

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, ASHEBORO CITY HALL
THURSDAY, OCTOBER 5, 2023
7:00 P.M.**

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

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

Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
Charles D. Garner, Code Enforcement Officer
N. Byron Hill, Police Captain
Thomas E. Howell, Master Police Lieutenant
Michael L. Leonard, PE, City Engineer
Mark T. Lineberry, Chief of Police
Trevor L. Nuttall, Community Development Director
Deborah P. Reaves, Finance Director
Jeffrey C. Sugg, City Attorney
Tammy M. Williams, Engineering Assistant/Deputy City Clerk

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.

[Prior to the consideration of the following agenda items and without objection, Mayor Smith asked the council to move item 10(a) to this point in the meeting and consider continuing the matter to another meeting. Council Member Bell moved, and Council Member Heath seconded the motion, to continue agenda items 10(a)(i)(ii)(iii) to the council’s regular November meeting that is scheduled for November 8, 2023. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.]

3. Public Comment Period

Mayor Smith opened the floor for public comments, and none were offered. Mayor Smith then closed the public comment period.

4. The Honoring of a Retired Police Officer

Due to the absence of the honoree, this agenda item will be addressed at a future regular council meeting. No formal action was taken by the council during this portion of the meeting.

5. An Update on Recent Activities to Address Issues that Arise When People are Homeless

Master Police Lieutenant Eddie Howell and Code Enforcement Officer Chuck Garner summarized the recent police and code enforcement activities that have taken place to address issues surrounding homelessness. In addition to closing multiple homeless camps within the city, the police department has increased the focus on curfew hours in the park.

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

6. Consent Agenda Items

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

(a) Approval of the City Council Meeting Minutes for September 7, 2023

The meeting minutes for the city council's regular meeting on September 7, 2023, 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 General Account of a Closed Session Held During the Council's Regular Meeting on September 7, 2023

The general account of the city council's closed session that was held during the council's regular meeting on September 7, 2023 were approved and have been filed in the city clerk's office.

(c) Approval of a Resolution Sealing the General Account of the Closed Session Held During the City Council's Regular Meeting on September 7, 2023

RESOLUTION NUMBER 39 RES 10-23

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**Resolution Sealing the General Account of a Closed Session
Conducted during a Regular Meeting on September 7, 2023**

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

WHEREAS, pursuant to Section 143-318.11(a)(5) of the North Carolina General Statutes, the city council, upon unanimous adoption of a properly made and seconded motion, went into closed session on September 7, 2023, to provide instructions to city staff concerning the position to be taken in negotiating the price and other material terms for the acquisition of real property needed for the proposed third fire station/emergency operations center; and

WHEREAS, the purpose for going into closed session on September 7, 2023, would be frustrated if the general account of the closed session were to be made available for public inspection at this time.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the general account of the closed session conducted on September 7, 2023, is hereby sealed and will remain sealed so long as public inspection of the records would frustrate the purpose of the closed session; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that the city manager is hereby authorized to act as the council's agent with the authority to unseal

these records when the purpose of the closed session would no longer be frustrated by making the records available for public inspection or when the unsealing of this general account is otherwise required by law.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on October 5, 2023.

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

ATTEST:

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

(d) Approval of the Community Development Division's Request to Schedule for November 8, 2023, and to Advertise, Legislative Zoning Hearings for the Following Cases:

- (i) An application to apply initial city R10 zoning to recently annexed property identified by Randolph County Parcel Identification Number 7763933698 and located on WOW Road, east of 1766 WOW Road and approximately 450 feet northwest of the intersection of Old Liberty Road; and**
- (ii) An application to rezone property identified by Randolph County Parcel Identification Number 7762401107 and located on the north side of East Allred Street, approximately 200 feet west of Ingram Drive, from R10 and R15 Zoning to R10 (CZ) conditional zoning for a development consisting of single-family dwellings; and**
- (iii) An application to rezone property identified by Randolph County Parcel Identification Numbers 7751868499 and 7751960550, with the street addresses of 639 and 645 North Fayetteville Street and 114 Liberty Street, from B2 and R10 zoning to OA6 zoning.**

(e) 2023-2024 Canada Geese (including White-Fronted Geese) and Duck Hunting Season at Lake Reese

Canada Geese (including White-Fronted Geese) and duck hunting has been successfully offered at Lake Reese for the past 15 years and will be offered again this season.

The council approved the following dates for the 2023-2024 hunting season at Lake Reese for Canada Geese (including White-Fronted Geese) and ducks:

November 11th, 13th, 16th
December 21st, 23rd, 28th
January 20th, 22nd, 25th

Hunting hours are ½ hour before sunrise to sunset. The lake will be closed to other activities while hunting takes place. Hunters are required to call Lake Reese at least 24 hours in advance to reserve a space. If hunting reservations are not made, the lake will operate on its regular winter schedule.

