

**REGULAR MEETING
ASHEBORO CITY COUNCIL
COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, DECEMBER 9, 2010
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)
Linda H. Carter) – Council Members Present
Stuart B. Fountain)
Michael W. Hunter)
Walker B. Moffitt)

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
Justin T. Luck, Planner
R. Reynolds Neely, Jr., Community Development Director
Deborah P. Reaves, Finance Director
James O. Smith, Police Captain
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. Appearance and recognition of guests and citizens.

Mayor Smith welcomed everyone in attendance.

4. Recognition of City Clerk Holly H. Doerr, CMC for her completion of the requirements established for designation as a Certified Municipal Clerk (CMC).

Mayor Smith and Mr. Ogburn recognized City Clerk Holly H. Doerr for her achievement in completing the requirements established for designation as a Certified Municipal Clerk (CMC) as awarded by the International Institute of Municipal Clerks (IIMC). IIMC grants the CMC designation to municipal clerks who have completed certain education requirements and who have made significant contributions to their local government, community, and state through professional development.

5. Presentation by Janet Jones, President, Asheboro Public Library Foundation.

Ms. Janet Jones, President of Asheboro Public Library Foundation reported that the Foundation and the Library are celebrating its 75th anniversary and thanked the city for its continuing support. Additionally, Ms. Jones announced that there will be a community concert on January 8, 2010 in the Sunset Theatre celebrating the 75th anniversary.

6. Consent Agenda:

Upon motion by Dr. Fountain and seconded by Mr. Baker, Council voted unanimously to adopt the following consent agenda items:

- (a) The minutes of the regular meeting of the city council that was held on November 4, 2010.
- (b) The general account of the closed session that was held during the city council's regular meeting on November 4, 2010.
- (c) The minutes of the special meeting of the city council that was held on November 9, 2010.
- (d) The minutes of the special meeting of the city council that was held on November 16, 2010.
- (e) The findings of fact, conclusions of law, and order for the special use permit issued under file number SUP-10-05.

Case No. SUP-10-05
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF RANDY C. PURVIS FOR A SPECIAL USE PERMIT
AUTHORIZING AN AGRICULTURAL TOURISM FACILITY

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

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during two (2) regular meetings of the Council. These meetings were held on September 9, 2010, and November 4, 2010. Having considered all competent evidence and argument presented during these public hearings, the Council, on the basis of competent, material, and substantial evidence, does hereby make the following:

FINDINGS OF FACT

1. Randy C. Purvis (hereinafter referred to as the "Applicant") has properly submitted an application for a Special Use Permit that would allow a land use classified by the Asheboro Zoning Ordinance as an Agricultural Tourism Facility.
2. The parcel of land for which authorization for an agricultural tourism facility is sought contains approximately 9.72 acres of land and is more specifically identified by Randolph County Parcel Identification Number 7763511812. This parcel of land (hereinafter referred to as the "Zoning Lot") is located partially within the corporate limits of the City of Asheboro at 1008 Hub Morris Road and is owned by the Applicant and his wife, Pamela Needham Purvis.
3. The existing land use on the Zoning Lot is an agricultural use and a single-family residential dwelling use. The surrounding land uses are as follows: low-density residential and church land uses along with undeveloped land are located to the north, undeveloped land along with a manufactured home park and low-density residential land uses are located to the south, undeveloped land along with low-density and medium-density residential land uses are located to the east, and a manufactured home park as well as low-density and medium-density residential land uses are located to the west.
4. The Zoning Lot is located in an R10 zoning district.
5. Subsequent to the Council's legislative approval of an amendment (Planning Department File No. RZ-10-20) to the Asheboro Zoning Ordinance that was adopted by the Council on November 4, 2010, prior to the second hearing of this matter, an agricultural tourism facility land use is permitted in an R10 zoning district with the issuance by the Council of a Special Use Permit.
6. The Zoning Lot is located in an area that is designated on the Growth Strategy Map as a Primary Growth/Long Range Growth area in the city's extraterritorial planning jurisdiction, and this area is identified on the Proposed Land Development Plan Map as Neighborhood Residential.
7. The Zoning Lot is located along Hub Morris Road (North Carolina Secondary Road 2149). This road is a state-maintained major thoroughfare at this location.
8. A vineyard is currently operating on the Zoning Lot.

9. Existing structures (barns/sheds) on the Zoning Lot will be renovated to support the proposed agricultural tourism facility.

10. The focus of the proposed agricultural tourism facility will be grape picking and wine tasting.

11. The Zoning Lot's existing structures are located within the corporate limits of the City of Asheboro, and municipal water and sewer services are available. Other portions of the Zoning Lot are located beyond the corporate limits.

12. The Applicant offered uncontroverted testimony that he has been utilizing this lot for seven (7) years, and the existing vineyard activities had produced only positive impacts for the value of surrounding lots.

13. No evidence was introduced to indicate that the proposed land use will have any significant negative impact on the existing traffic volume and patterns found on Hub Morris Road. The Applicant offered uncontroverted testimony that traffic flow generated by the proposed facility will be highest on weekends when Hub Morris Road does not traditionally experience a high volume of traffic.

14. The Community Development Director offered uncontroverted testimony that the site plan submitted by the Applicant for the proposed land use complied with the provisions of the Asheboro Zoning Ordinance.

15. The application, plans, and testimony provided by the Applicant do not indicate the existence of any materials or design characteristics that pose an inherent or abnormal risk to the public health and safety.

16. No evidence was presented in opposition to the Applicant's request for a Special Use Permit.

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

CONCLUSIONS OF LAW

1. The Council has concluded that the requested Special Use Permit will not materially endanger the public health or safety if the proposed land use is located where proposed and developed according to the plan as submitted and approved.

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

3. The evidence presented during the course of the hearing of this matter established that the proposed land use will not substantially injure the value of the adjoining or abutting property.

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

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

ORDER

Randy C. Purvis is hereby issued a Special Use Permit that authorizes on the Zoning Lot a land use recognized by the Asheboro Zoning Ordinance as an Agricultural Tourism Facility. The site plan submitted during the final hearing of this matter on November 4, 2010, is hereby approved and adopted as part of this permit. The issuance of this permit and its continuing validity is hereby made expressly contingent upon the Applicant, and his heirs, successors, and assigns, complying at all times with the applicable provisions of the Asheboro Zoning Ordinance, including without limitation the site plan approved by this Order, and accepting and remaining in strict compliance with the following supplementary conditions:

1. Significant existing vegetation shall be preserved. Clearing and grading shall be permitted where necessary for construction of the parking areas, installation of water and sewer lines, and/or other infrastructure required for improvements associated with the approved land use and site plan.

2. The approved site plan indicates that land uses other than the proposed agricultural tourism facility currently exist on the Zoning Lot. The Applicant can continue to engage in the land use

activities that do not require a special use permit and are noted on the approved site plan to the full extent permitted by the Asheboro Zoning Ordinance. Such continued engagement in these existing land use activities shall not be deemed to be a modification requiring the issuance of a new special use permit.

These findings, conclusions, and order were adopted by the Asheboro City Council in open session during a regular meeting held on the 9th day of December, 2010.

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

ATTEST:

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

(f) Ordinances submitted by the finance department:

(i) Ordinance to amend the Zoo City Park Fund Fiscal Year 2010-2011.

57 ORD 12-10

ORDINANCE TO AMEND THE ZOO CITY PARK FUND FY 2010-2011

WHEREAS, on September 7, 2010, the Board of Directors of the Kiwanis Club of Asheboro, Inc. voted to ask the City to return the \$50,000 contribution made toward the proposed Zoo City Park in May 2008 due to the project being put on hold at this time, and;

WHEREAS, the Kiwanis Club of Asheboro, Inc. has indicated its intention to return the funds when the park is closer to becoming a reality, and:

WHEREAS, in order to account for the return of these funds received in a prior fiscal period, the budget as adopted requires amendment to be in compliance with all generally accepted accounting principles, and;

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

That the following Expense line item be increased:

<u>Account #</u>	<u>Expense Description</u>	<u>Increase / (Decrease)</u>	<u>Amended Budget</u>
68-850-0000	Construction	(50,000)	950,000
68-860-0000	Kiwanis Club of Asheboro	50,000	50,000
		\$0	1,000,000

Adopted this the 9th day of December 2010.

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

ATTEST:

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

(ii) Ordinance to amend the General Fund Fiscal Year 2010-2011.

