

**REGULAR MEETING  
ASHEBORO CITY COUNCIL  
THURSDAY, NOVEMBER 9, 2006  
7:00 p.m.**

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

David H. Jarrell           ) – Mayor Presiding  
  
Talmadge Baker           )  
Linda Carter             )  
Keith Crisco             ) – Council Members Present  
Nancy Hunter             )  
Archie Priest             )  
David Smith              )  
  
Walker Moffitt            ) – Council Member Absent

John N. Ogburn, III, City Manager  
Dumont Bunker, P.E., City Engineer  
John Evans, Code Enforcement Officer  
Holly J. Hartman, City Clerk/Senior Legal Assistant  
R. Wendell Holland, Zoning Administrator  
Foster Hughes, Recreation Director  
T. Myers Johnson, Human Resources Director  
Deborah P. Juberg, Finance Director  
R. Reynolds Neely, Jr., Planning Director  
Trevor L. Nuttall, Planner  
O. Lynn Priest, Community Development Director  
Jeffrey C. Sugg, City Attorney

**1. Call to Order.**

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

**2. Pledge of Allegiance and Invocation.**

Mayor Jarrell asked everyone to stand and repeat the Pledge of Allegiance. Reverend Gene Booker, Retired Southern Baptist Pastor, gave the invocation.

**3. Appearance and recognition of guests and citizens.**

Mayor Jarrell welcomed everyone in attendance.

**4. Presentation and request by Mr. Rob Reese and Dr. Charles Stout, Co-Chairs of Randolph Hospital's "Building Quality Care, Close to Home" capital campaign.**

On behalf of Randolph Hospital's "Building Quality Care, Close to Home" capital campaign, Dr. Charles Stout, Mr. Rob Reese, and Mr. Bob Morrison presented a request that the city provide \$500,000.00 over a period of time for assistance in the construction of an outpatient and cancer center to be added to Randolph Hospital. Said facility would enhance the quality of healthcare provided to the citizens of Randolph County.

Upon motion by Mr. Crisco and seconded by Mr. Priest, Council voted unanimously to approve the expenditure over time of \$500,000.00 for Randolph Hospital's "Building Quality Care, Close to Home" capital campaign.

**5. Consent Agenda.**

At the request of city staff, the following consent agenda items were withdrawn and will be presented at the next regular meeting of the council:

- Approval of findings of fact, conclusions of law, and order in the matter of CUP-06-23.
- Approval of findings of fact, conclusions of law, and order in the matter of SUP-06-10.

- Approval of findings of fact, conclusions of law, and order in the matter of CUP-06-37.
- Approval of findings of fact, conclusions of law, and order in the matter of SUP-06-11.
- Approval of an ordinance designating parking zones within the central business district as per exhibits enclosed.

Upon motion by Mr. Smith and seconded by Ms. Hunter, Council voted unanimously to approve the following consent agenda items:

- Approval of the minutes of the special meeting of the city council that was held on October 5, 2006.
- Approval of the minutes of the city council's regular meeting that was held on October 5, 2006.
- Approval of the general account of the closed session of the City Council that was held on October 5, 2006.
- Approval of a resolution sealing the general account of the closed session of the City Council that was held on October 5, 2006.

**56 RES 11-06**

**RESOLUTION SEALING THE GENERAL ACCOUNT OF THE CLOSED SESSION HELD BY THE ASHEBORO CITY COUNCIL ON OCTOBER 5, 2006**

**WHEREAS**, in accordance with Section 143-318.11(a)(5) of the North Carolina General Statutes, the Asheboro City Council conducted a closed session during a regular meeting held on October 5, 2006 for the purpose of instructing members of the city staff as to the position to be taken on behalf of the City Council in negotiating the price and other material terms of a proposed contract for the acquisition of real property by purchase, option, exchange, or lease; and

**WHEREAS**, a general account of this closed session has been approved by the Asheboro City Council in accordance with Section 143-318.10(e) of the North Carolina General Statutes; and

**WHEREAS**, Section 143-318.10(e) of the North Carolina General Statutes provides that such an account of a closed session may be withheld from public inspection so long as public inspection of the general account of the session would frustrate the purpose of the closed session; and

**WHEREAS**, at the present time, public inspection of the above-referenced general account of the closed session would frustrate the purpose of the closed session.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the aforementioned general account of the closed session held on October 5, 2006 shall be sealed so long as public inspection of the records would frustrate the purpose of the closed session; and

**BE IT FURTHER RESOLVED** that the city manager is authorized to act as the 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.