(f) Special Event Closure Order – “Trick or Treat in the Park”

The council approved a special event closure order, including a temporary street closure, for “Trick or Treat in the Park” event. The temporary closure order will take effect at 0900 hours on October 28, 2023, and will end at 2100 hours on October 28, 2023. Pursuant to the special event closure order, the

Zoo City Social District 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) Special Event Closure Order – Event Related to Keaton's Place

The council approved a special event closure order, including a temporary street closure, for an event related to Keaton's Place. The temporary closure order will take place at 0800 hours on November 4, 2023, and will end at 1700 hours on November 4, 2023. A copy of the map with the special event closure order is on file in the city clerk's office.

7. Community Development Public Hearings

(a) Legislative Hearing (Case No. RZ-23-13): A request to rezone land (Randolph County Parcel Identification Number 7761146503) at 624 Brewer Street and 621 Franks Street from RA6 zoning and B2 (CZ) zoning to an amended B2 (CZ) zoning classification for a large childcare center and the continuation of a membership organization.

Mayor Smith opened the above-described legislative hearing for Case No. RZ-23-13. Community Development Director Trevor Nuttall was the first speaker, and he gave an overview of the zoning map amendment application submitted by Ms. Ashley Hedrick.

The land for which the above-described zoning has been requested is identified by Randolph County Parcel Identification Number 7761146503 and will be referred to as the Zoning Lot. This lot is located on at 624 Brewer Street and 621 Franks Street. The Zoning Lot is approximately 3.32 acres in size.

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

1. The property is inside the city limits.
2. Brewer and Franks Streets are both local streets. A sidewalk extends along Brewer Street in front of the property.
3. In 1982, a Special Use Permit was issued for a large childcare facility (SUP-82-15) in the structure located at 624 Brewer Street. The daycare has ceased operations for an amount of time that precludes resumption of the use without city council action.
4. In 2001, the portion of the property that includes the gym at 621 Franks Street, was rezoned from RA6 High-Density Residential to CU-B2 Conditional Use General Commercial. At that time, a Conditional Use Permit (CUP-02-23) for a Membership Organization was granted. This request does not propose changes to the previously approved membership organization authorization.
5. In June 2018, the applicant at that time requested a Special Use Permit to allow a new non-conforming use for the structure located at 624 Brewer Street (from a large child care center to professional services). A subsequent request to rezone the property to an O&I Office and Institutional General District also was denied in September 2018.
6. Available records show that the property has been used for non-residential purposes since at least the 1950's.
7. The zoning ordinance describes the B2 General district as "intended to serve the convenience goods, shoppers goods retail and service needs of

the motoring public, both local and transient. This district should always be located with access directly to minor thoroughfares or higher classification streets, but never local residential streets.”

8. The zoning ordinance distinguishes between childcare centers based on the size of the center. A large center is classified as serving 80 or more children. A large center is permitted by way of a Special Use Permit in the B2 district or through a conditional zoning process; the applicant seeks a conditional zoning district.
9. The zoning ordinance allows an applicant to propose a conditional zoning district that deviates from the zoning ordinance’s pre-prescribed requirements. The main deviation identified with the application is related to the number of off-street parking spaces provided. The site plan delineates a total of 22 off-street parking spaces, which could accommodate 60 children, 12 employees, and 2 facility vehicles. The application seeks approval for up to 100 children, 20 employees, and 2 facility vehicles. Typically, a day care that size would require 36 off-street parking spaces. The building does provide a drop-off area that offers short-term parking for approximately 5 vehicles.
10. On-street parking is permitted by ordinance on both sides of Brewer Street generally from dawn to dusk.

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: Neighborhood Residential

Small Area Plan: Central

Growth Strategy Map Designation: Primary Growth

LDP Goals/Policies Which Support Request:

Checklist Item 5: Complies with Growth Strategy Map

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 Design Principles: PRINCIPLE #3 – Move from “Separation of Uses” toward “Mixed Use Development.”

LDP Goals/Policies Which Do Not Support Request:

Checklist Item 1: Does not comply with LDP proposed land use map.

Checklist Item 3: The property on which the rezoning district is proposed does not fit the description of the Zoning Ordinance.

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

The City of Asheboro Planning Board considered the rezoning application and recommended placement of the Zoning Lot into the requested B2 (CZ) zoning district. In making this recommendation, the planning board concurred with the planning staff's analysis of the consistency of the proposed rezoning with the adopted comprehensive plans as well as the reasonableness of the proposal. The planning staff's analysis is summarized in the following indented paragraphs.