58 ORD 12-10

ORDINANCE TO AMEND THE GENERAL FUND FY 2010-2011

WHEREAS, on September 7, 2010, the Board of Directors of the Kiwanis Club of Asheboro, Inc. voted to ask the City to return the \$50,000 contribution made toward the proposed Zoo City Park in May 2008 due to the project being put on hold at this time, and;

WHEREAS, the Kiwanis Club of Asheboro, Inc. has indicated its intention to return the funds when the park is closer to becoming a reality, and:

WHEREAS, in order to account for the return of these funds received in a prior fiscal period, the budget as adopted requires amendment to be in compliance with all generally accepted accounting principles, and;

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

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

<u>Account #</u>	<u>Revenue Description</u>	<u>Increase</u>	<u>Amended Total Appropriation</u>
10-399-0000	Fund Balance Appropriation	50,000	1,109,796

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

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>	<u>Amended Budget</u>
10-610-6800	Contribution to Zoo City Park Fund	50,000	435,975

Adopted this the 9th day of December 2010.

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

ATTEST:

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

(iii) Ordinance to amend the Economic Development Fund Fiscal Year 2010-2011.

59 ORD 12-10

ORDINANCE TO AMEND THE ECONOMIC DEVELOPMENT FUND FY 2010-2011

WHEREAS, on November 4, 2010, the City Council of the City of Asheboro adopted a budget for the Allen Precision Economic Development project, and;

WHEREAS, the expenditures outlined in the budget have changed from those originally proposed, and:

WHEREAS, the budget as adopted requires amendment to be in compliance with all generally accepted accounting principles, and;

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

That the following Expense line item be increased / (decreased):

<u>Account #</u>	<u>Expense Description</u>	<u>Increase / (decrease)</u>	<u>Amended Budget</u>
72-900-0000	Permits	(770)	1,230
72-900-0001	Cul-de-sac	0	30,000
72-900-0002	Engineering	0	30,500
72-900-0003	Environmental Assessment / admin	0	7,405
72-900-0004	Water Improvements	770	180,269
72-900-0005	Sewer Improvements	0	197,001
	Total	0	\$446,405

Adopted this the 9th day of December 2010.

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

ATTEST:

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

- (g) **An ordinance prohibiting the riding of skateboards, roller skates, and other types of toy vehicles on the premises of The Courier Tribune at 500 Sunset Avenue.**

60 ORD 12-10

AN ORDINANCE PROHIBITING ANY PERSON FROM RIDING A SKATEBOARD, ROLLER SKATES, OR OTHER TOY VEHICLE ON POSTED PRIVATE PROPERTY

WHEREAS, Section 160A-174(a) of the North Carolina General Statutes provides that a city may define, prohibit, or abate by ordinance acts, omissions, or conditions that are detrimental to the health, safety, or welfare of the citizens and the peace and dignity of the city; and

WHEREAS, Section 70.53 of the Code of Asheboro restricts the use of play vehicles by providing as follows:

§ 70.53 USE OF PLAY VEHICLES RESTRICTED.

(A) It shall be unlawful for any person riding on a skateboard, roller skates, coaster, toy vehicle or similar device to ride any of such devices on the premises of the municipal buildings, on any of the facilities or structures located in Bicentennial Park, on any municipal parking facility, or to ride any such devices on any sidewalk or street located in the central business district of the city, as designated on the City Zoning Map as a B-3 District.

(B) It shall be unlawful for any person riding on a skateboard, roller skate (sic) or any other toy vehicle to ride on a roadway except while crossing a street at a crosswalk or intersection; provided, that this section shall not apply upon streets set aside as play streets.

(C) It shall be unlawful for any person to ride on a skateboard, roller skates, or any other toy vehicle on private property when signs are placed, erected, or installed giving notice that skateboarding, roller skating or riding any other toy vehicle is regulated, prohibited, or prohibited during certain hours, in that space or area; and

WHEREAS, the publisher of *The Courier-Tribune* has properly petitioned the City Council of the City of Asheboro to have the public vehicular area and loading dock area of the newspaper's local office building at 500 Sunset Avenue, which is located within the corporate limits of the City of Asheboro, posted in order to prohibit, in accordance with Section 70.53(C) of the Code of Asheboro, the riding by any person of a skateboard, roller skates, or any other toy vehicle in the said public vehicular area and loading dock area.

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

Section 1. Pursuant to and in accordance with Section 70.53(C) of the Code of Asheboro, it is hereby declared to be unlawful for any person to ride, at any time, a skateboard, roller skates, or any other toy vehicle on the public vehicular area and loading dock area of *The Courier-Tribune* building located at 500 Sunset Avenue in Asheboro, North Carolina.

Section 2. The number and type of signs necessary to lawfully implement the provisions of Section 1 of this ordinance shall be installed in a manner to be determined by the Chief of Police for the City of Asheboro or his designee. The entirety of the cost of installing and maintaining the necessary signs by city forces shall be paid by the owner of the posted premises. No sworn law enforcement officer is authorized to enforce the provisions of this ordinance unless the prescribed signage has been installed and maintained within the area for which enforcement is requested.

Section 3. The city clerk shall enter a description in Schedule 19 of Chapter 72 of the Code of Asheboro of the type of prohibition imposed by this ordinance and a description of the private property subject to said prohibition.

Section 4. This ordinance shall take effect and be in force from and after the date of its adoption.

This ordinance was adopted, in open session, during a regular meeting of the Asheboro City Council on the 9th day of December, 2010.

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

ATTEST:

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

7. Community Development Items:

- (a) **RZ-10-21: Request for technical amendments to the zoning ordinance.** An application filed by the City of Asheboro to amend Article 200, Article 300a, Article 400, Article 500, and Article 1100 of the Asheboro Zoning Ordinance.

Mayor Smith opened the public hearing on the following request.

Mr. Neely presented a written request from the Planning Department staff to continue the above-referenced item to the Council's regular January meeting.

There being no comments from the public and upon motion by Mr. Bell and seconded by Mr. Burks, Council voted unanimously to continue the above-referenced item to the Council's regular January meeting.

- (b) **SUB-10-01: Request for technical amendments to the subdivision ordinance.** An application filed by the City of Asheboro to amend Article X of the Asheboro Subdivision Ordinance.

Mayor Smith opened the public hearing on the following request.

Mr. Neely presented an overview of the Planning Department staff's proposed amendment to Article X of the Asheboro Subdivision Ordinance in order to address the regulations for street trees within planned unit developments. The staff proposed to extend the sunset clause for street trees.

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 analysis prepared by the Planning Department staff:

"In 2008, the Subdivision Ordinance was amended to provide for the inclusion of Street Trees within Planned Unit Developments. Attached to this report is the existing Subdivision Ordinance providing for street trees within Planned Unit Developments (PUDs). This section of the Subdivision Ordinance contains an expiration (sunset clause) of December 31, 2010 so the feasibility of including street trees in PUDs could be determined. Due to the economic conditions, the program has not had an opportunity to be tested to determine its feasibility. Therefore, staff recommends extending the sunset clause until December 31, 2012."

Based on their concurrence with 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. Burks, Council followed the recommendations of the Planning Department Staff and Planning Board and voted unanimously to approve the proposed amendment to the Asheboro Subdivision Ordinance.

- (c) **A resolution adopting the City of Asheboro Center City/Downtown Community Revitalization Plan (CRP) for the purpose of rehabilitating the former Asheboro Hosiery Mills (ca. 1917) located at 139 South Church Street and the former Asheboro Chair Company (ca. 1911) located at 230 West Academy Street.**

Mr. Rex Todd, a representative of The Landmark Group, discussed the potential renovation of the building that houses the B&H Panel Company located along Church Street in Asheboro. With this renovation, the Landmark Group proposed that the building would be transformed into the

“Asheboro Mill Lofts,” with approximately seventy (70) loft style apartments. The total development cost is estimated at approximately \$10.7 million.

Mr. Todd proposed that the following sources of funds be utilized to fund this project:

- \$5,000,000 LIHTC tax credits
- \$1,500,000 Federal Historic Rehabilitation Tax Credits
- \$2,000,000 NC Mill Rehabilitation Tax Credit
- \$1,600,000 NCHFA Agency LIHTC Loan
- \$230,000 Small Cities CDBG grant to City loan to LLC, 2%, 20 years
- \$330,000 City “housing development funds” loan to LLC, 2%, 20 years

Additionally, Mr. Todd asked the Council to consider to adopting the Resolution Adopting the Community Revitalization Plan as presented. The adoption of this plan will begin the application process for funding from NCHFA. Project construction is expected to begin in February of 2012 and is expected to be completed by February of 2013.

