

**REGULAR MEETING
ASHEBORO CITY COUNCIL
COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, JANUARY 6, 2011
7:00 p.m.**

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

David H. Smith) – Mayor Presiding

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

Linda H. Carter) – Council Member Absent

John N. Ogburn, III, City Manager
Edsel L. Brown, Code Enforcement Officer
Dumont Bunker, P.E., City Engineer
Richard L. Cox, Jr., Community Development Department Intern
Holly H. Doerr, CMC, City Clerk/Senior Legal Assistant
John L. Evans, Senior Planner
Casandra M. Fletcher, Marketing Specialist
R. Wendell Holland, Jr., Zoning Administrator
Justin T. Luck, Planner
R. Reynolds Neely, Jr., Community Development Director
Ralph W. Norton, Assistant Chief of Police
Deborah P. Reaves, Finance Director
Jeffrey C. Sugg, City Attorney

1. Call to order.

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

2. Silent prayer and pledge of allegiance.

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

3. Recognition of guests and citizens.

Mayor Smith welcomed everyone in attendance.

4. Discussion with the Chair of the Asheboro ABC Board concerning a resolution in support of North Carolina's current public alcoholic beverage control system.

Mr. Russell G. Walker, Jr., Chairperson of the Asheboro ABC Board, presented comments and concerns regarding the possible privatization of the ABC system in North Carolina. Mr. Walker asked the Council to consider adopting a resolution in support of North Carolina's current public alcoholic beverage control system.

Upon motion by Mr. Bell and seconded by Mr. Baker, Council voted unanimously to adopt the following resolution by reference.

01 RES 1-11

**RESOLUTION IN SUPPORT OF NORTH CAROLINA'S CURRENT
PUBLIC ALCOHOLIC BEVERAGE CONTROL SYSTEM**

WHEREAS, Chapter 18B of the North Carolina General Statutes addresses the regulation of alcoholic beverages in our state; and

WHEREAS, current North Carolina law establishes a uniform system of control over the sale, purchase, transportation, manufacture, consumption and possession of alcoholic beverages in North Carolina; and

WHEREAS, local government control is central to the current alcoholic beverage control system; it is a local decision to establish and operate ABC stores, and local government, acting through an appointed local ABC Board, balances the control, profits and availability of spirits in its jurisdiction; and

WHEREAS, when local voters approved the sale of alcoholic beverages, they voted to allow the sale of spirituous liquor only through publicly owned and controlled local ABC stores; and

WHEREAS, current law provides that profits from ABC store sales are returned to local government, and this revenue stream is a critical source of local government funding; and

WHEREAS, it is a priority to maintain current sources of revenue, especially in the current challenging economic times;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Asheboro does hereby support the continuance of the Alcoholic Beverage Control System, and opposes any efforts to privatize the ABC system, diminish local control or to diminish the local government revenue stream afforded from local ABC store profits.

Adopted this 6th day of January, 2011.

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

Attest:

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

5. Presentation of fiscal year end audit report by Mr. Steve Hackett, CPA with the firm of Maxton McDowell, CPA.

The City Council received from Mr. Steve Hackett, CPA the audit report for the fiscal year that ended June 30, 2010. During his presentation, Mr. Hackett reported that the city received a "clean audit." A copy of the written report submitted by Mr. Hackett is on file in the City Clerk's office.

6. Consent agenda:

Due to a conflict of interest in regards to consent agenda item (b), Dr. Fountain asked that he be excused from any discussion and action regarding the consent agenda. A motion was made by Mr. Baker and seconded by Mr. Burks to excuse Dr. Fountain from any discussion and voting pertaining to agenda item number 6. Council Members Baker, Bell, Burks, Hunter, and Moffitt unanimously adopted this motion.

Upon motion by Mr. Bell and seconded by Mr. Burks, Council voted unanimously to approve the following consent agenda items. Council Members Baker, Bell, Burks, Hunter, and Moffitt voted in favor of the motion.

- (a) The minutes of the regular meeting of the City Council that was held on December 9, 2010.**
- (b) A resolution authorizing the acceptance of ownership and maintenance responsibilities for certain storm sewer, sanitary sewer, and water line infrastructure located within the city's satellite corporate limits at Tot Hill Farm.**

02 RES 1-11

RESOLUTION AUTHORIZING THE ACCEPTANCE OF OWNERSHIP AND MAINTENANCE RESPONSIBILITIES FOR CERTAIN INFRASTRUCTURE WITHIN THE CITY'S SATELLITE CORPORATE LIMITS AT TOT HILL FARM

WHEREAS, Tot Hill Farm, L.L.C., Tot Hill Townhouse Associates, L.L.C., and John's Ridge Associates, L.L.C. (hereinafter referred to as the "Developers") own certain parcels of land and have reserved easements in other parcels of land located within a planned unit development, which is commonly known as Tot Hill Farm; and

WHEREAS, pursuant to Session Law 2008-21, the North Carolina General Assembly annexed this development into the satellite corporate limits of the City of Asheboro effective June 30, 2008; and

WHEREAS, the city has previously agreed to assume public ownership and maintenance responsibilities for certain storm sewer, sanitary sewer, and public water supply/water line infrastructure that is located within the planned unit development; and

WHEREAS, in order to properly transfer responsibility for this infrastructure, the Developers must convey the agreed upon infrastructure to the city by executing and delivering for recordation the general warranty deed attached hereto as EXHIBIT 1 and the Storm Sewer, Sanitary Sewer, and Water Line Easement Agreement attached hereto as EXHIBIT 2; and

WHEREAS, EXHIBIT 1 and EXHIBIT 2 have been drafted in accordance with the city's standard policies and specifications, and these exhibits are incorporated into this resolution by reference as if copied fully herein;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the instruments attached hereto as EXHIBIT 1 and EXHIBIT 2 are hereby approved; and

BE IT FURTHER RESOLVED that, once the instruments have been properly executed, the city staff is hereby authorized to accept delivery of these instruments and to record them in the office of the Randolph County Register of Deeds.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 6th day of January, 2011.

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

ATTEST:

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

EXHIBIT 1

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$0.00

This instrument was prepared by Jeffrey C. Sugg, City Attorney for the City of Asheboro, 146 North Church Street, Asheboro, North Carolina 27203.

After recording, please return this instrument to the Asheboro City Attorney, Post Office Box 1106, Asheboro, North Carolina 27204-1106.

STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH

THIS DEED is made this _____ day of _____, 2011, by and between the following Grantor and Grantee:

GRANTOR: **TOT HILL FARM, L.L.C.**, a North Carolina limited liability company,
3185 Tot Hill Farm Road, Asheboro, North Carolina 27205

GRANTEE: **CITY OF ASHEBORO**, a North Carolina municipal corporation,
146 North Church Street, Asheboro, North Carolina 27203

The designation Grantor and Grantee as used herein shall include said parties and their heirs, successors, and assigns, and the designation shall signify singular, plural, masculine, feminine, or neuter as required by context.

WITNESSETH:

WHEREAS, in Cedar Grove Township, Randolph County, North Carolina, the Grantor developed a residential planned unit development, which is commonly known as Tot Hill Farm; and

WHEREAS, pursuant to Session Law 2008-21, the North Carolina General Assembly annexed the above-referenced development into the satellite corporate limits of the City of Asheboro effective June 30, 2008; and

WHEREAS, in furtherance of this development project, the Grantor constructed a sanitary sewer collection system that includes, in part, two (2) sanitary sewer pump stations; and

WHEREAS, at the request of the Grantor, the Grantee has agreed to assume ownership and maintenance responsibilities for this sanitary sewer collection system, specifically including without limitation the above-referenced pump stations; and

WHEREAS, if the Grantee is to assume ownership and maintenance responsibilities for this infrastructure, the Grantor must convey the above-referenced sanitary sewer pump stations and the lots upon which they are located to the City of Asheboro in fee simple;

NOW, THEREFORE, in consideration of the financial benefits received by the Grantor as a consequence of the Grantee's assumption of ownership and maintenance responsibilities for the aforementioned sanitary sewer pump stations as integrated components of the City of Asheboro municipal sanitary sewer system, the Grantor has and by these presents does hereby grant, bargain, sell, and convey unto the Grantee in fee simple the 0.325 of an acre of land, more or less, upon which the two (2) separate lots for the above-described sanitary sewer pump stations are located. Each of the lots conveyed by the Grantor to the Grantee by means of this instrument are more particularly described as follows:

STONE BRIDGE ROAD PUMP STATION LOT:

Cedar Grove Township, Randolph County, North Carolina:

BEING ALL of the 0.057 of an acre of land, more or less, identified as the "PROPOSED CITY OF ASHEBORO SEWER PUMP STATION LOT" shown on Map 1 of the plat of survey entitled "REVISED UTILITY EASEMENT SURVEY FOR THE CITY OF ASHEBORO TOT HILL FARM AREA" that was drawn under the supervision of Roland D. Ward, Professional Land Surveyor with registration number L-2728, and signed by Mr. Ward on January 3, 2011. Map 1 is recorded in Plat Book 128, Page 49 in the office of the Randolph County Register of Deeds.

TOT HILL FARM ROAD PUMP STATION LOT:

Cedar Grove Township, Randolph County, North Carolina:

BEING ALL of the 0.268 of an acre of land, more or less, identified as the "PROPOSED CITY OF ASHEBORO PUMP STATION LOT" shown on Map 3 of the plat of survey entitled "REVISED UTILITY EASEMENT SURVEY FOR THE CITY OF ASHEBORO TOT HILL FARM AREA" that was drawn under the supervision of Roland D. Ward, Professional Land Surveyor with registration number L-2728, and signed by Mr. Ward on January 3, 2011. Map 3 is recorded in Plat Book 128, Page 51 in the office of the Randolph County Register of Deeds.

In connection with the preparation of this instrument, the City Attorney does not certify title.

TO HAVE AND TO HOLD the aforesaid lots or tracts of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple forever.

The Grantor covenants with the Grantee that the Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that the Grantor will warrant and defend the title against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

**TOT HILL FARM, L.L.C.,
a North Carolina limited liability company:**

By: _____
Jack C. Lail, Manager

STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH

I, the undersigned Notary Public of the county and state aforesaid, do hereby certify that Jack C. Lail, either being personally known to me or having established his identity by means of the presentation of satisfactory evidence, personally appeared before me this day and acknowledged that he is a Manager of Tot Hill Farm, L.L.C., a North Carolina limited liability company, and that, as Manager and being duly authorized to do so, he voluntarily executed the foregoing instrument on behalf of the said limited liability company for the purposes stated therein.

Witness my hand and notarial seal, this _____ day of _____, 2011.

Notary Public

My commission expires:

(Name of Notary Public, typed or printed)

EXHIBIT 2

**STORM SEWER, SANITARY SEWER, AND WATER LINE
EASEMENT AGREEMENT**

Excise Tax: \$0.00

This instrument was prepared by Jeffrey C. Sugg, City Attorney for the City of Asheboro, 146 North Church Street, Asheboro, North Carolina 27203.

After recording, please return this instrument to the Asheboro City Attorney, Post Office Box 1106, Asheboro, North Carolina 27204-1106.

STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH

THIS DEED OF EASEMENT is entered into this _____ day of _____, 2011, by and between the following Grantor and Grantee:

GRANTOR: **TOT HILL FARM, L.L.C.**, a North Carolina limited liability company,
3185 Tot Hill Farm Road, Asheboro, North Carolina 27205

TOT HILL TOWNHOUSE ASSOCIATES, L.L.C., a North Carolina limited liability company,
3185 Tot Hill Farm Road, Asheboro, North Carolina 27205

JOHN'S RIDGE ASSOCIATES, L.L.C., a North Carolina limited liability company, 3185 Tot Hill Farm Road, Asheboro, North Carolina 27205

GRANTEE: **CITY OF ASHEBORO**, a North Carolina municipal corporation,
146 North Church Street, Asheboro, North Carolina 27203

The designation Grantor and Grantee as used herein shall include the said parties and their heirs, successors, and assigns, and the designation shall signify singular, plural, masculine, feminine, or neuter as required by context.