Adopted by the Asheboro City Council in regular session on the 9<sup>th</sup> day of November, 2006.

s/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman  
Holly J. Hartman, City Clerk

- Approval of a request by Frank Rose of the Randolph County Veteran's Council to temporarily close with a police escort portions of Church Street, Sunset Avenue, Fayetteville Street, and Worth Street for a Veteran's Day Parade from 2:00 p.m. to 2:45 p.m. on November 11, 2006.
- Approval of a request from the Asheboro/Randolph Chamber of Commerce to temporarily close Kivett Street between Fayetteville and Church Street, South Church Street from Sunset Avenue to Walker Avenue, Sunset Avenue from Church Street east to Fayetteville Street, and South Fayetteville Street from Salisbury Street to Kivett Street for the Annual Christmas parade at 7:00 p.m. on Friday, December 1, 2006.

- Approval of a request from the Asheboro/Randolph Chamber of Commerce Downtown Development Committee to temporarily close Sunset Avenue (from Park Street to Fayetteville Street) and Church Street (from Academy Street to Hoover Street) on December 8, 2006, from 6:00 p.m. to 9:00 p.m. for a downtown "Christmas on Sunset" street festival.
- Adoption of a resolution approving the amendment of the City of Asheboro Personnel Policies and Procedures Manual to include a new section addressing the city's policy on workplace violence.

57 RES 11-06

**RESOLUTION TO APPROVE A PROPOSED AMENDMENT OF THE CITY OF ASHEBORO  
PERSONNEL POLICIES AND PROCEDURES MANUAL**

**WHEREAS**, the City of Asheboro Personnel Policies and Procedures Manual was originally promulgated by the city manager and approved by resolution of the Asheboro City Council on March 4, 2004; and

**WHEREAS**, the city manager periodically receives suggestions from the director of human resources and the personnel committee as to improvements that can be made to the city's uniform system of personnel administration; and

**WHEREAS**, the director of human resources and the personnel committee have recommended to the city manager the adoption of a stand-alone workplace violence policy; and

**WHEREAS**, the city manager has agreed with this recommendation and has promulgated an amendment to the City of Asheboro Personnel Policies and Procedures Manual that adds a new Section 12 to Article V (Conditions of Employment) of the manual; and

**WHEREAS**, as promulgated by the city manager, the new Article V, Section 12 of the City of Asheboro Personnel Policies and Procedures Manual provides as follows:

**Section 12. Workplace Violence**

The City of Asheboro has a zero-tolerance policy relating to the communication of threats, harassment whether it be verbal or physical, physical assaults, or any other forms of inappropriate, intimidating, or unreasonably aggressive behavior. This type of behavior is unacceptable and, in terms of implementing the disciplinary actions prescribed by Article XI of this manual, shall be deemed to constitute improper personal conduct. Employees found in violation of this policy shall be subject to discipline as provided in Article XI of this manual. In addition to any disciplinary action(s) taken pursuant to the city's personnel policies and procedures, employees violating this policy may be subject to criminal prosecution; and

**WHEREAS**, this governing board concurs with the city manager's decision to adopt the above-stated workplace violence policy.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that the city manager's amendment of the City of Asheboro Personnel Policies and Procedures Manual to include a stand-alone workplace violence policy as Section 12 of Article V of the manual is hereby approved.

Adopted by the Asheboro City Council in regular session on the 9<sup>th</sup> day of November, 2006.

\_\_\_\_\_  
s/ David H. Jarrell  
David H. Jarrell, Mayor  
City of Asheboro, North Carolina

ATTEST:

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s/ Holly J. Hartman  
Holly J. Hartman, City Clerk  
City of Asheboro, North Carolina

- Adoption of a resolution approving revisions to the job descriptions for certain positions of employment within the Division of Water Resources.

**RESOLUTION APPROVING JOB DESCRIPTIONS, CLASS ALLOCATIONS, AND EXEMPTION DETERMINATIONS FOR CERTAIN POSITIONS OF EMPLOYMENT WITHIN THE DIVISION OF WATER RESOURCES**

**WHEREAS**, the City of Asheboro Personnel Policies and Procedures Manual, as amended, provides in Section 1 of Article II of the said manual that a position classification plan shall be prepared by the City Manager and adopted by the City Council; and

**WHEREAS**, such a position classification plan has been duly adopted by the City Council; and

**WHEREAS**, the classifications of Water Plant Operator I and Wastewater Plant Operator I have been established with a pay grade of 11, Water Plant Operator II and Wastewater Plant Operator II have been established with a pay grade of 12, Water Plant Operator III and Wastewater Plant Operator III have been established with a pay grade of 14, Water Chief Plant Operator and Wastewater Chief Plant Operator have been established with a pay grade of 18, and Water Plant Manager and Wastewater Plant Manager have been established with a pay grade of 23; and