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

55 RES 12-10

**A Resolution Adopting the
City of Asheboro**

Center City/Downtown Community Revitalization Plan (CRP)

WHEREAS, the City of Asheboro City Council has consistently planned and invested in community revitalization at the city-wide and neighborhood level for many years using founded urban design and strategic planning methods;

WHEREAS the Asheboro 2020 Land Development Plan has been adopted with specific revitalization components including the Center City Planning Area section (Article 200A) of the City of Asheboro Zoning Ordinance and several small area plans and municipal projects, and furthermore, municipal investments have already been put in place for the central city/downtown area;

WHEREAS, the area ranging from Salisbury St. on the North; Fayetteville Street. on the East; Spencer Ave. – Armfield Ave. – Birkhead St. on the south; Uwharrie St. and McCrary St. on the west is a primarily residential area that is impacted by the standing small area plans and investments and provides a logical area in which to coordinate the aforementioned planning and investment efforts through the adoption of a 2010 Community Revitalization Plan (CRP);

WHEREAS the former Asheboro Hosiery Mills (ca. 1917) located at 139 S. Church St. and the former Asheboro Chair Company (ca. 1911) located at 230 W. Academy Street, now collectively known as B&H Panel Company, were for many years a source of employment and civic pride but is now primed for historically sensitive redevelopment;

WHEREAS the proposed adaptive reuse of these two former mill buildings as affordable housing for families, to be known collectively as “Asheboro Mill Lofts,” is in direct fulfillment of the aforementioned small area plans and ordinances already adopted and assembled herein;

WHEREAS, the proposed adaptive reuse would ultimately place these former economic and cultural centerpieces of the community on the National Register of Historic Places, rehabilitating them under the Secretary of the Interior’s Standards and leveraging federal and state rehabilitation tax credits;

NOW, THEREFORE, BE IT RESOLVED by the Asheboro City Council:

1. That the proposed adaptive reuse of the former B&H Panel Company is within the area identified by as the Central City/Downtown Area delineated above (See CRP Map).
2. That while the former mills are not located in a Qualified Census Tract (QCT), this Community Revitalization Plan (CRP) is primarily focused on an existing residential neighborhood.
3. That adaptive reuse of the former B&H Panel property as proposed to the North Carolina Housing and Finance Agency (NCHFA) as residential multi-family space will contribute to one or more of the goals(s) stated in the CRP and its foundation small area plans and related documents.
4. That the activities described in this CRP are currently underway and are on-going for the betterment of our community.

THE CENTRAL CITY/DOWNTOWN COMMUNITY REVITALIZATION PLAN AND THIS RESOLUTION ARE HEREBY ADOPTED THIS THE 9th DAY OF December, 2010.

s/ David H. Smith
Mayor

ATTEST:

s/ Holly H. Doerr
City Clerk

(d) Consideration of reappointment of Van Rich as a member of the Planning Board.

Upon motion by Mr. Baker and seconded by Mr. Hunter, Council unanimously appointed Van Rich as a member of the Planning Board.

8. Consideration of closing an additional portion of Veterans Loop Road on the site of the proposed Allen Precision Industries economic development project.

(a) Public hearing

Mayor Smith opened the public hearing on the proposed permanent closing of a portion of Veterans Loop Road.

Mr. Bunker reported that the resolution declaring the city council's intent to permanently close a certain section of the right-of-way for Veterans Loop Road was published in *The Courier Tribune* once a week for four successive weeks, property owners were notified by mail in accordance with the North Carolina General Statutes, and that signs were posted along the impacted sections of Veterans Loop Road.

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

(b) Order of closing

Mr. Bunker presented and recommended adoption, by reference, of an ordinance/order to permanently close a certain section of the right-of-way for Veterans Loop Road.

Upon motion by Mr. Burks and seconded by Dr. Fountain, Council voted unanimously to adopt the following ordinance/order by reference.

CITY OF ASHEBORO STREET CLOSURE ORDINANCE NO. 61 ORD 12-10

STATE OF NORTH CAROLINA

COUNTY OF RANDOLPH

**IN RE THE PERMANENT CLOSURE OF A
CERTAIN SECTION OF THE RIGHT-OF-WAY
FOR VETERANS LOOP ROAD**

)
)
)
)
)

ORDER

WHEREAS, pursuant to the provisions of Section 160A-299 of the North Carolina General Statutes, the City Council of the City of Asheboro adopted on the 4th day of November, 2010, during a regular meeting, a resolution (50 RES 11-10) declaring the intent of the City Council to permanently close a section of the right-of-way for Veterans Loop Road; and

WHEREAS, Resolution Number 50 RES 11-10 properly called for a public hearing to be held during the Asheboro City Council's regular meeting, which would begin at 7:00 o'clock p.m., on the 9th day of December, 2010, in the Council Chamber of the City of Asheboro Municipal Building located at 146 North Church Street in Asheboro on the question of whether the proposed permanent street closure would be detrimental to the public interest or the property rights of any individual; and

WHEREAS, pursuant to Section 160A-299 of the North Carolina General Statutes, the said resolution of intent was published in *The Courier-Tribune*, a newspaper having general circulation in the City of Asheboro, Randolph County, North Carolina, once a week for four successive weeks (this notice was published on November the 11th, 18th, and 25th as well as on December 2, 2010) prior to the public hearing called on the question of the permanent closure of the described section of the right-of-way for Veterans Loop Road; and

WHEREAS, a copy of the said resolution of intent was sent by certified mail to all of the property owners, as determined by reviewing the county tax records, adjoining Veterans Loop Road. These property owners are more particularly identified as follows:

1. Charles L. and Deann Tuttle
2. Thomas A. and Barbara Luther
3. North Carolina Department of Transportation (formerly known as State Highway & Public Works Commission)
4. David Lee Luther
5. Thayer & Neely c/o Harper Thayer
6. Thomas Alton and Erin Labree Lucas
7. Robin Craven Moffitt and Others
8. William F. and Janet A. Tyler and Others
9. George Henry Rider
10. Tom Luther and Others
11. Thayer, Thayer, & Neely c/o Harper Thayer
12. T.E. Luther Heirs

WHEREAS, notice of the Asheboro City Council's intention to permanently close the described section of Veterans Loop Road, as well as the call for a public hearing on the question of the proposed street closure, was prominently posted in two places along the section of right-of-way for Veterans Loop Road for which permanent closure is proposed; and

WHEREAS, after holding the above-described public hearing, the Asheboro City Council has concluded that the permanent closure of the described section of right-of-way for Veterans Loop Road is not contrary to the public interest and that no individual owning property in the vicinity of the proposed street 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 irrevocably dedicated right-of-way for Veterans Loop Road specifically described herein is hereby permanently closed. As of the date of adoption of this ordinance, the closed section of the right-of-way for Veterans Loop Road is located within the corporate limits of the City of Asheboro. The street right-of-way permanently closed by this ordinance is more particularly described by metes and bounds as follows:

Cedar Grove Township, Randolph County, North Carolina:

BEGINNING at a calculated point in the western margin of the public right-of-way for Veterans Loop Road in the vicinity of the western terminus of the existing road and located by means of the North Carolina Coordinate System at the coordinates of North 697,244.05 feet and East 1,752,093.81 feet (NAD 83); thence from the said beginning point along the western margin of the right-of-way for Veterans Loop Road the following course and distance: South 01 degree 29 minutes 52 seconds East 82.13 feet to a point not set; thence in a northeasterly direction along the arc of a curve with a radius of 60.00 feet a chord bearing and distance of North 88 degrees 32 minutes 39 seconds East 59.99 feet to a point not set in the eastern margin of the public right-of-way for Veterans Loop Road; thence along the eastern margin of the public right-of-way for Veterans Loop Road North 01 degree 32 minutes 17 seconds West 106.73 feet to a point not set; thence in a southwesterly direction along the arc of a curve with a radius of 60.00 feet a chord bearing and distance of South 65 degrees 53 minutes 07 seconds West 64.92 feet to the point and place of the BEGINNING, and being all of that certain 0.128 of an acre (5,581 square feet) of land, more or less, encompassed by the preceding metes and bounds description, specifically including the right-of-way for the above-described section of Veterans Loop Road. 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 "ROAD CLOSING FOR THAYER, THAYER, & NEELY" that was drawn under the supervision of Joshua A. Montazeri, a Professional Land Surveyor with registration number L-4781. This plat of survey, which is identified as Project # S-1056 and is dated

October 18, 2010, is hereby incorporated into this resolution by reference as if copied fully herein.

Section 2. This ordinance shall take effect and be in force from and after the date of its adoption.

Section 3. Any person aggrieved by the permanent closure of the above-described section of the right-of-way for Veterans Loop Road may appeal the adoption of this ordinance and order to the General Court of Justice of Randolph County, North Carolina within thirty (30) days after the adoption of the ordinance and order.