WITNESSETH:

WHEREAS, in Cedar Grove Township, Randolph County, North Carolina, the Grantor owns certain parcels of land and has reserved easements in other parcels of land located within a planned unit development, which is commonly known as Tot Hill Farm; and

WHEREAS, pursuant to Session Law 2008-21, the North Carolina General Assembly annexed the above-referenced area into the satellite corporate limits of the City of Asheboro effective June 30, 2008; and

WHEREAS, at the request of the Grantor, the Grantee has agreed to assume ownership and maintenance responsibilities for certain sanitary sewer, storm sewer, and public water supply infrastructure that is located within the planned unit development and is currently maintained by the Grantor; and

WHEREAS, in order to induce the Grantee to assume ownership and maintenance responsibilities for this infrastructure, the Grantor must convey additional easement areas to the City of Asheboro along with the Grantor's current ownership interests, and associated easements, in the existing infrastructure that is to become publicly owned and maintained;

NOW, THEREFORE, in consideration of the benefits that will be conferred upon the Grantor by virtue of the Grantee's assumption of the ownership and maintenance responsibilities for the infrastructure described herein, the Grantor has and by these presents does hereby grant, bargain, sell, and convey unto the Grantee all of the Grantor's right, title, and interest in the storm sewer and sanitary sewer improvements constructed or installed by the Grantor along with the entirety of the forty-four thousand twenty-four (44,024) square feet, more or less, of permanent easements and rights-of-way for the use and maintenance of storm sewer and sanitary sewer infrastructure that were previously reserved by the Grantor by (1) referencing plats of survey depicting the reserved easements in the legal descriptions for instruments of conveyance to third parties and (2) by means of restrictive covenants recorded by Tot Hill Farm, L.L.C. in the office of the Randolph County Register of Deeds in Deed Book 1561, Page 930 and in Deed Book 1594, Page 1196. In addition to the conveyance of the above-described reserved easements and the storm sewer and sanitary sewer improvements located within the said easements and rights-of-way, and in order to induce the Grantee to assume the maintenance responsibilities that come with the ownership of this storm sewer and sanitary sewer infrastructure as well as a water line and fire hydrant that are to be publicly owned and maintained, the Grantor does hereby further grant, bargain, sell, and convey unto the Grantee additional permanent easements and rights-of-way for the construction, inspection, operation, repair, and maintenance of storm sewer, sanitary sewer, and public water supply/water line improvements in, along, through, and over that certain one hundred thirty-three thousand one (133,001) square feet of land, more or less, owned by the Grantor in fee simple that is needed by the Grantee for permanent storm sewer, sanitary sewer, access, and public water supply/water line easements.

The said permanent easement areas and rights-of-way conveyed to the Grantee by this instrument are more particularly defined and described as follows:

RESERVED STORM SEWER EASEMENTS CONVEYED TO GRANTEE:

Cedar Grove Township, Randolph County, North Carolina:

All of the eighteen thousand one hundred thirty-five (18,135) square feet, more or less, of land identified as existing storm sewer easement area reserved to Tot Hill Farm, L.L.C. in the following easement areas that are depicted on the "REVISED UTILITY EASEMENT SURVEY FOR THE CITY OF ASHEBORO TOT HILL FARM AREA" plat (a total of five (5) maps/sheets) prepared by Roland D. Ward, Professional Land Surveyor with license number 2728:

<u>Easement Area Number</u>	<u>Map/Sheet Number</u>
1	1 & 5
2	1 & 5
4	1 & 5
5	1 & 5
13	1, 4, & 5
14	1, 4, & 5
15	1, 3, & 5

16	1, 3, & 5
49	4 & 5
50	4 & 5

This plat of survey contains a total of five (5) maps/sheets. Maps 1, 2, 3, and 4 were signed by Roland D. Ward on January 3, 2011, and are recorded in the office of the Randolph County Register of Deeds in Plat Book 128, Pages 49 through 52. Map 5 was revised on January 7, 2011, and is recorded in Plat Book 128, Page 56.

RESERVED SANITARY SEWER EASEMENTS CONVEYED TO GRANTEE:

Cedar Grove Township, Randolph County, North Carolina:

All of the seventeen thousand nine hundred eighty-two (17,982) square feet, more or less, of land identified as existing sanitary sewer easement area reserved to Tot Hill Farm, L.L.C. in the following easement areas that are depicted on the "REVISED UTILITY EASEMENT SURVEY FOR THE CITY OF ASHEBORO TOT HILL FARM AREA" plat (a total of five (5) maps/sheets) prepared by Roland D. Ward, Professional Land Surveyor with license number 2728:

<u>Easement Area Number</u>	<u>Map/Sheet Number</u>
7	1 & 5
8	1 & 5
9	1 & 5
21	2, 3, & 5
22	2, 3, & 5
44	4 & 5
45	4 & 5
46	4 & 5
47	1, 4, & 5
48	1, 4, & 5

This plat of survey contains a total of five (5) maps/sheets. Maps 1, 2, 3, and 4 were signed by Roland D. Ward on January 3, 2011, and are recorded in the office of the Randolph County Register of Deeds in Plat Book 128, Pages 49 through 52. Map 5 was revised on January 7, 2011, and is recorded in Plat Book 128, Page 56.

RESERVED SHARED STORM SEWER AND SANITARY SEWER EASEMENTS CONVEYED TO GRANTEE:

Cedar Grove Township, Randolph County, North Carolina:

All of the seven thousand nine hundred seven (7,907) square feet, more or less, of land identified as existing combined storm sewer and sanitary sewer easement area reserved to Tot Hill Farm, L.L.C. in the following easement areas that are depicted on the "REVISED UTILITY EASEMENT SURVEY FOR THE CITY OF ASHEBORO TOT HILL FARM AREA" plat (a total of five (5) maps/sheets) prepared by Roland D. Ward, Professional Land Surveyor with license number 2728:

<u>Easement Area Number</u>	<u>Map/Sheet Number</u>
19	2 & 5
20	2 & 5
31	2 & 5
32	2 & 5

This plat of survey contains a total of five (5) maps/sheets. Maps 1, 2, 3, and 4 were signed by Roland D. Ward on January 3, 2011, and are recorded in the office of the Randolph County Register of Deeds in Plat Book 128, Pages 49 through 52. Map 5 was revised on January 7, 2011, and is recorded in Plat Book 128, Page 56.

