenced paragraph to provide as follows:

- A. Fees. In consideration of the rights and privileges granted by this Agreement, the parties agree to pay to each other during the term of this Agreement the following:
1. After the threshold amount of 150,000 gallons of aviation fuel is sold by Lessee in a calendar year, the Lessee shall pay an amount equal to five percent (5%) of gross fuel sales dollars as a fuel flowage fee on all aviation fuel dispensed by Lessee on the premises. Payments shall be made on or before the 10th day of each month for fuel dispensed during the prior month.

2. Effective May 1, 2020, and continuing through the remainder of the term of this Agreement, the Lessor shall pay to the Lessee an airport fuel infrastructure payment of one thousand two hundred and no hundredths dollars (\$1,200.00) per month. This monthly airport fuel infrastructure payment shall be made on or before the 10th day of each calendar month.
3. Effective January 1, 2023, and continuing through the remainder of the term of this Agreement, the Lessee shall retain 35% of all rental payments collected from tenants subleasing Hangars B, C, D, E, F, K, N, and O. The balance of all rental payments collected from the tenants subleasing the listed hangars shall be paid by Cardinal Air to the City. Payments shall be made to the City on or before the 10th day of each month for rental payments collected during the prior month.

SECTION 4. NO IMPACT ON OTHER TERMS AND CONDITIONS

Except as specifically modified or amended by provisions found within these 2023 FBO Agreement Amendments, the Pre-2023 FBO Agreement shall remain unchanged and in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate originals as of the day and year first above written.

LESSOR: City of Asheboro

By: _____ (SEAL)
David H. Smith, Mayor

ATTEST:

Holly H. Doerr, CMC, NCCMC, City Clerk

**STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH**

I, the undersigned Notary Public of _____ County, North Carolina, hereby certify that Holly H. Doerr, who is personally known to me, came before me this day and acknowledged that she is the City Clerk for the City of Asheboro and that, by authority duly given and as the act of the municipal corporation, the foregoing instrument was voluntarily executed on behalf of the municipal corporation by its Mayor, sealed with the municipal corporation's seal, and attested by Ms. Doerr as the City Clerk for the purposes stated therein.

WITNESS my hand and notarial seal or stamp, this the _____ day of _____, 2022.

Notary Public's Signature

My commission expires:

Notary Public's Typed or Printed Name

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Deborah P. Reaves, Finance Officer

LESSEE: Cardinal Air, LLC

By: _____ (SEAL)
Karen McCraw, Managing Member

STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH

I, the undersigned Notary Public of _____ County, North Carolina, hereby certify that Karen McCraw, who is either personally known by me or whose identity was proven by satisfactory evidence, appeared before me this day and acknowledged that she is a managing member of Cardinal Air, LLC and that, being duly authorized to do so, she voluntarily executed the foregoing instrument on behalf of Cardinal Air, LLC for the purposes stated therein.

WITNESS my hand and notarial seal or stamp, this the _____ day of _____, 2022.

Notary Public’s Signature

My commission expires: _____
Notary Public’s Typed or Printed Name

[The two attachments identified in the immediately preceding resolution as ATTACHMENT A and EXHIBIT 1 are on file in the city clerk’s office.]

11. Potential Changes in the City Council’s Meeting Schedule for 2023

Mayor Smith led a discussion of the council’s regular meeting schedule for the 2023 calendar year. Due to the Independence Day Holiday, the July meeting will be scheduled for July 13, 2023, and, due to the Veterans Day Holiday, the November meeting will be scheduled for November 8, 2023. No other scheduling changes were proposed.

An ordinance setting the schedule for regular meetings during the 2023 calendar year will be presented for adoption during the city council’s next regular meeting on December 8, 2022.

12. Closed Session

Council Member Bell moved, and Council Member Heath seconded the motion, to go into closed session pursuant to Section 143-318.11(a)(3) of the North Carolina General Statutes in order to discuss with the city attorney a matter within the attorney-client privilege. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

[A general account of the closed session has been prepared and approved as a stand-alone document. The approved general account of the closed session will remain sealed so long as public inspection of the records would frustrate the purpose of the closed session.]

Upon returning to open session, Council Member Bell moved, and Council Member Heath seconded the motion, to direct the city attorney to advertise the city council’s intent to authorize, at the council’s regular meeting in January 2023, the lease of space on the city’s elevated water tank on S. Church Street for communications equipment. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

13. Upcoming events and items not on the agenda.

Mayor Smith and Mr. Ogburn led a discussion of upcoming events within the city government and the community in general. No action was taken by the city council during this discussion.

There being no further business, the meeting was adjourned at 9:26 p.m.

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

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