Section 4. In the event there is no appeal within thirty (30) days after the adoption of this ordinance and order, a certified copy of this ordinance and order shall be filed in the Office of the Register of Deeds of Randolph County, North Carolina as provided by law.

This ordinance and order was adopted in open session during a regular meeting of the Asheboro City Council that was held on the 9th day of December, 2010.

CITY SEAL

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

ATTEST:

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

9. 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 opened the public hearing on the proposed permanent closing of a portion of Birkhead Street.

Mr. Bunker reported that the resolution declaring the city council's intent to permanently close 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 was published in *The Courier Tribune* once a week for four successive weeks, property owners were notified by mail in accordance with the North Carolina General Statutes, and that signs were posted along the impacted sections of Birkhead Street.

Mr. Dan Havener, P.E., Project Engineer, NCDOT Rail Division, presented comments in support of the requested street closing.

Ms. Ann Cranford of the Cranford Agency, who owns property along Birkhead Street and plans to build a new building for her business at the intersection of Fayetteville Street and Birkhead Street, was concerned that her business would be negatively impacted if the above-described portion of Birkhead Street was permanently closed. Ms. Cranford believes that it would be in the best interests of her clients to be able to access either Fayetteville Street or Hammer Avenue from Birkhead Street, not just South Fayetteville Street.

Due to the fact that the need for additional information became apparent during the hearing, and upon motion by Dr. Fountain and seconded by Mr. Baker, Council voted unanimously to continue this public hearing to the Council's regular January meeting. In the mean time, city staff members will assemble additional information for review during the hearing in January 2011.

10. Consideration of the renewal of a taxicab franchise for Red Bird Cab, LLC.

Mayor Smith opened the public hearing on the request by Red Bird Cab, LLC for a renewal of a certificate of convenience and necessity to operate taxicabs within the City of Asheboro.

Mr. Sugg reported that Red Bird Cab, LLC has properly submitted an application for renewal of a certificate of convenience and necessity to operate three (3) taxicabs. Since the Council's regular November meeting in which the first reading of this franchise was approved, there was some miscommunication between Red Bird Cab and its insurance company in regards to a certificate of insurance for one of the taxicabs. Because of this miscommunication, Red Bird, LLC requested that the number of taxicabs to be operated within the City of Asheboro be reduced from four (4) to three (3).

Mr. Sugg also reported that legal notice of this hearing had been properly advertised.

Ms. Tiffany Thomas, a representative of Red Bird Cab, LLC, was present to answer questions.

After no one offered testimony in opposition to the granting of the renewal application, Mr. Sugg recommended adoption, by reference, of the second reading of an ordinance granting a renewal of a certificate of convenience and necessity to Red Bird Cab, LLC to operate three (3) taxicabs within the City of Asheboro.

Upon motion by Mr. Bell and seconded by Mr. Burks, Council voted unanimously to adopt the second reading of the following ordinance by reference.

62 ORD 12-10

AN ORDINANCE GRANTING A RENEWAL OF A CERTIFICATE OF CONVENIENCE AND NECESSITY TO RED BIRD CAB, LLC

WHEREAS, Red Bird Cab, LLC, which has an office in Asheboro at 833 W. Salisbury Street, operates a taxicab service within the corporate limits of the City of Asheboro pursuant to an existing Certificate of Convenience and Necessity; and

WHEREAS, Red Bird Cab, LLC's franchise expires on December 8, 2010, and the limited liability company must properly renew its Certificate of Convenience and Necessity in order to lawfully continue to operate taxicabs within the jurisdiction of the City of Asheboro; and

WHEREAS, the available evidence indicates that Red Bird Cab, LLC is providing taxicab service within the City of Asheboro in a manner that furthers the public's convenience and addresses the public necessity for the operation of adequate taxicab services within the city.

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

Section 1. A renewed Certificate of Convenience and Necessity to operate three (3) taxicabs upon and over the streets of the City of Asheboro is hereby granted to Red Bird Cab, LLC (hereinafter referred to as the "Grantee").

Section 2. This franchise is granted for a term of one (1) year from and after the 9th day of December, 2010. Thereafter, applications for renewals shall be filed annually in accordance with the Code of Asheboro.

Section 3. This franchise is granted upon the following specific conditions and requirements:

- (a) Prior to the effective date of this ordinance, the Grantee shall furnish to the City Clerk of the City of Asheboro a list showing the make, model, and vehicle identification number of each taxicab to be operated pursuant to this franchise.
- (b) Prior to the effective date of this ordinance, the Grantee shall furnish to the City Clerk of the City of Asheboro a certificate of insurance from an insurance carrier duly authorized to do business in the State of North Carolina evidencing that insurance coverage for the taxicabs referenced in subsection (a) of this ordinance is in effect in an amount that complies with Section 114.14 of the Code of Asheboro for the duration of the Certificate of Convenience and Necessity issued pursuant to this ordinance.
- (c) The Grantee shall otherwise comply with all applicable laws and regulations pertaining to the operation of taxicabs in the City of Asheboro, specifically including without limitation Chapter 114 of the Code of Asheboro.

Section 4. If a conflict is discovered between the provisions of this ordinance granting a Certificate of Convenience and Necessity to Red Bird Cab, LLC and Chapter 114 of the Code of Asheboro, the provisions found in Chapter 114 of the Code of Asheboro shall control.

Section 5. This ordinance shall be deemed to have been finally adopted by the Asheboro City Council after receiving approval at two (2) regular meetings of the council.

This ordinance was read and approved by the Asheboro City Council for the first time in open session during a regular meeting held on the 4th day of November, 2010.

After reducing, at the request of the applicant, the number of taxicabs authorized to operate in Asheboro from four (4) to three (3), this ordinance was read and approved by the Asheboro City Council for the second time in open session during a regular meeting held on the 9th day of December, 2010.

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

ATTEST:

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

11. Public comment period.

There being no comments from the public, Mayor Smith closed the public comment period.

12. Consideration of a resolution authorizing the execution of a new Fixed Base Operator Lease Agreement between the City of Asheboro and Cardinal Air, LLC for a period of five (5) years beginning January 1, 2011, as recommended by the Asheboro Airport Authority.

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

Upon motion by Mr. Moffitt and seconded by Dr. Fountain, Council voted unanimously to adopt the following resolution by reference.

56 RES 12-10

RESOLUTION APPROVING THE FIXED BASE OPERATOR LEASE AGREEMENT AT THE ASHEBORO REGIONAL AIRPORT

WHEREAS, Section 160A-272 of the North Carolina General Statutes, as amended by the local modification found in Chapter 867 of the 1989 (Reg. Sess., 1990) Session Laws of North Carolina, authorizes the City Council of the City of Asheboro to lease in relation to the operation of the Asheboro Regional Airport city-owned property located at said airport for a maximum lease term of thirty (30) years so long as the property will not be needed by the municipality during the term of the lease; and

WHEREAS, effective December 31, 2010, the existing fixed base operator lease agreement with Cardinal Air, LLC at the Asheboro Regional Airport will expire; and

WHEREAS, during a meeting held on October 19, 2010, the Asheboro Airport Authority recommended executing a new fixed base operator lease agreement with a term of five (5) years with Cardinal Air, LLC ; and

WHEREAS, this proposed new agreement is attached hereto as "EXHIBIT 1" and is hereby incorporated into this resolution by reference as if copied fully herein; and

WHEREAS, notice of the city council's intent to approve the proposed 5-year lease agreement was published in *The Courier-Tribune* on November 13, 2010.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the entry into a new 5-year fixed base operator lease agreement with Cardinal Air, LLC is hereby approved; and

BE IT FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized and directed to execute legal instruments substantially and materially similar in all respects to "EXHIBIT 1" in order to enter into the new lease agreement with Cardinal Air, LLC.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on December 9, 2010.

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

ATTEST:

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

EXHIBIT 1

**LEASE AGREEMENT FOR FIXED BASE OPERATOR OF THE
ASHEBORO REGIONAL AIRPORT**

THIS LEASE AND OPERATING AGREEMENT (the "Agreement") is made and entered into this ____ day of December, 2010, by and between the City of Asheboro, a North Carolina municipal corporation located in Randolph County, North Carolina, (the "Lessor") and Cardinal Air, LLC, a North Carolina limited liability company with its principal office located at 80 Aviation Drive, Siler City, North Carolina 27344 (the "Lessee").

WITNESSETH:

WHEREAS, Lessor owns the Asheboro Regional Airport (the "Airport") that is located in Randolph County, North Carolina; and

WHEREAS, fixed base operation services are essential to the proper accommodation of general and commercial aviation at the Airport; and

WHEREAS, Lessor desires to make such services available at the Airport and Lessee is qualified, ready, willing, able, and currently providing such services;

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

**ARTICLE I
TERM**

The term of this Agreement shall commence on January 1, 2011, and continue through December 31, 2015, unless earlier terminated under the provisions of this Agreement.