NEW STORM SEWER EASEMENTS CONVEYED TO GRANTEE:

Cedar Grove Township, Randolph County, North Carolina:

In addition to the easement areas previously reserved by the Grantor, all of the eight thousand five hundred fifty-six (8,556) square feet, more or less, of land identified on the Grantee's revised utility easement survey as additional storm sewer easement

area to be acquired in, along, through, and over the following easement areas that are depicted on the "REVISED UTILITY EASEMENT SURVEY FOR THE CITY OF ASHEBORO TOT HILL FARM AREA" plat (a total of five (5) maps/sheets) prepared by Roland D. Ward, Professional Land Surveyor with license number 2728:

<u>Easement Area Number</u>	<u>Map/Sheet Number</u>
6	1 & 5
13	1, 4, & 5
14	1, 4, & 5
17	1 & 5
23	2 & 5
24	2 & 5
26	2 & 5
27	2 & 5
28	2 & 5
29	2 & 5
35	2 & 5
36	2 & 5
49	4 & 5
50	4 & 5

This plat of survey contains a total of five (5) maps/sheets. Maps 1, 2, 3, and 4 were signed by Roland D. Ward on January 3, 2011, and are recorded in the office of the Randolph County Register of Deeds in Plat Book 128, Pages 49 through 52. Map 5 was revised on January 7, 2011, and is recorded in Plat Book 128, Page 56.

NEW SANITARY SEWER EASEMENTS CONVEYED TO GRANTEE:

Cedar Grove Township, Randolph County, North Carolina:

In addition to the easement areas previously reserved by the Grantor, all of the ninety-six thousand nine hundred twenty-four (96,924) square feet, more or less, of land identified on the Grantee's revised utility easement survey as additional sanitary sewer easement area to be acquired in, along, through, and over the following easement areas that are depicted on the "REVISED UTILITY EASEMENT SURVEY FOR THE CITY OF ASHEBORO TOT HILL FARM AREA" plat (a total of five (5) maps/sheets) prepared by Roland D. Ward, Professional Land Surveyor with license number 2728:

<u>Easement Area Number</u>	<u>Map/Sheet Number</u>
8	1 & 5
9	1 & 5
18	2, 3, & 5
34	2, 3, & 5
37	3 & 5
38	3 & 5
39	3 & 5
43	3 & 5
44	4 & 5
45	4 & 5
46	4 & 5
51	3 & 5
52	3 & 5

This plat of survey contains a total of five (5) maps/sheets. Maps 1, 2, 3, and 4 were signed by Roland D. Ward on January 3, 2011, and are recorded in the office of the Randolph County Register of Deeds in Plat Book 128, Pages 49 through 52. Map 5 was revised on January 7, 2011, and is recorded in Plat Book 128, Page 56.

NEW COMBINED STORM SEWER AND SANITARY SEWER EASEMENTS CONVEYED TO GRANTEE:

Cedar Grove Township, Randolph County, North Carolina:

In addition to the easement areas previously reserved by the Grantor, all of the one thousand seven hundred one (1,701) square feet, more or less, of land identified on the Grantee's revised utility easement survey as additional combined storm sewer and sanitary sewer easement area to be acquired in, along, through, and over the following easement areas that are depicted on the "REVISED UTILITY EASEMENT SURVEY FOR THE CITY OF ASHEBORO TOT HILL FARM AREA" plat (a total of

five (5) maps/sheets) prepared by Roland D. Ward, Professional Land Surveyor with license number 2728:

<u>Easement Area Number</u>	<u>Map/Sheet Number</u>
18	2, 3, & 5
33	2 & 5

This plat of survey contains a total of five (5) maps/sheets. Maps 1, 2, 3, and 4 were signed by Roland D. Ward on January 3, 2011, and are recorded in the office of the Randolph County Register of Deeds in Plat Book 128, Pages 49 through 52. Map 5 was revised on January 7, 2011, and is recorded in Plat Book 128, Page 56.

NEW ACCESS EASEMENTS CONVEYED TO GRANTEE:

Cedar Grove Township, Randolph County, North Carolina:

In addition to the easement areas previously reserved by the Grantor, all of the fifteen thousand nine hundred forty-two (15,942) square feet, more or less, of land identified on the Grantee's revised utility easement survey as additional easement area for accessing publicly maintained sanitary sewer infrastructure that is hereby acquired in, along, through, and over the following easement areas that are depicted on the "REVISED UTILITY EASEMENT SURVEY FOR THE CITY OF ASHEBORO TOT HILL FARM AREA" plat (a total of five (5) sheets) prepared by Roland D. Ward, Professional Land Surveyor with license number 2728:

<u>Easement Area Number</u>	<u>Map/Sheet Number</u>
10	1 & 5
12	1 & 5

This plat of survey contains a total of five (5) maps/sheets. Maps 1, 2, 3, and 4 were signed by Roland D. Ward on January 3, 2011, and are recorded in the office of the Randolph County Register of Deeds in Plat Book 128, Pages 49 through 52. Map 5 was revised on January 7, 2011, and is recorded in Plat Book 128, Page 56.

NEW PUBLIC WATER SUPPLY/WATER LINE EASEMENTS CONVEYED TO GRANTEE:

Cedar Grove Township, Randolph County, North Carolina:

In addition to the easement areas previously reserved by the Grantor, all of the nine thousand eight hundred seventy-eight (9,878) square feet, more or less, of land identified on the Grantee's revised utility easement survey as additional water line easement area to be acquired in, along, through, and over the following easement areas that are depicted on the "REVISED UTILITY EASEMENT SURVEY FOR THE CITY OF ASHEBORO TOT HILL FARM AREA" plat (a total of five (5) maps/sheets) prepared by Roland D. Ward, Professional Land Surveyor with license number 2728:

<u>Easement Area Number</u>	<u>Map/Sheet Number</u>
41	3 & 5

This plat of survey contains a total of five (5) maps/sheets. Maps 1, 2, 3, and 4 were signed by Roland D. Ward on January 3, 2011, and are recorded in the office of the Randolph County Register of Deeds in Plat Book 128, Pages 49 through 52. Map 5 was revised on January 7, 2011, and is recorded in Plat Book 128, Page 56.