**WHEREAS**, Section 10 of Article II of the City of Asheboro Personnel Policies and Procedures Manual provides, in pertinent part, as follows:

When . . . the duties of an existing position change, the department head shall submit in writing a comprehensive job description describing in detail the duties of such a position. The city manager shall investigate the actual or suggested duties and recommend the appropriate class allocation or the establishment of a new class to the City Council for approval; and

**WHEREAS**, the Director of Water Resources has made the determination that the job titles, duties, and corresponding job descriptions of the positions of employment listed above should be amended in order to enhance the operations of the Division of Water Resources and in order to maintain consistency with the certification requirements of the relevant boards/commissions (North Carolina Water Treatment Facility Operators Certification Board and the North Carolina Water Pollution Control System Operators Certification Commission); and

**WHEREAS**, the Director of Water Resources, after a careful and risk adverse evaluation of the current duties and responsibilities of the Water Chief Plant Operator and the Wastewater Chief Plant Operator, has made the determination that the exemption status under the Fair Labor Standards Act of these employees should be amended from "Exempt" status to "Non-Exempt" status; and

**WHEREAS**, the Director of Water Resources has submitted to the Director of Human Resources and the City Manager amended comprehensive job descriptions, which reflect the modifications discussed above; and

**WHEREAS**, these job descriptions (hereinafter collectively referred to as the "Job Descriptions") are attached to this resolution as Exhibit 1 and are hereby incorporated into this resolution by reference as if copied fully herein; and

**WHEREAS**, the Director of Human Resources and the City Manager have approved the Job Descriptions, and the City Manager has determined that the amended job descriptions do not materially impact the current classification of the affected positions of employment under the city's position classification plan.

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

**Section 1.** The City Council concurs with the City Manager's adoption of the determination by the Director of Water Resources that the positions of employment re-named as Water Treatment Plant Chief Operator and Wastewater Treatment Plant Chief Operator are to be classified as Non-Exempt under the Fair Labor Standards Act.

**Section 2.** The Job Descriptions attached hereto as Exhibit 1 are hereby approved.

**Section 3.** The City Manager's recommendation to maintain the current classification under the city's position classification plan of the re-named positions of employment listed in Exhibit 1 is adopted and approved without modification.

**Section 4.** The approvals granted by this resolution shall become effective as of December 1, 2006.



- (a) RZ-06-38: Rezone from R10 to RA6 / South side of Martin Luther King, Jr. Drive west of 1314 Martin Luther King, Jr. Drive. The property of Timothy and DeShandra Woodle is located on the south side of Martin Luther King, Jr. Drive west of 1314 Martin Luther King, Jr. Drive and consists of approximately 24,393 square feet of land. Randolph County Parcel Identification Number 7761436218 more specifically identifies the property.

Mr. Neely presented the Planning Department Staff's analysis of the request submitted by Timothy and Deshandra Woodle to rezone the previously described parcel from R10 Medium-Density Residential to RA6 High-Density Residential. The Planning Department Staff recommended denial of the request based on the following:

"The size of the subject parcel combined with the zoning in the immediate vicinity make the request inconsistent with the surrounding land uses. Rezoning a single, relatively small parcel to the High-Density district would permit a multi-family project to be developed in an area of Martin Luther King, Jr. Drive that remains lower density in nature. Staff believes that the current zoning district permits a reasonable use of the property by permitting either a single or two-family home to be developed on the site. Staff recommends denial to be in the public interest as it helps to promote compatibility with the surrounding properties and complies with the recommendations of the Land Development Plan."

Mr. Timothy Woodle presented comments in support of the requested rezoning. Additionally, Ms. Alene Woodle, neighboring property owner and mother of Timothy Woodle, supported the request.

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

Prior to the Council rendering a decision on the requested rezoning, Mr. Woodle requested a continuance of this matter to the next regular meeting in order to allow him time to consider amending his application.

Upon motion by Mr. Smith and seconded by Mr. Crisco, Council unanimously voted to continue this item to the council's regular December meeting.

Mayor Jarrell opened the public hearing on the following request:

- (b) CUP-06-39: Conditional Use Permit Modification / 2159 and 2201 North Fayetteville Street. The property of Summers Run, LLC is located at 2159 and 2201 North Fayetteville Street and consists of approximately 13.69 acres of land. Randolph County Parcel Identification Number 7763033287 (a portion) more specifically describes the property.

Mr. Neely read a written request by the Applicant to continue the above-referenced item to the council's regular December meeting.

Upon motion by Mr. Smith and seconded by Mr. Baker, Council voted unanimously to continue this item to the regular December meeting.