**ARTICLE II
LEASED PREMISES**

Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor the following described improvements that are identified and shown on Schedule "D"(Revised December 2010), which is attached hereto and incorporated herein by reference, (the "Premises") together with the right of ingress and egress for both vehicles and aircraft:

1. "T" Hangars: The cross-hatched area of the two (2) eight unit "T" hangars shown on Schedule "D".

2. Maintenance Building: The cross-hatched area on Schedule "D" that is referred to as the east and west maintenance hangars.

3. FBO Administration Building (Terminal Building): The entire FBO Administration Building shown on Schedule "D", which includes the FBO office, manager's office, training room on the south side of the building, lounge, conference room, restrooms, and snack area. The lounge, conference room, restrooms, and snack area must be open to the public during normal operating hours.

4. Avgas and Jet Fuel Facilities: Shown on Schedule "D."

5. North Apron: The cross-hatched area shown on Schedule "D."

6. South Apron: The cross-hatched area shown on Schedule "D."

**ARTICLE III
RIGHTS AND OBLIGATIONS OF LESSEE**

A. Required Services. Lessee is hereby granted the non-exclusive privilege to engage in, and Lessee agrees to engage in, the business of providing fixed base operation services as hereinafter identified, at the Airport every day during the hours of 8 A.M. until sunset or 8 P.M., whichever occurs first, with only fuel sales required on Sunday and national holidays. Services required of the Lessee shall be as follows:

1. Lessee is to operate and provide management of all the Premises and the public and other non-commercial facilities on the Airport premises for the public and the Lessor in return for the use of the leased facilities. The leased facilities are described in Article II. The public facilities include the runway, taxiways, runway and taxiway lighting, REIL, NDB, PAPI, AWOS, auto parking area, access road, windsock, and area lighting. In the terminal building, the public facilities include the lobby, restrooms, vending/snack area, and conference room. Other non-commercial facilities shall include

existing and future hangars or facilities not intended for commercial use and not leased to another tenant, and not part of the leased or public property. Operation by the Lessee includes maintaining clean facilities and providing operational maintenance.

2. Lessee is to provide a unicom radio station (The City reserves the right to license the unicom in its own name with access to be provided to the unicom by one or more lessees).

3. The Lessee will monitor the NDB and AWOS on monitors provided by the Lessor.

4. The Lessee will file and rescind NOTAMS as required.

5. The Lessee will provide repair and maintenance services for based and transient aircraft. Lessee agrees to maintain and provide, directly or by sublease, aircraft engine, airframe, and avionics maintenance and repair services within Federal Aviation Administration (the "FAA") rules and regulations, and the Lessee further agrees to observe and be responsible for all environmental regulations relative to all of its operations. The Lessor reserves the right to approve or disapprove with or without cause all sublease agreements prior to execution of the agreements.

6. The Lessee is to provide sales of avionic, airframe, and engine parts and instruments and accessories.

7. The Lessee is to provide aircraft rental and flight instruction.

8. The Lessee will provide ramp service, including sale and into plane delivery of aviation gas and jet fuel, lubricants, and other related aviation products.

9. The Lessee will provide apron servicing of and assistance to aircraft, including itinerant parking, storage, and tie down service, for both based and itinerant aircraft upon or within facilities leased to Lessee or aircraft parking areas designated by Lessor.

10. The Lessee will observe and enforce the "Rules and Regulations" of the Asheboro Regional Airport.

11. The Lessee will mow grass adjacent to the terminal and fuel service areas.

Lessee acknowledges that, with the exception of activities in the maintenance building, no right or privilege has been granted which would operate to prevent any person, firm, or corporation operating aircraft at the Airport from personally performing service on the individual's or entity's own aircraft or with the individual or entity's own regular employees, including maintenance and repair services.

B. Authorized and Prohibited Services. In addition to the services required to be provided by Lessee pursuant to Paragraph A above, Lessee is authorized but not required to provide the following services and to engage in the following activities:

1. Ramp service at the Main Terminal or other Airport locations; loading and unloading of non air carrier passengers, baggage, mail, and freight; and providing of ramp equipment, aircraft cleaning, and other services for other persons or firms.

2. Special flight services, including, without limitation, aerial sight-seeing, aerial advertising, and aerial photography.

3. The sale of new and used aircraft.

4. Aircraft charter operations; said operations may be conducted by Lessee or a subcontractor of Lessee.

5. The Lessee may use the snack area in the terminal building for drink and snack machines and microwave, toaster, coffee pot, or similar device(s). A restaurant is not permitted. No business use is permitted in the lobby.

6. The Lessee is authorized to use the conference room for business purposes, provided that the public is given priority use.

C. Operating Standards. In providing any of the required and/or authorized services or activities specified in this Agreement, Lessee shall operate for the use and benefit of the public and shall meet or exceed the following standards:

1. Lessee shall furnish service on a fair, reasonable, and non-discriminatory basis to all users of the Airport. Lessee shall furnish good, prompt, and efficient service that is adequate to meet all reasonable and customary demands for its services at the Airport. Lessee shall charge fair, reasonable, and non-discriminatory prices for each unit of sale or service; provided, however, that

Lessee may be allowed to give reasonable and non-discriminatory discounts, rebates, or similar types of price reductions to volume purchasers.

2. Lessee shall select and appoint a manager of its operations at the Airport. The manager shall be qualified, experienced, and vested with full power and authority to act in the name of Lessee with respect to the method, manner, and conduct of the operation of the fixed base services to be provided under this Agreement. The manager shall be available at the Airport during regular business hours and, during the manager's absence, a duly authorized subordinate shall be in charge and available at the Airport to provide usual and customary services then normally available.

3. Lessee shall provide, at its sole expense, a sufficient number of employees to provide effectively and efficiently the services required or authorized under the terms and conditions of this Agreement.

4. Lessee shall control the conduct, demeanor, and appearance of its employees, who shall be trained by Lessee and who shall possess such technical qualifications and hold such certificates of qualification as may be required in order to carry out assigned duties. It shall be the responsibility of Lessee to maintain supervision over its employees and to assure a high standard of service to customers of Lessee.

5. Lessee shall meet in a timely manner all expenses and payments in connection with its lease of the Premises (except as noted in Article IV) and the rights and privileges herein granted, including sales taxes, permit fees, and license fees.

6. Lessee shall comply with all federal, state, and local laws, rules, and regulations which may apply to the conduct of the business contemplated, including by way of illustration and without limitation rules and regulations promulgated by Lessor, and Lessee shall keep in effect and post in a prominent place all necessary and/or required licenses or permits.

7. Lessee shall be responsible for the maintenance and repair of the Premises (except as noted in Article IV) and shall keep and maintain the Premises in good condition, order, and repair, and Lessee shall surrender the same upon the expiration of this Agreement in the condition in which they are required to be kept, reasonable wear and tear and damage by the elements not caused by Lessee's negligence excepted.

It is expressly understood and agreed that, in providing required and authorized services pursuant to this Agreement, Lessee shall have the right to choose, in its sole discretion, its vendors and suppliers.

D. Signs. During the term of this Agreement, Lessee shall have the right, at its expense, to place in or on the Premises a sign or signs identifying Lessee and its products and services. Said sign or signs shall be of a size, shape, and design, and at a location or locations approved by Lessor. Any and all such signs must conform to any overall directional graphics or sign program or ordinance established by Lessor. Lessor's approval shall not be withheld unreasonably. Notwithstanding any other provision of this Agreement, said sign(s) shall remain the property of Lessee. Lessee shall remove, at its expense, all lettering, signs, and placards so erected on the Premises at the expiration of the term of this Agreement.

E. Non-Exclusive Right. It is not the intent of this Agreement to grant to Lessee the exclusive right to provide any or all of the services described in this article at any time during the term of this Agreement. Lessor reserves the right, at its sole discretion, to grant others certain rights and privileges upon the Airport which are identical in part or in whole to those granted to Lessee. However, Lessor does covenant and agree that:

1. It shall enforce all minimum operating standards or requirements for all aeronautical endeavors and activities conducted at the Airport;

2. Any other operator of aeronautical endeavors or activities will not be permitted to operate on the Airport under rates, terms, or conditions which are more favorable than those set forth in this Agreement; and

3. Lessor will not permit the conduct of any aeronautical endeavor or activity at the Airport except under an approved lease or operating agreement.