For the sole and only consideration recited hereinabove, the Grantee is hereby given and shall have the perpetual right, privilege, and easement of going in, upon, and over the above-described easement areas at any and all times deemed necessary or appropriate by the Grantee for the purpose of constructing, operating, inspecting, repairing, and maintaining storm sewer, sanitary sewer, and public water supply/water line (including without limitation any publicly maintained fire hydrant) infrastructure. The easements and rights-of-way granted herein include, without limitation, the right and privilege to alter, replace, and expand the capacity of the storm sewer, sanitary sewer, and public water supply/water line improvements as part of the municipal infrastructure owned, operated, and maintained by the City of Asheboro, North Carolina. This grant of perpetual rights, privileges, and easements over the above-

described areas to the Grantee includes without limitation the right of the Grantee to do all things necessary to keep the easement areas cleared of trees, shrubs, undergrowth, landscaping materials, buildings, structures, improvements to the real property, or any other type of obstruction that hinders or interferes with the construction, operation, inspection, repair, and maintenance of the Grantee's storm sewer, sanitary sewer, and public water supply/water line infrastructure.

THE FURTHER TERMS AND CONDITIONS of the easement herein conveyed are as follows:

1. The Grantor agrees not to plant, cultivate, install, erect, or maintain any tree, shrub, landscaping material, building, structure, improvement to the real property, or any other type of obstruction in the easement areas that may hinder or interfere with the construction, operation, inspection, repair, and maintenance of the Grantee's storm sewer, sanitary sewer, and public water supply/water line infrastructure in accordance with generally accepted industry standards.

2. The Grantor agrees not to conduct, permit, or facilitate any grading within the easement areas that would impair the ability of the Grantee to construct, operate, inspect, repair, and maintain its storm sewer, sanitary sewer, and public water supply/water line infrastructure in accordance with generally accepted industry standards. This agreement specifically includes, without limitation, the prohibition of any grading within the easement areas that would impair or impede the ability of maintenance vehicles or fire suppression apparatus to safely and reasonably utilize the easement areas.

3. The Grantee does not waive or forfeit the right to take action to ensure compliance with the terms, conditions, and purposes of this easement agreement as a consequence of prior failures to act to ensure compliance with the terms, conditions, and purposes of the easements granted and conveyed herein.

4. There are no conditions to this deed of easement not expressed herein.

TO HAVE AND TO HOLD the aforesaid easements and rights-of-way and all pipes, connections, and fittings together with all privileges and appurtenances thereunto belonging or in any wise appertaining to said City of Asheboro, North Carolina, and its successors and assigns, forever. The covenants agreed to and the terms, conditions, and restrictions imposed herein shall be binding upon the said Grantor and shall continue as a servitude running in perpetuity with the above-described land.

The undersigned covenants and warrants that they have the right to convey these easements and rights-of-way; and that they will forever warrant and defend title to the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed under authority given, the day and year first above written.

**TOT HILL FARM, L.L.C.,
a North Carolina limited liability company:**

By: _____
Jack C. Lail, Manager

STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH

I, the undersigned Notary Public of the county and state aforesaid, do hereby certify that Jack C. Lail, either being personally known to me or having established his identity by means of the presentation of satisfactory evidence, personally appeared before me this day and acknowledged that he is a Manager of Tot Hill Farm, L.L.C., a North Carolina limited liability company, and that, as Manager and being duly authorized to do so, he voluntarily executed the foregoing instrument on behalf of the said limited liability company for the purposes stated therein.

Witness my hand and notarial seal, this _____ day of _____, 2011.

Notary Public

My commission expires:

(Name of Notary Public, typed or printed)

**TOT HILL TOWNHOUSE ASSOCIATES, L.L.C.,
a North Carolina limited liability company:**

By: _____
Jack C. Lail, Manager

STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH

I, the undersigned Notary Public of the county and state aforesaid, do hereby certify that Jack C. Lail, either being personally known to me or having established his identity by means of the presentation of satisfactory evidence, personally appeared before me this day and acknowledged that he is a Manager of Tot Hill Townhouse Associates, L.L.C., a North Carolina limited liability company, and that, as Manager and being duly authorized to do so, he voluntarily executed the foregoing instrument on behalf of the said limited liability company for the purposes stated therein.

Witness my hand and notarial seal, this _____ day of _____, 2011.

Notary Public

My commission expires:

(Name of Notary Public, typed or printed)

**JOHN'S RIDGE ASSOCIATES, L.L.C.,
a North Carolina limited liability company:**

By: _____
Jack C. Lail, Manager

STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH

I, the undersigned Notary Public of the county and state aforesaid, do hereby certify that Jack C. Lail, either being personally known to me or having established his identity by means of the presentation of satisfactory evidence, personally appeared before me this day and acknowledged that he is a Manager of John's Ridge Associates, L.L.C., a North Carolina limited liability company, and that, as Manager and being duly authorized to do so, he voluntarily executed the foregoing instrument on behalf of the said limited liability company for the purposes stated therein.

Witness my hand and notarial seal, this _____ day of _____, 2011.

Notary Public

My commission expires:

(Name of Notary Public, typed or printed)

OLD BUSINESS:

- 7. Consideration of closing a portion of Birkhead Street that crosses the railroad tracks as requested by the North Carolina Department of Transportation Rail Division Engineering and Safety Branch.**

Mayor Smith re-opened the public hearing that was continued from the Council's regular December meeting.

WHEREAS, after conducting the advertised public hearing on December 9, 2010, and continuing the hearing to January 6, 2011, in order to receive additional information that was not available for presentation when the public hearing was first opened, the Asheboro City Council has concluded that the permanent closure of the section of right-of-way for Birkhead Street described herein is not contrary to the public interest and that no individual owning property in the vicinity of the section of Birkhead Street proposed for permanent closure would be deprived of reasonable means of ingress and egress to his or her property by such closure.