Mayor Jarrell opened the public hearing on the following request:

- (c) RZ-06-40: Rezone from CU-OA6 to B2 / North of 2159 and 2201 North Fayetteville Street. The property of Summers Run, LLC is located on the west side of North Fayetteville Street north of 2201 North Fayetteville Street and consists of approximately 34,413 square feet of land. Randolph County Parcel Identification Number 7763033287 (a portion) more specifically describes the property.

Mr. Neely read a written request by the Applicant to continue the above-referenced item to the council's regular December meeting.

Upon motion by Mr. Smith and seconded by Mr. Priest, Council voted unanimously to continue this item to the regular December meeting.

Mayor Jarrell opened the public hearing on the following request:

- (d) RZ-06-41: Technical Amendment to the Asheboro Zoning Ordinance. Amend Article 200 of the Asheboro Zoning Ordinance to add a new zoning district: Office and Institutional. Specifically amend Section 210, Table 200-1, and Table 200-2 of the Asheboro Zoning Ordinance.

Mr. Neely presented the Planning Department Staff's proposed amendment to Article 200 of the Asheboro Zoning Ordinance, specifically Section 210, Table 200-1, and Table 200-2. The amendment would establish regulations for a new zoning district entitled Office and Institutional. The proposed new zoning district would not eliminate the existing OA6 zoning district.

The Planning Department Staff and the Planning Board recommended approval of the requested amendment to the Asheboro Zoning Ordinance based on the following:

"The request is supported by the policies, goals, and maps of the Land Development Plan. Approval of the request is in the public's interest as it provides greater flexibility for the development of office uses while protecting an existing neighborhood from more intense commercial activity."

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

Upon motion by Mr. Smith and seconded by Ms. Carter, Council adopted the recommendation of the Planning Board and approved as presented, the proposed amendment to Article 200 of the Asheboro Zoning Ordinance. A copy of the approved text of the amendment is on file in the City Clerk's office.

**7. Petition received from Markham Properties, LLC requesting non-contiguous annexation of 12.96 acres along the east side of Southmont Drive.**

Mayor Jarrell opened the public hearing on the request for non-contiguous annexation of 12.96 acres of land located along the east side of Southmont Drive.

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

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

Upon motion by Mr. Priest and seconded by Ms. Hunter, Council unanimously voted to adopt the following ordinance by reference.

**Ordinance Number** 51 ORD 11-06

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEBORO, NORTH CAROLINA**

**(12.96 Acres of Land Located along the East Side of Southmont Drive)**

**WHEREAS**, pursuant to Section 160A-58.1 of the North Carolina General Statutes, Markham Properties, LLC, which is a North Carolina limited liability company, submitted to the City Council of the City of Asheboro a petition requesting annexation by the City of Asheboro of the area described below; and

**WHEREAS**, on October 5, 2006, the city council adopted a resolution directing the city clerk to investigate the sufficiency of the petition; and

**WHEREAS**, the city clerk has certified the sufficiency of the petition; and

**WHEREAS**, after due notice by publication was given on October 17, 2006 in *The Courier Tribune*, which is a newspaper having general circulation in the City of Asheboro, Randolph County, North Carolina, a public hearing on the question of this annexation was held on the 9<sup>th</sup> day of November, 2006 at 7:00 o'clock p.m. in the Council Chamber of the City of Asheboro Municipal Building, which is located at 146 North Church Street, Asheboro, North Carolina; and

**WHEREAS**, the city council finds that the area described within the petition meets the standards of Section 160A-58.1(b) of the North Carolina General Statutes, to wit:

- a. The nearest point on the proposed satellite corporate limits is not more than three (3) miles from the primary corporate limits of the City of Asheboro;
- b. No point on the proposed satellite corporate limits is closer to another municipality than to the City of Asheboro;
- c. The area within the proposed satellite corporate limits is so situated that the City of Asheboro will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;
- d. Under the city council's interpretation of the above-referenced statutorily prescribed standards, no subdivision, as defined in Section 160A-376 of the North Carolina General Statutes, will be fragmented by this proposed annexation; and

- e. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, does not exceed twenty percent (20%) of the area within the primary corporate limits of the City of Asheboro; and

**WHEREAS**, the city council further finds that the petition has been signed by all of the owners of real property in the area who are required by law to sign; and

**WHEREAS**, the city council further finds that the petition is otherwise valid and that the public health, safety, and welfare of the City of Asheboro and the area proposed for annexation will be best served by annexing the area described.