ARTICLE IV APPURTENANT PRIVILEGES

A. Use of Airport Facilities. Lessee shall be entitled, in common with others so authorized, to the use of all facilities and improvements of a public nature which now are or may hereafter be connected with or appurtenant to the Airport, including the use of landing areas, runways, taxiways, navigational aids, terminal facilities and aircraft parking areas designated by Lessor, auto parking, and roadways.

B. Maintenance and Operation of Airport Facilities. The duties and responsibilities of the Lessor for maintenance and expenditures concerning assets of the Asheboro Regional Airport are outlined as follows:

1. The Lessor will provide structural maintenance on buildings, runway, taxiway, ramp areas, and the Premises in addition to snow removal on paved areas. (Snow removal on City maintained streets, wherever they may be located, shall have priority.)
2. The Lessor will provide maintenance and calibration of the NDB, rotating beacon, REILS, and PAPI.
3. The Lessor will provide electricity for operation of the runway and taxiway lighting, REIL, windsock, rotating beacon, NDB, and outside area lighting.
4. The Lessor will provide potable water and septic tank service to the terminal and east maintenance hangar.
5. The Lessor will provide potable water and septic service to a mobile home provided by the Lessee if desired by the Lessee at the designated site directly behind the terminal building.
6. The Lessor will provide and pay operational costs for outside public phone service.
7. The Lessor will mow grass along the runway and taxiway areas.

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

<u>ASSET</u>	<u>LESSEE</u>	<u>LESSOR</u>
Airfield	Manages; Post NOTAMS	Pays Maintenance and Mowing
Runway/Lighting	Manages; Replaces Lamps	Pays Lamps, Maintenance, and Electricity; Removes Snow
Windsock	Manages; Replaces Lamps/Sock	Pays Maintenance, Lamps, and Electricity
NDB/AWOS Monitors	Manages/Monitors	Pays Maintenance and NDB/AWOS Electricity
Light Beacon	Manages	Pays Maintenance and Electricity
Apron-North	Manages; Receives Full Rent; Provides Tie Down Ropes (Rental Rate to be Approved by Asheboro Airport Authority)	Pays Maintenance; Removes Snow
Fuel Facilities	Rent Free Use; Monitors Fuel On Daily Basis; Provides Operational Maintenance (Filters, Quality Control, and Clean-up); Pays 5% Of Gross Receipts from Flowage Fee to Lessor when Sales Exceed 150,000 Gallons in a Calendar Year	Provides Facility Maintenance; Receives 5% of Gross Receipts from Flowage Fee When Sales Exceed 150,000 Gallons in a Calendar Year
Terminal/Furn.	Rent Free Use of Office, Training Room, & Manager's Office; Pays Operational Maintenance Costs	Pays Structural Maintenance Costs; Pays Electric Bill
Mobile Home Lot	Owns Home; Pays Electricity and Maintenance Costs; Receives Rent from Tenant	Provides Lot as well as Water and Septic Service
Parking Lot	Manages; FBO Rental Car Use	Provides Maintenance; Removes Snow

<u>ASSET</u>	<u>LESSEE</u>	<u>LESSOR</u>
Water System	Manages; Uses Rent Free	Pays for Well And Pump Maintenance
Septic System	Manages; Uses Rent Free	Pays for Maintenance
T Hangars (16)	Manages; Receives Full Rent; Provides Tie Down Ropes (Rental Rate to be Approved by Asheboro Airport Authority)	Pays Structural Maintenance
Maint. Hangar - East	Uses for Business Rent Free	Pays Structural Maintenance; Pays Heat and Electricity
Maint. Hangar - West	Uses for Business Rent Free	Pays Structural Maintenance; Pays Heat and Electricity
Air Compressor	Pays All Maintenance	No Obligation to Replace
Roads	Manages; Common Use	Pays Maintenance; Removes Snow
Area Lighting	Manages; Calls for Maintenance	Pays for Service
Public Phone	Manages; Calls for Maintenance	Pays for Service
UNICOM	Furnishes and Operates	Reserves Access by Others
Apron South	Manages; Receives Full Rent; Provides Tie Down Ropes (Rental Rate to be Approved by Asheboro Airport Authority)	Reserves Right to Lease to Others; Pays Maintenance; Removes Snow
Other Non-Commercial Hangars or Facilities Existing and Those Developed in the Future	Manages	Subject to City Lease Agreement(s)
Fuel Truck	Provides Gas for Truck; Provides Operational Maintenance of Fueling Equipment (Filters, Quality Control, and Clean-up)	Provides Truck; Provides Maintenance Service for Truck and Repair of Equipment
Trash Containers	Free Use of Containers; Monitors and Limits Unauthorized Use	Provides Containers; Empties Containers And Pays for Trash Disposal

C. Aerial Approaches. Lessor reserves the right to take any action it considers necessary to protect the aerial approaches to the Airport against obstruction together with the right to prevent Lessee from erecting, or permitting to be erected, any building or other structure on or adjacent to the Airport which, in the sole opinion of Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft.

D. Non-Competition. Lessor shall not engage directly or indirectly in any of the activities described in Paragraphs A and B of Article III of this Agreement.

ARTICLE V LEASEHOLD IMPROVEMENTS

Lessee is not required to construct any facilities or improvements under this Agreement. Lessor has the right to close runway, taxiway, and apron areas for repair or new construction for limited times. Lessee agrees to allow new construction to be performed in a cost efficient manner, and Lessor agrees to negotiate in good faith a reasonable payment to Lessee for loss of use of the facilities due to such construction.

At its option, the Lessor may assume ownership of any leasehold improvements constructed by Lessee upon Lessee's abandonment of the facilities at the termination of this Agreement.

ARTICLE VI PAYMENTS

A. Fees. In consideration of the rights and privileges granted by this Agreement, Lessee agrees to pay to Lessor during the term of this Agreement the following:

After the threshold amount of 150,000 gallons of aviation fuel is sold by Lessee in a calendar year, the Lessee shall pay an amount equal to five percent (5%) of gross fuel sales dollars as a fuel flowage fee on all aviation fuel dispensed by Lessee on the premises. Payments shall be made on or before the 10th day of each month for fuel dispensed during the prior month.

B. Delinquency Charge. A delinquency charge of one percent (1%) per month shall be added to payments required by Paragraph A above that are rendered more than ten (10) days delinquent.

C. Place of Payment. All payments due Lessor from Lessee shall be delivered to the City of Asheboro Finance Department, 146 N. Church Street, P.O. Box 1106, Asheboro, NC 27204-1106.

D. Renegotiation of Rent. The Lessee is given the authority to change hangar rents at its discretion but with the approval of the Asheboro Airport Authority. Such approval shall not be unreasonably withheld.

E. Records. Lessee shall maintain and provide accurate records of retail fuel sales, hangar and tie-down rentals, and itemized adjusted gross receipts derived under this Agreement for a period of three (3) years from the date the record is made. Such records shall be maintained according to generally accepted accounting principles. Lessor or its duly authorized representatives shall have the right at all reasonable times during business hours to inspect the books, records, and receipts of Lessee, and to verify Lessee's fuel sales, hangar and tie-down rentals, and adjusted gross receipts.

F. Annual Statement. Within ninety (90) days after the end of each calendar year, Lessee shall furnish to Lessor a statement of fuel sales along with hangar and tie-down rentals generated during the preceding calendar year. The statement referenced in the preceding sentence shall be prepared by an independent CPA and certified by an officer of Lessee as to the correctness of the statement. Lessor reserves the right to audit said statement and Lessee's books and records, including examination of the general ledger and all other supporting material, at any reasonable time during business hours for the purpose of verifying the reported fuel sales, hangar and tie-down rentals, and total business year operation.

If the audit establishes that Lessee has understated or overstated fuel sales and/or the hangar and tie-down rentals collected by five percent (5%) or more, the entire expense of said audit shall be borne by Lessee. Any additional payment due from Lessee shall forthwith be paid to Lessor, with interest thereon at one percent (1%) per month from the date such amount originally became payable to Lessor. Any overpayment by Lessee shall be credited against further payments due to Lessor. Either party may refer the results of the audit for resolution with Paragraph G below.

G. Disputes. In the event that any dispute may arise as to fuel sales and/or hangar and tie-down rentals collected, the amount claimed due by Lessor shall be submitted to a certified public accountant, agreeable to both parties, who shall determine the rights of the parties hereunder in conformity with generally accepted accounting principles. The fees due said accountant for such services shall be paid by the unsuccessful party, or in the event the determination is partially in favor of each party, the fee shall be borne equally by the parties.

ARTICLE VII UTILITIES

Lessee shall have the right to use the utility service facilities as located on the Premises at the commencement of this Agreement. The Lessee shall pay the cost for any improvements or extensions of the utility service facilities desired by the Lessee.