Staff believes that the Land Development Plan supports investment in and use of underutilized structures, particularly for development that is compatible with surrounding land uses and provides neighborhoods with important services. This property was used for a childcare center for many years and is already developed in a manner that, by its design, separates the use of 624 Brewer Street from neighboring single-family dwellings. While the building is in close proximity to the East Side Homes apartments, it does provide needed shared access to separate parking available to those residents.

The Proposed Land Use Map designates the property for future residential development, which is reflective of the current RA6 zoning; however, the rezoning application is consistent with how the property has been used in the past and approval would result in improvements to the building and property that should help to improve this community asset.

While generally supportive of the application, staff is concerned about the sufficiency of parking for the size day care that is proposed. A daycare with up to 80 children should not generate problems related to parking due to the availability of short-term parking within the drop-off queue and on-street parking on Brewer Street. Should the size of the daycare exceed 80, staff does recommend a condition be included with the zoning district that would allow the property owner and proprietor to work with staff to identify a suitable location permitted by the zoning ordinance for five additional off-street parking spaces to be provided without the need to amend the conditional zoning district.

Considering the aforementioned analysis, staff believes that the proposed zoning map amendment is reasonable and in the public interest, subject to acceptance of the staff-suggested conditions.

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

- (A) *The use approved shall be a Large Child Care Center for up to 80 children and the site developed consistent with the site plan submitted. If the number of children served exceeds 80 children, up to a maximum of 100 children, a revised site plan showing 5 (five) additional off-street parking spaces shall be submitted to the Planning Department for review of code compliance and inclusion in the file without further review by the council. Such parking shall be located outside of any required buffer or screening yards.*
- (B) *All parties involved in this request, including the owner, successors, heirs, and assigns, agree to the conditions and approved site plan.*
- (C) *Subject to the provisions of the Zoning Ordinance and CUP-02-23, the Membership Organization existing at 621 Franks Street may continue.*
- (D) *The child care facility must meet the standards provided by the NC Department of Health and Human Services Child Day Care Commission. Evidence that Commission requirements are met shall be presented to the Planning Department staff prior to any Certificate of Zoning Compliance being issued.*

- (E) *Hours of operation shall be limited to 6:00 a.m. to 7:00 p.m.*
- (F) *Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the owner(s) of the Zoning Lot shall properly execute and deliver to the Zoning Administrator for recordation in the Office of the Randolph County Register of Deeds a Memorandum of Land Use Restrictions prepared by the city attorney for the purpose of placing notice of the conditions attached to this conditional zoning district in the chain of title for the Zoning Lot.*

Ms. Ashley Hedrick presented comments in support of the rezoning application, including her agreement with the above-stated conditions proposed by the city planning staff. Additionally, Cassie Link, Heather Semler, and Trisha Vaughn presented comments supporting the requested rezoning. When no one else asked to speak, Mayor Smith moved to the deliberative phase of the process.

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

1. The council believes that the Land Development Plan supports investment in and use of underutilized structures, particularly for development that is compatible with surrounding land uses and provides neighborhoods with important services. This property was used for a childcare center for many years and is already developed in a manner that, by its design, separates the use of 624 Brewer Street from neighboring single-family dwellings. While the building is in close proximity to the East Side Homes apartments, it does provide needed shared access to separate parking available to those residents.

The Proposed Land Use Map designates the property for future residential development, which is reflective of the current RA6 zoning; however, the rezoning application is consistent with how the property has been used in the past and approval would result in improvements to the building and property that should help to improve this community asset.

While generally supportive of the application, the council is concerned about the sufficiency of parking for the size day care that is proposed. A daycare with up to 80 children should not have general problems related to parking due to the availability of short-term parking within the drop-off queue and on-street parking on Brewer Street. Should the size of the daycare exceed 80, a condition will be included with the zoning district to allow the property owner and proprietor to work with staff to identify a suitable location permitted by the zoning ordinance for five additional off-street parking spaces to be provided without the need to amend the conditional zoning district.

Considering the aforementioned analysis, the council believes that the proposed zoning map amendment is reasonable and in the public interest. The staff-suggested conditions are hereby adopted as part of the conditional zoning ordinance approved for this case.

2. The zoning map amendment application seeking to place the Zoning Lot into an amended B2 (CZ) zoning district is hereby approved.

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

- (b) **Legislative Hearing (Case No. RZ-23-14):** A request to rezone property on the west side of Zoo Parkway , between 2358 and 2476 Zoo Parkway, and the south side of Newbern Avenue, between 294 and 800 Newbern Avenue. The property is approximately 94.27 +/- of 104.27 acres +/- in size and is more specifically identified as a portion of Randolph County Parcel Identification Number 7760008593 and Randolph County Parcel Identification Number 7760013008. The specific request is to amend the zoning from R40, R15, and R10 to R7.5 (CZ) zoning for a Residential Planned Unit Development.