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

Section 1. The section of public street right-of-way within which Birkhead Street crosses the Norfolk Southern Railway tracks is hereby permanently closed. Birkhead Street is located within the corporate limits of the City of Asheboro and is a city-maintained street. The section of public street right-of-way permanently closed by this Ordinance/Order is more particularly described by metes and bounds as follows:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a new iron rod set in the southern margin of the 50-foot wide public right-of-way for Birkhead Street in the vicinity of the area where the street crosses the Norfolk Southern Railway tracks, the said new iron rod is located the following courses and distances from NCDOT GPS Monument Y4808J-1: South 68 degrees 16 minutes 40 seconds East 249.68 feet to a point set with rebar; thence North 05 degrees 08 minutes 19 seconds East 98.47 feet to a point not set in the southern margin of the public right-of-way for Birkhead Street; thence North 85 degrees 33 minutes 27 seconds West 17.79 feet along the southern margin of the public right-of-way for Birkhead Street to a P-K nail; thence continuing along the southern margin of the public right-of-way for Birkhead Street North 85 degrees 33 minutes 27 seconds West 77.42 feet to the new iron rod that is the beginning point for this metes and bounds description (NCDOT GPS Monument Y4808J-1 is located by means of the North Carolina Coordinate System at the coordinates of North 709,535.588 feet and East 1,757,511.018 feet (NAD 83)); thence from the said beginning point along the southern margin of the public right-of-way for Birkhead Street North 85 degrees 33 minutes 27 seconds West 98.61 feet to a P-K nail; thence across the Norfolk Southern Railway tracks in a northwesterly direction along the arc of a curve with a radius of 356.9719 feet and an arc length of 38.09 feet a chord bearing and distance of North 88 degrees 36 minutes 51 seconds West 38.07 feet to a new iron rod; thence continuing along the southern margin of the public right-of-way for Birkhead Street South 88 degrees 19 minutes 44 seconds West 2.72 feet to a new iron rod; thence North 03 degrees 52 minutes 59 seconds West 50.04 feet across Birkhead Street to a new iron rod set in the northern margin of the public right-of-way for Birkhead Street; thence North 88 degrees 19 minutes 44 seconds East 4.65 feet to a new iron rod; thence across the Norfolk Southern Railway tracks in a southeasterly direction along the arc of a curve with a radius of 406.9719 feet and an arc length of 43.43 feet a chord bearing and distance of South 88 degrees 36 minutes 51 seconds East 43.41 feet to a new iron rod; thence continuing along the northern margin of the public right-of-way for Birkhead Street the following course and distance: South 85 degrees 33 minutes 27 seconds East 98.61 feet to a new iron rod; thence across Birkhead Street in a southwesterly direction along the arc of a curve with a radius of 45.0000 feet and an arc length of 53.01 feet a chord bearing and distance of South 04 degrees 26 minutes 33 seconds West 50.00 feet to the point and place of the BEGINNING, and being all of that certain 0.158 of an acre (6,895 square feet) of land, more or less, encompassed by the preceding metes and bounds description, specifically including the public right-of-way for the above-described section of Birkhead Street. The right-of-way to be permanently closed is shown on the plat of survey referenced below.

This description is in accordance with a plat of survey entitled "SURVEY OF PROPOSED CLOSING OF A PORTION OF BIRKHEAD STREET" that was drawn under the supervision of Andrew Michael Smith, a Professional Land Surveyor with registration number L-3784. This plat of survey, which is dated October 14, 2010, is hereby incorporated into this resolution by reference as if copied fully herein.

Section 2. The City of Asheboro, pursuant to the provisions of Section 160A-299 of the North Carolina General Statutes, hereby reserves its perpetual right, title, and interest in and to the City of Asheboro water line and sanitary sewer line shown on the above-referenced plat of survey. This express reservation of a perpetual right, title, and interest in the said municipal water and sanitary sewer lines

includes, without limitation, an express reservation of a perpetual right, title, and interest in an easement for the said municipal water and sanitary sewer lines. The easement referenced in the immediately preceding sentence shall be deemed to be inclusive of the entirety of the area described by metes and bounds in Section 1 of this Ordinance/Order and shall be utilized for the operation and maintenance of the said municipal water and sanitary sewer lines. Furthermore, this reservation by the City of Asheboro of its right, title, and interest in an easement for public infrastructure expressly includes, without limitation, the city's perpetual right and privilege of going in, upon, and over the area described in Section 1 of this Ordinance/Order at any time or times, and from time to time, at the city's option, for the purpose of constructing, inspecting, operating, repairing, and maintaining municipal water and sanitary sewer lines, including such alterations, replacements, and expansions of capacity as may, in the city's sole judgment, be necessary or proper as a part of the Public Water Supply System and Sanitary Sewer System of the City of Asheboro, North Carolina.

Furthermore, this reservation of right, title, and interest in utility improvements and easements extends to existing utility improvements or easements owned by private utilities which at the time of the street closing have a utility agreement or franchise with the city. In particular, this reservation of right, title, and interest extends to the 4" and 8" gas lines as well as power, telephone, and cablevision lines located within the reserved easement area at the time of the adoption of this Ordinance/Order.

Section 3. This Ordinance/Order shall take effect and be in force from and after the date of its adoption.

Section 4. Any person aggrieved by the permanent closure of the above-described section of the right-of-way for Birkhead Street may appeal the adoption of this Ordinance/Order to the General Court of Justice of Randolph County, North Carolina within thirty (30) days after the date of adoption of the Ordinance/Order.

Section 5. In the event there is no appeal within thirty (30) days after the adoption of this Ordinance/Order, a certified copy of this Ordinance/Order shall be filed in the Office of the Register of Deeds of Randolph County, North Carolina as provided by law.

This Ordinance/Order was adopted in open session during a regular meeting of the Asheboro City Council that was held on the 6th day of January, 2011.

CITY SEAL

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

ATTEST:

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

8. **RZ-10-21: Request for text amendments to the zoning ordinance.** An application filed by the City of Asheboro to amend Articles 200, 300A, 400, 1000, and 1100 of the Asheboro Zoning Ordinance.

Mayor Smith opened the public hearing on the following request.

Mr. Neely presented an overview of the Planning Department staff's proposed amendments to the Asheboro Zoning Ordinance. In essence, these technical amendments are proposed to address the following issues:

- a. Accessory outdoor sales
- b. Seasonal/produce sales
- c. Limited duration events
- d. Parking for indoor commercial recreation
- e. Authorization for designees of the Zoning Administrator to undertake enforcement actions

A copy of the exact text of the proposed amendments is on file in the City Clerk's office.

The Planning Department Staff recommended approval of the proposed amendments based on the following:

"Staff believes addressing these issues will add clarity to the Zoning Ordinance and assist in enforcement and administration of the Ordinance. Considering all factors, staff believes that the proposed technical amendments are in the public interest in promoting public health, safety, and general welfare, and recommends approval."

The Planning Board recommended approval of the proposed amendments as presented with the exception of the proposed amendments pertaining to the section regarding "open air sales accessory" of Section 327A(2) of the Asheboro Zoning Ordinance. The Planning Board strongly disagreed with this specific proposal and felt that the public policies guiding the proposed text should be re-examined and clarified before proceeding any further with amending Section 327A(2) of the Zoning Ordinance.