ARTICLE VIII INSURANCE

A. Required Insurance. Lessee shall obtain and maintain continuously in effect at all times during the term of this Agreement, at Lessee's sole expense, the following insurance:

1. Comprehensive general liability insurance, including products, completed operations, and contractual liability, in the minimum amount of \$1,000,000 to protect Lessor against any and all liability by reason of Lessee's conduct incident to the use of the Premises, liability resulting from any accident occurring on or about the roads, driveways, or other public places, including runways and taxiways, used by Lessee at the Airport, or liability caused by or arising out of any wrongful act or omission of Lessee;

2. Hangar keeper's insurance in the minimum amount of \$100,000/\$250,000;

3. Auto liability insurance in the minimum amount of \$1,000,000, if vehicles are registered in Lessee's name.

4. Workers' compensation coverage that, at a minimum, complies with North Carolina statutory requirements is also required of the Lessee.

The insurance specified in A.1 through A.3, above, shall name Lessor and the Asheboro Airport Authority as additional insureds.

B. Notice. Lessor agrees to notify Lessee in writing as soon as practicable of any claim, demand, or action arising out of an occurrence covered hereunder of which Lessor has knowledge, and to cooperate with Lessee in the investigation and defense thereof.

ARTICLE IX INDEMNIFICATION

To the extent not covered by insurance carried in favor of Lessor, Lessee shall indemnify and hold harmless Lessor from and against any and all claims, demands, suits, judgments, cost, and expenses asserted by any person or persons, including agents or employees of Lessor or Lessee, by reason of death or injury to persons or loss or damage to property resulting from Lessee's operations or anything done or omitted by Lessee under this Agreement except to the extent that such claims, demands, suits, judgments, costs, and expenses may be attributed to the acts or omissions of Lessor or its agents or employees.

To the extent not covered by insurance carried in favor of Lessee, Lessor shall indemnify and hold harmless Lessee from and against any and all claims, demands, suits, judgments, cost, and expenses asserted by any person or persons, including agents or employees of Lessee or Lessor, by reason of death or injury to persons or loss or damage to property resulting from Lessor's operations or anything done or omitted by Lessor under this Agreement except to the extent that such claims, demands, suits, judgments, costs, and expenses may be attributed to the acts or omissions of Lessee or its agents or employees.

The City of Asheboro agrees to indemnify the Lessee and its principals against all environmental liabilities existing prior to the effective date of this Agreement and to indemnify the Lessee and its principals against future environmental liabilities not caused by the Lessee or one of its principals, agents, or employees.

ARTICLE X LESSEE AS INDEPENDENT CONTRACTOR

In conducting its business hereunder, Lessee acts as an independent contractor and not as an agent of Lessor. The selection, retention, assignment, direction, and payment of Lessee's employees shall be the sole responsibility of Lessee, and Lessor shall not attempt to exercise any control over the daily performance of duties by Lessee's employees.

ARTICLE XI ASSIGNMENT

This Agreement, or any part thereof, may not be assigned, transferred, or subleased by Lessee, by process or operation of law, or in any other manner whatsoever, without the prior written consent of Lessor, which consent shall not be withheld unreasonably.

ARTICLE XII NON-DISCRIMINATION

Notwithstanding any other or inconsistent provision of this Agreement, during the performance of this Agreement, Lessee, for itself, its heirs, personal representatives, successors in interest and assigns, as part of the consideration for this Agreement, does hereby covenant and agree, as a covenant running with the land, that;

A. No person on the grounds of race, color, religion, sex, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of the Premises.

B. In the construction of any improvement(s) on, over, or under the Premises, and the furnishing of services therein or thereon, no person on the grounds of race, color, religion, sex, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

C. Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

D. In the event of breach of any of the above non-discrimination covenants, Lessor shall have the right to terminate this Agreement and to reenter and repossess the Premises and hold the same as if said Agreement had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 have been followed and completed, including expiration of appeal rights.

ARTICLE XIII REQUIREMENTS OF THE UNITED STATES

This Agreement shall be subject and subordinate to the provisions of any existing or future agreement between Lessor and the United States, or any agency thereof, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development or operation of the Airport; provided, however, that Lessor shall, to the extent permitted by law, use its best efforts to cause any such agreements to include provisions protecting and preserving the rights of Lessee in and to the Premises and to compensation for the taking thereof, interference therewith and damage thereto, caused by such agreement or by actions of Lessor or the United States pursuant thereto.

ARTICLE XIV DEFAULT AND TERMINATION

A. Termination by Lessee. This Agreement shall be subject to termination by Lessee in the event of any one or more of the following events:

1. The abandonment of the Airport as an airport or airfield for any type, class, or category of aircraft.

2. The default by Lessor in the performance of any of the terms, covenants, or conditions of this Agreement, and the failure of Lessor to remedy or undertake to remedy to Lessee's satisfaction such default for a period of thirty (30) days after receipt of notice from Lessee to remedy the same.

3. Damage to or destruction of all or a material part of the Premises or Airport facilities necessary to the operation of Lessee's business.

4. The lawful assumption by the United States, or any authorized agency thereof, of the operation, control, or use of the Airport, or any substantial part or parts thereof, in such a manner as to restrict substantially Lessee from conducting business operations for a period in excess of ninety (90) days.

B. Termination by Lessor. This Agreement shall be subject to termination by Lessor in the event of any one or more of the following events:

1. The default by Lessee in the performance of any of the terms, covenants, or conditions of this Agreement, and the failure of Lessee to remedy or undertake to remedy to Lessor's satisfaction such default for a period of thirty (30) days after receipt of notice from Lessor to remedy the same.

2. Lessee files a voluntary petition in bankruptcy, including a reorganization plan, makes a general or other assignment for the benefit of creditors, is adjudicated as bankrupt, or if a receiver is appointed for the property or affairs of Lessee and such receivership is not vacated within thirty (30) days after the appointment of such receiver.

3. In addition to all other remedies at law, the Lessor is expressly granted all rights and procedures authorized by Chapter 42 of the North Carolina General Statutes to obtain possession of the premises upon default.

C. Exercise. Exercise of the rights of termination set forth in Paragraphs A and B above shall be by notice to the other party within thirty (30) days following knowledge of the event giving rise to the termination.

D. Removal of Property. Upon termination of this Agreement for any reason, Lessee, at its sole expense, shall remove from the Premises all signs, trade fixtures, furnishings, personal property, equipment, and materials which Lessee was permitted to install or maintain under the rights granted herein. If Lessee shall fail to do so within thirty (30) days, then Lessor may cause such removal or restoration at Lessee's expense, and Lessee agrees to pay Lessor such expense promptly upon receipt of a proper invoice therefore.

E. Causes of Breach; Waiver.

1. Neither party shall be held to be in breach of this Agreement because of any failure to perform any of its obligations hereunder if said failure is due to any cause for which it is not responsible and over which it has no control; provided, however, that the foregoing provision shall not apply to failures by Lessee to pay fees, rents, or other charges to Lessor.

2. The waiver of any breach, violation, or default in or with respect to the performance or observance of the covenants and conditions contained herein shall not be taken to constitute a waiver of any such subsequent breach, violation, or default in or with respect to the same or any other covenant or condition hereof.

**ARTICLE XV
MISCELLANEOUS PROVISIONS**

A. Entire Agreement. This Agreement constitutes the entire understanding between the parties, and as of its effective date, supersedes all prior or independent agreements between the parties covering the subject matter hereof. Any change or modification hereof must be in writing signed by both parties.

B. Severability. If a provision hereof shall be finally declared void or illegal by any court or administrative agency having jurisdiction, the entire Agreement shall not be void, but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties.

C. Notice. Any notice given by one party to the other in connection with this Agreement shall be in writing and shall be sent by certified mail, return receipt requested, with postage fees prepaid. The notice shall be addressed as follows:

1. If the Lessor is recipient of the notice, the notice shall be addressed as follows:

John N. Ogburn, III, City Manager
City of Asheboro
146 N. Church Street
PO Box 1106
Asheboro, NC 27204-1106

2. If Lessee is the recipient of the notice, the notice shall be addressed as follows:

Cardinal Air, LLC
2222 Pilots View Road
Asheboro, NC 27205

Notice shall be deemed to have been received on the date of receipt as shown on the return receipt.

D. Headings. The headings used in this Agreement are intended for convenience of reference only and do not define or limit the scope or meaning of any provision of this Agreement.