Mr. Nuttall presented a written request from the applicant, to continue the above-described land use case to the council's regular meeting on November 8, 2023.

Council Member Bell moved, and Council Member Burks seconded the motion to continue the above-described land use case to the council's regular meeting on November 8, 2023. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

8. Authorization to Submit a Land Lease Application to Norfolk Southern

On behalf of city staff, Mr. Nuttall requested that the council authorize the submission of a land lease application to Norfolk Southern in connection with existing encroachments into railroad right-of-way by parts of the city-owned historic mill property located at 159 North Street.

Council Member Bell moved, and Council Member Heath seconded the motion to authorize the submission of a land lease application to Norfolk Southern. The authorization to submit the application includes authorization to execute a lease agreement if the city's application is successful. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

9. Jarrell Garden Visitors Center Study

Mr. Nuttall reported that construction on the Jarrell Center City Garden in downtown Asheboro is set to begin soon. Prior to that construction, city staff is seeking guidance from the council members on how to proceed with the visitors center on the property.

The first option is to renovate an existing two-story brick dwelling on the site for the visitors center. This option would require comprehensive renovation, but would maintain the existing neighborhood character of the site.

The second option would be to demolish the existing structure and build a new amenity building in its place. This structure could be custom-built to respond the Jarrell Garden project, better meeting the needs of the city, but it removes a long-standing home from this historic site.

Mr. Nuttall presented a study that included probable costs for each option. The renovation option is projected to cost approximately \$742,153, while the new construction option is projected to cost approximately \$884,023. These estimates include sitework. While the total construction cost is higher for the new construction option, it is also projected to be larger in size, providing more programmable space.

According to the existing conditions report performed by Summey Engineering Associates, PLLC that is dated April 5, 2023, the existing structure is in urgent need of masonry repair/replacement, foundation waterproofing, and hazardous materials abatement. If all of these conditions are present to the extent currently believed, an additional estimate of \$165,000 would need to be applied to the cost of renovation.

Applying all of the liabilities along with the general conditions and contingency multipliers would bring the total construction cost of the renovation option to \$992,413 – or \$108,390 more than the new construction option at \$884,023.

Former Mayor David Jarrell presented comments supporting the renovation of the existing structure.

After some discussion, a consensus concerning the need for more information emerged. City staff should study the options further and report back to the council as more information is available.

10. Approval of Ordinances Pertaining to Funding for Specific Activities/Facilities

(a) City Partnership with the Randolph Asheboro YMCA at the Zoo City Sportsplex

(i) Ordinances to Amend the General Fund to Address Futbol Club Management/Salary Appropriation

(ii) Ordinance to Amend the General Fund to Address Salary/Management Appropriations Associated with Marketing Activities

(iii) Ordinance to Amend the General Fund to Address Marketing Plan Appropriations

[As noted at the beginning of these minutes, agenda items 10(a),(i),(ii), and (iii) were continued to the council's regular meeting that will be held on November 8, 2023.]

(b) A Project Ordinance to Establish a Fund for the Design and Construction of the Emergency Operations Center/Third Fire Station

Finance Director Deborah Reaves presented and recommended adoption, by reference, of the aforementioned ordinance.

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.

67 ORD 10-23

**PROJECT ORDINANCE
Emergency Operating Center / Fire Station 3 Fund
FY 2023-2024**

WHEREAS, the City of Asheboro has received a \$3 million grant from the Federal Government, administered by the Federal Emergency Management Agency (FEMA).

WHEREAS, the City is ready to hire an architect for the design phase of the process.

WHEREAS, the City of Asheboro desires to set up a Capital Project Fund to account for the funding and the expenses related to this project.

THEREFORE, 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 Emergency Operating Center / Fire Station 3 Fund is hereby authorized as a project with current revenues and expenditures projected as listed below.

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 at this time for this project:

<u>Line Item</u>	<u>Description</u>	<u>Amount</u>
71-000-380.0053	Federal Grant	\$3,000,000

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

That the following Expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Amount</u>
71-000-400.0000	Engineering / Design	500,000
71-000-425.0000	Construction	1,500,000
71-000-450.0000	Administration	250,000
71-000-475.0000	Contingency	750,000
	Total	<u>\$3,000,000</u>

Adopted this the 5th day of October 2023.

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

ATTEST:

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

11. Upcoming Events and Items Not on the Agenda

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

There being no further business, the meeting was adjourned at 9:03 p.m.

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

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