Mr. Nelson Roland of the Lion's Club presented comments and concerns in regards to yard sales. Mr. Roland felt that yard sales or fund raisers for non-profit organizations should be permitted, possibly at a central location provided by the City of Asheboro.

Mr. David Whitaker, a member of the City of Asheboro's Planning Board, presented comments and concerns in regards to the proposed amendments. Mr. Whitaker felt that city staff should study and make improvements to the section of the zoning ordinance pertaining to open air sales, accessory.

There being no further comments, Mayor Smith closed the public hearing.

During extended discussion about the proposed ordinance, Mr. Burks moved to follow the recommendation of the Planning Board and adopt the proposed amendments to the Asheboro Zoning Ordinance as presented with the exception of the proposed amendments pertaining to the section regarding "open air sales, accessory."

Mr. Burks later withdrew his motion, and Mr. Bell then moved to adopt the Planning Department staff's recommendation with the following modification to the proposed text for Section 327A(2):

(2) The following provisions apply to Open Air Sales, Accessory:

Open Air Sales, accessory are permitted without a Zoning Compliance Permit subject to the following:

- (i) Open air sales, accessory ~~must be~~ directly subordinate to the operations of the permittee engaging in the principal use on the zoning lot (i.e. outdoor sales of auto parts at an auto parts store, clothing brought outside a clothing store, etc.) and meet the requirements of 327A(1) are permitted.
- (ii) Food vendors are allowed solely as a promotional tool in conjunction with Open Air Sales, Accessory.
- ~~(iii) Uses that are not directly subordinate to the operations of the permittee engaged in the authorized principal land use shall not be considered Open Air Sales, accessory and are hereby prohibited. Prohibited uses include, but are not limited to, sale of goods, yard sales, carwashes, commercial services and/or fundraising activities.~~

This motion was seconded by Mr. Burks, and Council Members Baker, Bell, Burks, Fountain, Hunter, and Moffitt voted in favor of the motion.

NEW BUSINESS:

9. Community Development Items:

- (a) **SUP-11-01: Request for Special Use Permits for a Recreational Vehicle Resort and Agricultural Tourism Facility.** The property of Phyllis E. Thomas consists of approximately 106.13 acres of land and is located at 2513 Old Cedar Falls Road. Randolph County Parcel Identification Number 7772117810 more specifically identifies the property.

Mayor Smith opened the public hearing on the following request.

Mr. Neely was sworn in and testified that the Planning Board had continued to February its review of the applicant's request for a variance from the Subdivision Ordinance and its review of the submitted sketch design because the applicant was unavailable to discuss the submittals with the Planning Board during its January 2011 meeting. Due to the ordinance requirement that the Special Use Permit application for a Recreational Vehicle Resort be reviewed concurrently with the sketch design for the association subdivision, Mr. Neely recommended that cases SUP-11-01 and SUB-11-01 be continued to the February 2011 regular council meeting.

Upon motion by Dr. Fountain and seconded by Mr. Bell, Council voted unanimously to continue these items to the Council's regular February meeting. Council Members Baker, Bell, Burks, Fountain, Hunter, and Moffitt voted in favor of the motion.

(b) SUB-11-01: Reserves at the Vineyard.

The above-referenced item was continued to the Council's regular February meeting.

(c) SUB-09-02: Final plat review for Meadowbrook Terrace Townhomes.

Mr. Neely presented the final plat for the proposed Meadowbrook Terrace Townhomes Subdivision. Mr. Darren Lucas requested the approval of a final plat for the subdivision to be located along the west side of Meadowbrook Road and along the east side of Eastview Drive. The proposed subdivision contains approximately 6.513 acres of land, consisting of 28 lots.

The Planning Department Staff and the Planning Board recommended approval of the final plat with the following condition and a comment:

Condition: "The approval of the final plat is conditioned on the applicant granting a water line easement to the City of Asheboro that is inclusive of the easement area needed beyond Phase 1. The instrument conveying the required easement must conform to the standard deed of easement most recently approved by the City Attorney. The Final Plat and said deed of easement are to be recorded by city staff members when the documents are properly executed.

Comment: "A professional engineer's certification that water controls were built according to plans as required by condition 'e' of SUP-09-02 shall be submitted."

Upon motion by Mr. Bell and seconded by Mr. Burks, Council unanimously granted approval for the final plat submitted for Meadowbrook Terrace Townhomes with the above-stated condition and comment. Council Members Baker, Bell, Burks, Fountain, Hunter, and Moffitt voted in favor of the motion.

(The aforementioned final plat is on file in the City Clerk's office.)

(d) RZ-10-22: Request for technical amendments to the Asheboro Zoning Ordinance.

An application filed by the City of Asheboro to amend Article 200, Article 200A, and Article 400 of the Asheboro Zoning Ordinance.

Mayor Smith opened the public hearing on the following request.

Mr. Neely presented an overview of the Planning Department staff's proposed amendments to the Asheboro Zoning Ordinance. In essence, these technical amendments are proposed to address the development regulations regarding the adaptive reuse of existing buildings in Tier 1 of the Center City Planning Area. Additionally, these amendments would address practical difficulties in siting street trees when inadequate right-of-way exists between the building and the street.

A copy of the exact text of the proposed amendments is on file in the City Clerk's office.

The Planning Board concurred with the following Planning Department staff's analysis:

"These amendments are proposed to equip the Zoning Ordinance to address practical matters related to the reuse of existing buildings in the Center City. Encouraging revitalization of existing structures and promoting a compatible mix of uses is a goal stated throughout the Land Development Plan. Staff believes that it is prudent to review parking requirements for zoning districts that require off-street parking within Tier 1 of the Center City Planning Area (i.e. districts other than the B3 Central Commercial district) because on-street parking and availability of public parking lessen the need for off-street parking Tier 1 locations. Additionally, certain practical considerations affect the placement of street trees depending on availability of right-of-way. Considering these factors, staff believes the proposed amendments are within the public interest in supporting a reasonable use of property."

Based on their approval of this analysis, the Planning Board recommended approval of the proposed text amendments.

There being no further comments and no opposition, Mayor Smith closed the public hearing.

Upon motion by Mr. Bell and seconded by Mr. Baker, Council followed the recommendations of the Planning Department staff and Planning Board and voted unanimously to approve the proposed amendments to the Asheboro Zoning Ordinance. Council Members Baker, Bell, Burks, Fountain, Hunter, and Moffitt voted in favor of the motion.