E. Governing Law. This Agreement is to be construed in accordance with the laws of the State of North Carolina.

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

LESSOR: City of Asheboro

ATTEST:

By: _____
David H. Smith, Mayor

Holly H. Doerr, CMC, City Clerk

LESSEE: Cardinal Air, LLC

By: _____
Karen McCraw, Member-Manager

STATE OF NORTH CAROLINA
COUNTY OF RANDOLPH

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

WITNESS my hand and notarial seal, this _____ day of December, 2010.

Notary Public

My commission expires:

(Print name of Notary Public)

STATE OF NORTH CAROLINA
COUNTY OF _____

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

WITNESS my hand and notarial seal, this _____ day of December, 2010.

Notary Public

My commission expires:

(Print name of Notary Public)

13. Consideration of a resolution adopting a Code of Ethics for the City Council of the City of Asheboro.

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

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

57 RES 12-10

**A RESOLUTION ADOPTING A CODE OF ETHICS FOR THE
CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA**

WHEREAS, the Constitution of North Carolina, Article I, Section 35, reminds us that a "frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty;" and

WHEREAS, a spirit of honesty and forthrightness is reflected in North Carolina's state motto, *Esse quam videri*, "To be rather than to seem;" and

WHEREAS, Section 160A-86 of the North Carolina General Statutes requires local governing boards to adopt a code of ethics; and

WHEREAS, the members of the Asheboro City Council, as public officials, are charged with obeying the law and upholding the trust of the citizens of the City of Asheboro; and

WHEREAS, by enacting Session Law 2009-403, the North Carolina General Assembly expressly provided that units of local government may look to model local government codes of ethics for guidance in developing a specific code of ethics for adoption by a governing board in compliance with Section 160A-86 of the North Carolina General Statutes; and

WHEREAS, under the direction of A. Fleming Bell, II, the University of North Carolina School of Government has published a guidebook entitled "A Model Code of Ethics for North Carolina Local Elected Officials With Guidelines and Appendixes;" and

WHEREAS, the Asheboro City Council concurs with the recommendation of the city's professional staff to use the guidebook published by the UNC School of Government as the basis for drafting a Code of Ethics for adoption by the city council;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the following general principles are hereby adopted to guide this governing board in establishing a Code of Ethics:

- The stability and proper operation of democratic representative government depend upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials; and
- Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure; and
- Governing board members must be able to act in a manner that maintains their integrity and independence, yet is responsive to the interests and needs of those they represent; and
- Governing board members must always remain aware that at various times they play different roles:
 - As advocates, who strive to advance the legitimate needs of their citizens; and
 - As legislators, who balance the public interest and private rights in considering and enacting ordinances, orders, and resolutions; and
 - As decision-makers, who arrive at fair and impartial quasi-judicial and administrative determinations; and
- Governing board members must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly; and
- Governing board members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each official must find within his or her own conscience the touchstone by which to determine what conduct is appropriate; and

BE IT FURTHER RESOLVED that, in order to establish guidelines for ethical standards of conduct for the municipality's governing board and to help determine what conduct is appropriate in particular cases, the City Council of the City of Asheboro does hereby adopt the following Code of Ethics:

Section 1. Governing board members should obey all laws applicable to their official actions as members of the board. Board members should be guided by the spirit as well as the letter of the law in whatever they do.

At the same time, board members should feel free to assert policy positions and opinions without fear of reprisal from fellow board members or citizens. To declare that a board member is behaving unethically because one disagrees with that board member on a question of policy (and not because of the board member's behavior) is unfair, dishonest, irresponsible, and itself unethical.

Section 2. Governing board members should act with integrity and independence from improper influence as they execute the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

- Adhering firmly to a code of sound values;
- Behaving consistently and with respect toward everyone with whom they interact;
- Exhibiting trustworthiness;
- Living as if they are on duty as elected officials regardless of where they are or what they are doing;
- Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, and consistent manner;
- Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others;

- Disclosing contacts and information about issues that they receive outside of public meetings and refraining from seeking or receiving information about quasi-judicial matters outside of the quasi-judicial proceedings themselves;
- Treating other governing board members and the public with respect and honoring the opinions of others even when the board members disagree with those opinions;
- Not reaching conclusions on issues until all sides have been heard;
- Showing respect for their offices and not behaving in ways that reflect badly on those offices;
- Recognizing that they are part of a larger group and acting accordingly; and
- Recognizing that individual board members are not generally allowed to act on behalf of the board but may only do so if the board specifically authorizes it, and that the board must take official action as a body.

Section 3.

(a) Governing board members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach. Although opinions may vary about what behavior is inappropriate, this council will consider impropriety in terms of whether a reasonable person who is aware of all of the relevant facts and circumstances surrounding the board member's action would conclude that the action was inappropriate.

(b) If a governing board member believes that his or her actions, while legal and ethical, may be misunderstood, the member should seek the advice of the city attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it (such as consulting with the city attorney).

Section 4. Governing board members should faithfully perform the duties of their offices. They should act as the especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.

Governing board members should faithfully attend and prepare for meetings. They should carefully analyze all credible information properly submitted to them, mindful of the need not to engage in communications outside the meeting in quasi-judicial matters. They should demand full accountability from those over whom the board has authority.

Governing board members should be willing to bear their fair share of the board's workload. To the extent appropriate, they should be willing to put the board's interests ahead of their own.

Section 5. Governing board members should conduct the affairs of the board in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should remember when they meet that they are conducting the public's business. They should also remember that local government records belong to the public and not to board members or their employees.

In order to ensure strict compliance with the laws concerning openness, governing board members should make clear that an environment of transparency and candor is to be maintained at all times in the governmental unit. They should prohibit unjustified delay in fulfilling public records requests. They should take deliberate steps to make certain that any closed sessions held by the board are lawfully conducted and that such sessions do not stray from the purposes for which they are called.

Section 6. Censure Procedures:

If a majority of the governing board has reason to believe that one of its members has violated a provision of this Code of Ethics, the council may open an investigation into the matter to determine whether probable cause exists to initiate censure proceedings against the member. All information compiled, including the grounds for any finding of probable cause, shall be shared with the member when it is received. All information pertaining to the case shall be open to public inspection and copying pursuant to the North Carolina public records statutes. If upon investigation the council concludes that a violation of a criminal law may have occurred, it shall refer the matter to the district attorney's office.

If the council concludes that it wishes to proceed further with censure proceedings, it shall call for a hearing, to be held at a regular meeting or at a special meeting convened for that purpose. Notice of the hearing stating its time, place, and purpose shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the City of Asheboro. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Alternatively, the hearing shall be advertised on the jurisdiction's website for the same period of time, up to and including the date of the hearing. The notice shall state that a detailed list of the allegations against the member is available for public inspection and copying in the office of the city clerk.

The hearing shall be convened at the time and place specified. The hearing and any deliberations shall be conducted in open session in accordance with the North Carolina open meetings statutes.

The accused board member shall have the right to have counsel present, to present and cross-examine expert and other witnesses, and to offer evidence, including evidence of the bias of any other board member or the presiding officer. An audio or video and audio tape of the proceedings shall be prepared. Any and all votes during the hearing shall be taken by the ayes and noes and recorded in the council's minutes.

Once the hearing is concluded, it shall be closed by vote of the board. The presiding officer shall next entertain a motion to adopt a nonbinding resolution censuring the member based on specific violation(s) of the adopted Code of Ethics. Any motion made must be an affirmative one in favor of adopting a nonbinding resolution of censure. If the motion or resolution does not state particular grounds for censure under the adopted Code of Ethics, the presiding officer shall rule it out of order.

If a motion to adopt a nonbinding resolution of censure stating particular grounds under the adopted Code of Ethics has been made, the members of the governing board shall debate the motion. The accused member shall be allowed to participate in the debate, but shall not vote on the motion to adopt the resolution.

At the conclusion of the debate, the board shall vote on the resolution. If the motion to adopt the nonbinding resolution of censure is approved by a majority vote of those present and voting, a quorum being present, the motion passes and the nonbinding resolution of censure is adopted.

The text of the nonbinding resolution of censure shall be made a part of the minutes of the city council. Any recording of the council's proceedings shall be approved by the city council as a permanent part of the council's minutes. The proceedings shall then be considered concluded, the governing board having done all that it legally can with respect to the matter in question.

Section 7. This Code of Ethics should not be considered a substitute for the law or for a council member's best judgment.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 9th day of December, 2010.

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

ATTEST:

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

14. Discussion of items on the agenda.

- a) Mayor Smith acknowledged that the Council had received a copy of the minutes of the Asheboro ABC Board's meeting that was held on November 1, 2010.
- b) Mayor Smith reminded everyone of "Christmas on Sunset" – December 10, 2010.

There being no further business, the meeting was adjourned at 8:28 p.m.

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

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