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

**Section 1.** By virtue of the authority granted in Section 160A-58.2 of the North Carolina General Statutes, the following described non-contiguous territory is hereby annexed and made part of the City of Asheboro, and is described as follows:

Cedar Grove Township, Randolph County, North Carolina:

BEGINNING at a point set in the eastern margin of the 60-foot right-of-way for Southmont Drive (North Carolina Secondary Road 1145) at the northwest corner of the Markham Properties, LLC property identified as Tract 1 on a plat of survey recorded in Plat Book 105, Page 87, Randolph County Registry, the said point is marked with # 4 rebar and is located by means of the North Carolina Coordinate System at the coordinates of North 697,651.7059 feet and East 1,754,802.4846 feet (NAD 83); thence from said Beginning point along the northernmost property line of the Markham Properties, LLC property described in Deed Book 1948, Page 901, Randolph County Registry the following courses and distances: South 81 degrees 55 minutes 29 seconds East 20.00 feet to an existing bent 5/8" iron rod; thence South 81 degrees 55 minutes 29 seconds East 187.55 feet to an existing 1/2" iron rod control corner that marks the northeast corner of the Markham Properties, LLC property; thence along the Asheboro Acquisition Company property described in Deed Book 1226, Page 652, Randolph County Registry the following courses and distances: South 01 degree 18 minutes 12 seconds West 426.00 feet to an existing 3/4" iron pipe control corner; thence South 01 degree 18 minutes 12 seconds West 53.84 feet to an existing 3/4" iron pipe; thence South 01 degree 18 minutes 12 seconds West 6.95 feet to an existing 3/4" iron pipe; thence South 51 degrees 17 minutes 19 seconds East 22.55 feet to an existing 1/2" iron rod; thence South 05 degrees 04 minutes 36 seconds West 258.77 feet along the Terry T. Reeder property described in Deed Book 1155, Page 545, Randolph County Registry to an axle; thence South 84 degrees 31 minutes 31 seconds West 183.70 feet along the northern property line of the John Richard Davis and Nancy B. Davis property described in Deed Book 1091, Page 463, Randolph County Registry to an axle; thence South 02 degrees 15 minutes 25 seconds East 323.69 feet along the western property line of the Davis property to an existing 1/2" iron rod; thence South 02 degrees 15 minutes 25 seconds East 114.32 feet to an existing bent 3/4" iron pipe set at the southeast corner of the Markham Properties, LLC property; thence along the southern property line of the Markham Properties, LLC property identified as Tract 1 on the plat of survey recorded in Plat Book 105, Page 87, Randolph County Registry the following courses and distances: South 87 degrees 40 minutes 08 seconds West 151.63 feet to an existing 1/2" iron rod; thence South 87 degrees 40 minutes 08 seconds West 45.03 feet to an existing bent 1" iron pipe; thence North 88 degrees 53 minutes 14 seconds West 447.75 feet to an existing 1/2" iron rod set in the eastern margin of the right-of-way for Southmont Drive; thence along the eastern margin of the right-of-way for Southmont Drive the following courses and distances: North 25 degrees 33 minutes 28 seconds East 1,023.16 feet to a point not set; thence North 27 degrees 44 minutes 54 seconds East 117.62 feet to a point not set; thence North 29 degrees 03 minutes 47 seconds East 129.93 feet to a point not set; thence North 31 degrees 10 minutes 19 seconds East 118.58 feet to the point and place of the BEGINNING, and containing 12.96 acres of land, more or less, to be annexed.

This description is in accordance with a plat of survey entitled "ANNEXATION PLAT PREPARED FOR CITY OF ASHEBORO **PROPERTY OF MARKHAM PROPERTIES, LLC**" that was drawn under the supervision of David R. Gallimore, Professional Land Surveyor with Registration No. L-4307. This plat of survey is dated September 8, 2006.

**Section 2.** Upon and after November 9, 2006, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Asheboro and shall be entitled to the same privileges and benefits as other parts of the City of Asheboro. Said territory shall be subject to municipal taxes according to Section 160A-58.10 of the North Carolina General Statutes.

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

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

**Section 5.** This ordinance shall take effect and be in force from and after the date of its adoption.

Adopted by the Asheboro City Council in regular session on this 9<sup>th</sup> day of November, 2006.

s/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman  
Holly J. Hartman, City Clerk

Approved as to form:

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

**8. Public Comment Period.**

Mayor Jarrell recognized three (3) posters made by students at Lindley Park Elementary School illustrating a "litter free community."

No comments were offered by members of the public during the public comment period.

**9. Consideration of approval of a recommendation from the Asheboro Airport Authority meeting on October 17, 2006 to approve the proposal by Randleman, NC to construct ten (10) T-hangars at the airport, using the same construction/lease arrangement being used for other leased hangars at the airport. (Excepted from the recommendation were items #1 and #2 of the proposal requesting that the City of Asheboro provide water and sewer connections and paved entrances from the taxilane).**

Mr. Bunker presented and recommended approval of the above-referenced recommendation from the Asheboro Airport Authority.