- (e) **Consideration of a resolution authorizing the execution of a grant agreement with the North Carolina Department of Commerce for Community Development Block Grant funds for an economic development project to extend water and sewer lines to an industrial property on Veterans Loop Road (Allen Precision Industries).**

Ms. Fletcher presented and recommended adoption, by reference of the aforementioned resolution.

Upon motion by Mr. Baker and seconded by Mr. Burks, Council voted unanimously to adopt the following resolution by reference. Council Members Baker, Bell, Burks, Fountain, Hunter, and Moffitt voted in favor of the motion.

03 RES 1-11

RESOLUTION AUTHORIZING THE EXECUTION OF A GRANT AGREEMENT FOR COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FUNDING FOR THE ALLEN PRECISION INDUSTRIES ECONOMIC DEVELOPMENT PROJECT

WHEREAS, the Asheboro City Council has previously indicated its desire to assist in economic development efforts within the City; and

WHEREAS, the Asheboro City Council has received notice from the North Carolina Department of Commerce of the award of Community Development Block Grant program economic development funding in the amount of one hundred fifty-four thousand three hundred sixty dollars (\$154,360) to assist in providing public water/sewer service to a new manufacturing facility to be constructed by Allen Precision Industries; and

WHEREAS, in order to meet one of the conditions placed upon the grant, the city must execute with the North Carolina Department of Commerce a proposed grant agreement that is attached hereto as EXHIBIT 1 and is hereby incorporated into this resolution by reference as if copied fully herein; and

WHEREAS, Allen Precision Industries has pledged to create fourteen (14) full-time jobs and invest over two million eight hundred thousand dollars (\$2,800,000) as a consequence of this economic development project; and

WHEREAS, the Asheboro City Council has concluded that it is in the best interest of the municipal corporation and its citizens to proceed with this economic development project;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the attached agreement (EXHIBIT 1) is hereby approved; and

BE IT FURTHER RESOLVED that the mayor, city manager, and all other pertinent city officials are hereby authorized to execute the attached agreement as well as any other instruments specified by the North Carolina Department of Commerce as necessary for full implementation of the current economic development project with Allen Precision Industries.

This resolution was duly adopted by the Asheboro City Council in open session during a regular meeting held on the 6th day of January, 2011.

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

ATTEST:

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

[The grant agreement attached to the resolution as EXHIBIT 1 is on file in the City Clerk's office.]

10. Public comment period.

Mr. Jeff Marotto and Mr. Keith Pritchett of Skyline Drive presented comments and concerns in regards to the noise levels at Shake night club located on Dixie Drive. Mr. Marotto asked the Council to research the requirements for noise levels associated with such establishments.

Council Members asked the city staff to research this issue along with studying ways to generally improve the city's noise ordinance, including the provisions pertaining to noise in the zoning ordinance.

11. Notification of a special meeting of the Asheboro City Council to be held on Tuesday, January 25, 2011 at 5:30 p.m.

Mayor Smith announced that the above-referenced special meeting will be held on Tuesday, January 25, 2011 at 5:30 p.m.

12. Discussion of items not on the agenda.

- a. Mayor Smith acknowledged that the Council received the minutes of the Asheboro ABC Board's meeting that was held on December 6, 2010.
- b. Mayor Smith presented a resolution authorizing the execution of One North Carolina Fund agreements as part of the on-going economic development project with the Malt-O-Meal Company.

Upon motion by Mr. Bell and seconded by Mr. Burks, Council voted unanimously to adopt the following resolution by reference. Council Members Baker, Bell, Burks, Fountain, Hunter, and Moffitt voted in favor of the motion.

04 RES 1-11

RESOLUTION AUTHORIZING THE EXECUTION OF ONE NORTH CAROLINA FUND AGREEMENTS AS PART OF THE MALT-O-MEAL COMPANY ECONOMIC DEVELOPMENT PROJECT

WHEREAS, the North Carolina General Assembly has created the One North Carolina Fund to make funding available to assist in securing "commitments for the recruitment, expansion, or retention of new or existing businesses;" and

WHEREAS, the city has applied for grant funding from the One North Carolina Fund as part of an economic development project designed to promote the expansion of the Malt-O-Meal Company's facility in Asheboro; and

WHEREAS, by executing its One North Carolina Fund application, Malt-O-Meal Company committed to using a grant award from the One North Carolina Fund toward the goal of investing at least one hundred thirty-five million dollars (\$135,000,000) in the expansion of the company's Asheboro facility and creating eighty (80) new full-time jobs while retaining two hundred (200) existing full-time jobs at this facility; and

WHEREAS, a grant award from the One North Carolina Fund has been approved by the North Carolina Department of Commerce in the amount of three hundred fifty thousand dollars (\$350,000); and

WHEREAS, in order to enable Malt-O-Meal Company to receive the approved grant award from the One North Carolina Fund, the City of Asheboro must execute a Local Government Grant Agreement with the North Carolina Department of Commerce and a Company Performance Agreement with the Malt-O-Meal Company (the said agreements are hereinafter collectively referred to as the "Agreements"); and

WHEREAS, a copy of the proposed Local Government Grant Agreement is attached to this resolution as "EXHIBIT 1," and a copy of the proposed Company Performance Agreement is attached to this resolution as "EXHIBIT 2;" and

WHEREAS, the Asheboro City Council has concluded that the terms and conditions of the Agreements attached to this resolution as EXHIBIT 1 and EXHIBIT 2, which are hereby incorporated into this resolution by reference as if copied fully herein, are acceptable and that the city's entry into these Agreements is consistent with the best interests of the municipal corporation and its citizens;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the Agreements attached hereto as EXHIBIT 1 and EXHIBIT 2 are hereby approved; and

BE IT FURTHER RESOLVED that the mayor, city manager, and all other necessary city officials are hereby authorized to execute the attached Agreements as well as any other instruments specified by the North Carolina Department of Commerce as necessary for full implementation of the current economic development project with the Malt-O-Meal Company.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 6th day of January, 2011.

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

ATTEST:

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

[Exhibit 1 and Exhibit 2 that are referred to in the above resolution are attached to the original resolution on file in the City Clerk's office.]

There being no further business, the meeting was adjourned at 8:56 p.m.

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

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