Mr. Neal E. Coltrane was available to answer questions.

Upon motion by Mr. Smith and seconded by Ms. Carter, Council voted unanimously to accept without modification the above-referenced recommendation from the Asheboro Airport Authority and directed the city staff to prepare a lease for approval at the regular December meeting.

**10. Consideration of approval of a resolution per G.S. 143-64.32 exempting the City of Asheboro from the advertisement/qualification based selection procedure to contract with Trittech Civil Environmental, PC for surveying and engineering services for water line replacements along Sunny Lane, Keystone Drive and Twain Drive, and for sewer line extensions along Sunny Lane, Brookwood Drive and Twain Drive, including easement and annexation surveys, at a contract amount of \$44,300.**

At the request of city staff and upon motion by Mr. Crisco and seconded by Ms. Carter, Council voted unanimously to defer the above-referenced item to the December 7, 2006 regular council meeting.

**11. Consideration of a resolution authorizing and directing the Mayor to make an offer on behalf of the City of Asheboro to purchase the lot located at 226 Sunset Avenue.**

Mr. Ogburn presented and recommended adoption, by reference, of the aforementioned resolution.

Upon receiving this recommendation, the council members did engage in a significant discussion about whether or not this purchase of real property would be consistent with the goals previously

established for the Sunset Theater project. The majority opinion emerged from this discussion that this purchase would capitalize on the time-sensitive opportunity to acquire the lot located at 226 Sunset Avenue and bring to fruition the council's goals for the Sunset Theater, in particular and Downtown Asheboro in general.

Mr. Smith expressed his overall support for the Sunset Theater project but expressed his belief that further research into cost and utilization issues was needed before moving forward with this particular acquisition.

Upon motion by Mr. Crisco and seconded by Ms. Carter, Council voted 5 to 1 to adopt the following resolution by reference. Mr. Smith voted no.

**59 RES 11-06**

**RESOLUTION DIRECTING THE MAYOR TO MAKE AN OFFER ON BEHALF OF THE CITY OF ASHEBORO TO PURCHASE CERTAIN REAL PROPERTY**

**WHEREAS**, Frankie L. Morton owns approximately 2,372 square feet of real property that is located at 226 Sunset Avenue and is more specifically described by Randolph County Parcel Identification Number 7751725862; and

**WHEREAS**, the City Council of the City of Asheboro has concluded that, if possible, the above-described property should be acquired as part of the project to enhance and more fully utilize the Sunset Theater.

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

**Section 1.** Mayor Jarrell is hereby directed to offer on behalf of the City of Asheboro to purchase and contract for the acquisition of the above-described real property for a purchase price of two hundred thousand and no/100 dollars (\$200,000.00).

**Section 2.** Section 1 of this resolution shall be implemented by means of making the offer to purchase and contract in a form that contains the material terms of and is substantially similar to the offer to purchase and contract attached to this resolution as Exhibit 1, said exhibit is hereby incorporated into this resolution by reference as if copied fully herein.

s/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman  
Holly J. Hartman, City Clerk

**STATE OF NORTH CAROLINA**

**OFFER TO PURCHASE  
AND CONTRACT**

**COUNTY OF RANDOLPH**

THE CITY OF ASHEBORO, a North Carolina municipal corporation, (the "Buyer") hereby contracts and agrees to purchase and FRANKIE L. MORTON, who is unmarried and resides in Randolph County, North Carolina, (the "Seller") hereby contracts and agrees to sell and convey to Buyer 2,372 square feet, more or less, of real property that is described as follows:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a point not set that is located at the southwest corner of the Frankie L. Morton property described in Deed Book 1813, Page 2090, Randolph County Public Registry, this point is located by means of the North Carolina Coordinate System at the coordinates of North 712,772.60 feet and East 1,757,551.03 feet (NAD 27); thence from the said Beginning point North 02 degrees 11 minutes 45 seconds East 99.93 feet along the City of Asheboro property described in Deed Book 1975, Page 1419, Randolph County Public Registry to a point not set; thence South 87 degrees 38 minutes 40 seconds East 23.83 feet to a point not set; thence South 02 degrees 18 minutes 00 seconds West 99.92 feet along the LaPrade Investments, LLC property described in Deed Book 1796, Page 729, Randolph County Public Registry to a point not set; thence North 87 degrees 40 minutes 51 seconds West 23.65 feet to the point and place of the BEGINNING, and containing 2,372 square feet, more or less, of land.

This description is in accordance with a plat of survey entitled "Plat Prepared For City Of Asheboro" that was drawn under the supervision of Steven D. Brown, Professional

Land Surveyor with Registration No. L-1435. This plat of survey was originally dated December 6, 2005 and was revised on April 17, 2006 and November 8, 2006. The plat of survey is identified as Job # 2000032TheaRev, and it has been recorded in Plat Book 108, Page 14, Randolph County Public Registry.

The purchase price for the above-described property shall be two hundred thousand and no/100 dollars (\$200,000.00).

The offer made by the Buyer is subject to the following terms and conditions which, if accepted by the Seller, shall be deemed to be the terms and conditions of sale:

1. The Buyer shall be responsible for obtaining a title examination and any other studies deemed appropriate in the sole discretion of the Buyer. If the results or findings of any such studies or examinations are not acceptable to the Buyer, written notice shall be provided to the Seller. The parties shall make a reasonable effort to resolve any unsatisfactory matters disclosed by said studies or examinations. If such unsatisfactory matters cannot be resolved prior to the closing date referenced below, the Buyer may terminate its offer without any penalty or cost to itself, and the parties shall have no further rights or obligations regarding the sale of the above-described property.
2. The Seller shall be responsible for the payment of any excise or revenue stamps associated with the conveyance of the real property from the Seller to the Buyer, and the Seller shall be responsible for ad valorem taxes prorated to the date of closing
3. The Buyer shall be responsible for the preparation and recording of the General Warranty Deed and for the payment of closing costs not otherwise assigned to the Seller by this agreement.
4. All deeds of trust, liens, and other charges against the property must be paid and cancelled by the Seller prior to or at closing.
5. Title must be delivered at closing by general warranty deed and must be fee simple marketable title, free of all encumbrances and exceptions except those specifically approved by the Buyer.
6. Closing shall be completed on or before **December 29, 2006, TIME BEING OF THE ESSENCE WITH REGARD TO SAID DATE.**
7. This contract contains the entire agreement of the parties and there are no representations, inducements, or other provisions other than those expressed herein. All changes, additions, or deletions hereto must be in writing and signed by both parties.

**DATE OF OFFER:** \_\_\_\_\_

**CITY OF ASHEBORO ("BUYER"):**

By: \_\_\_\_\_  
David H. Jarrell, Mayor

ATTEST: \_\_\_\_\_  
Holly J. Hartman, City Clerk

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

\_\_\_\_\_  
Deborah P. Juberg, Finance Officer

**DATE OF ACCEPTANCE:** \_\_\_\_\_

**FRANKIE L. MORTON ("SELLER"):**

\_\_\_\_\_  
Frankie L. Morton (SEAL)

**12. Update on Skate Park Construction.**

Mr. Hughes presented a slide show of the construction of Asheboro Skate Park. Grand opening for the park is scheduled for Saturday, November 18, 2006 at 10:00 a.m. A professionally ranked skater will demonstrate specific skateboarding techniques.

**13. Consideration of the adoption of ordinances establishing the regulations for the Asheboro Skate Park.**

- (a) **Ordinance amending Chapter 98 of the Code of Asheboro.**

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

Upon motion by Ms. Hunter and seconded by Mr. Priest, Council voted unanimously to adopt the following ordinance by reference.

Ordinance Number 52 ORD 11-06

**AN ORDINANCE AMENDING CHAPTER 98 OF THE CODE OF ASHEBORO**

**WHEREAS**, pursuant to Article 18 of Chapter 160A of the North Carolina General Statutes, the City of Asheboro is authorized to construct, equip, operate, and maintain recreational facilities as a proper governmental function that is in accord with the policy of the State of North Carolina to encourage, foster, and provide adequate recreation programs to all of the state's citizens; and

**WHEREAS**, Article 3 of Chapter 99E of the North Carolina General Statutes is designed to encourage units of government to make land available for skateboarding and inline skating by addressing the liability exposure associated with these recreational activities and by expressly declaring that any person who participates in, assists with, or observes skateboarding and inline skating assumes the known and unknown inherent risks associated with these activities; and

**WHEREAS**, the City of Asheboro has constructed a skate park that will be operated by the Asheboro Parks and Recreation Department for the purpose of providing citizens with an opportunity to participate, to varying degrees and at different times, in the recreational activities of skateboarding and inline skating; and

**WHEREAS**, Section 99E-23(a) of the North Carolina General Statutes prescribes that "[n]o operator of a skateboard park shall permit any person to ride a skateboard therein, unless that person is wearing a helmet, elbow pads, and kneepads;" and

**WHEREAS**, the city's director of parks and recreation has recommended that all individuals utilizing the Asheboro Skate Park wear a minimal level of protective equipment when using the facility.

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

**Section 1.** Chapter 98 of the Code of Asheboro is hereby amended by adding Section 98.02. Section 98.02 of the Code of Asheboro shall be entitled "**REQUIRED SAFETY EQUIPMENT AT ASHEBORO SKATE PARK**" and shall provide as follows:

- (A) It shall be unlawful for any person to ride, operate, or utilize in any manner a skateboard or inline skates on the premises of the Asheboro Skate Park unless such a person is wearing a helmet, elbow pads, and kneepads in strict compliance with the instructions provided by the manufacturer of the safety equipment.
- (B) The city manager, in consultation with the city police department and the city parks and recreation department, shall cause signage to be erected on the premises of the Asheboro Skate Park in order to provide notice of the safety equipment requirements imposed by this Section.

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

**Section 3.** This ordinance shall take effect and be in force from and after the date of its adoption.

Adopted by the Asheboro City Council in regular session on this 9<sup>th</sup> day of November, 2006.

s/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

s/ Holly J. Hartman  
Holly J. Hartman, City Clerk

(b) **Ordinance amending the Parks and Recreation Department Policy Manual.**

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

Upon motion by Mr. Crisco and seconded by Ms. Carter, Council voted unanimously to adopt the following ordinance by reference.

53 ORD 11-06

**ORDINANCE AMENDING THE PARKS AND RECREATION  
DEPARTMENT POLICY MANUAL**

**WHEREAS**, Section 98.01 of the Code of Asheboro provides that the Parks and Recreation Department Policy Manual, adopted March 5, 1998, and as amended, has been adopted by reference as a part of the Code of Asheboro; and

**WHEREAS**, the Parks and Recreation Director has recommended to the city council that the Parks and Recreation Department Policy Manual be amended in order to update the said manual in preparation for the opening of the Asheboro Skate Park; and

**WHEREAS**, the requested amendment to the Parks and Recreation Department Policy Manual is attached hereto as EXHIBIT 1 and is hereby incorporated into this ordinance by reference as if copied fully herein.

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

**Section 1.** The Parks and Recreation Department Policy Manual is hereby amended to provide as specified in EXHIBIT 1. All articles, sections, and provisions of the said manual that are not expressly addressed by EXHIBIT 1 shall continue in full force and effect without alteration.

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

**Section 3.** This ordinance shall become effective upon adoption.

Adopted by the Asheboro City Council in regular session on the 9<sup>th</sup> day of November, 2006.

\_\_\_\_\_  
s/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

\_\_\_\_\_  
s/ Holly J. Hartman  
Holly J. Hartman, City Clerk

(Exhibit 1 that is referenced in this ordinance is attached to the original ordinance on file in the City Clerk's office.)

**(c) With the general consent of the Mayor and Council, Mr. Hughes presented as an add-on item to the agenda, a proposed schedule of user fees and charges for Asheboro Skate Park.**

Mr. Hughes recommended adoption, by reference, of the user fees and charges for Asheboro Skate Park.

Upon motion by Mr. Smith and seconded by Ms. Carter, Council voted unanimously to adopt the following schedule by reference.

Asheboro Skate Park  
**Proposed User Fees & Charges**

	<b><u>Rec Card</u></b>	<b><u>Non-Resident</u></b>
Partial Day Admission	\$ 1.00	\$ 3.00
Full Day Admission	\$ 2.00	\$ 4.00
15 Admission Full Day Pass	\$ 25.00	\$ 50.00
1 Year Unlimited Pass (Per person) (Expires 1 year from Date of Issue)	\$ 150.00	\$ 300.00

**14. Upcoming events.**

- Veterans Parade - November 11, 2006 at 2:00 p.m.
- SCORE luncheon – November 14, 2006 at 12:00 p.m.
- Strategic Planning Task Force Meetings – November 14, 2006 at 7:00 p.m.
- Asheboro Skate Park Grand Opening – November 18, 2006 at 10:00 a.m.
- Housing Authority Dinner – November 28, 2006 at 6:00 p.m.
- A Community Forum with Erskine Bowles – November 29, 2006 at 7:00 p.m.
- Annual Christmas parade – December 1, 2006 at 7:00 p.m.
- “*Christmas on Sunset*” – December 8, 2006 at 6:00 p.m.

**15. Discussion of items not on the agenda.**

Mr. Neely announced that the new definitions in the zoning ordinance affecting streets would become effective on January 1, 2007. With the general consent of the council, the Planning Department will run an advertisement in the local newspaper reminding citizens of this deadline.

The Downtown Sculpture Show has been renewed, and new items are on display.

There being no further business, the meeting was adjourned at 8:44 p.m.

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Holly J. Hartman, City Clerk

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David H. Jarrell, Mayor