

**REGULAR MEETING  
ASHEBORO CITY COUNCIL  
THURSDAY, JULY 10, 2003  
7:00 PM**

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

David Jarrell                    ) –Mayor Presiding  
  
Talmadge Baker                )  
Linda Carter                    )  
Nancy Hunter                   )  
John McGlohon                 ) –Council Members Present  
Archie Priest                    )  
David Smith                     )  
Paul Trollinger                 )

John N. Ogburn, City Manager  
Carol J. Cole, CMC, City Clerk  
Michael Rhoney, P. E., Assistant City Engineer  
Debbie Juberg, Finance Director  
Reynolds Neely, Planning Director  
Lynn Priest, CD Director  
Wendell Holland, Zoning Administrator  
John Evans, Code Enforcement Officer  
Allen Oliver, Parks & Recreation Director  
Jeff Sugg, City Attorney

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

**1. Pledge of Allegiance and Invocation.**

Mayor Jarrell asked everyone to stand and repeat the Pledge of Allegiance. Reverend Robert Armstrong, pastor of Central Wesleyan Church, gave the invocation.

**2. Approval of Minutes of Previous Meetings.**

The minutes of the special meeting of May 29, 2003, regular meeting of June 5, 2003, and special meeting of June 19, 2003, were approved as presented.

**3. Presentation of Retirement Plaques to Steve and Brenda Welch.**

Parks & Recreation Director Allen Oliver presented a retirement plaque to Steve Welch, honoring him upon his retirement after 33 years of service with the Asheboro Municipal Golf Course. Steve served as the City's golf professional. Mr. Oliver also presented a retirement plaque to Brenda Welch, honoring her upon her retirement after 26 years of service with the Asheboro Municipal Golf Course. Brenda served as the cashier for the golf course.

**4. Appearance and Recognition of Guests and Citizens.**

Mayor Jarrell recognized Boy Scout Troop 501 and welcomed everyone in attendance.

**5. Consent Agenda.**

Upon motion by Mr. Smith and seconded by Mr. Trollinger, council voted unanimously to approve the following items for the Consent Agenda.

- (a) Second Reading and Final Adoption of an Ordinance Granting a Renewal of a Certificate of Convenience and Necessity for Franchise to Operate Taxicabs (Asheboro Taxi, Tony Hafez, Owner) (Ordinance No. 55 ORD 6-03 was recorded in the June minutes.)
  
- (b) Resolution Authorizing the Mayor to Enter Into an Enhancement Agreement Between the NC Department of Transportation and the City of Asheboro for the City to Receive a Federal Grant in the Amount of \$79,200 for 80% Funding of the Sunset Avenue Streetscape Project Between Fayetteville Street and Church Street.

**Resolution**

**(Pertaining to an Enhancement Agreement for  
Sunset Avenue Streetscape Improvements)**

WHEREAS, the Municipality has requested enhancement funding for streetscape improvements on Sunset Avenue from US Highway 220 Business (Fayetteville Street) to SR 1707 (Church Street) in Asheboro, Randolph County, North Carolina; and,

WHEREAS, the Department of Transportation has programmed funding in the 2002-2008 Transportation Improvement Program, as revised, for said improvements under Project E-4785, Randolph County; and,

WHEREAS, the Municipality proposes to enter into an Agreement with the North Carolina Department of Transportation for said improvements as described in said Agreement; and,

WHEREAS, under the proposed Agreement and subject to the Agreement provisions, the Department shall reimburse the Municipality to the extent of eighty percent (80%) of the approved eligible costs covered under this Agreement up to the maximum federal award of \$79,200; and,

WHEREAS, the Municipality shall provide at least twenty percent (20%) matching funds and all costs that exceed the federal award of \$79,200.

NOW, THEREFORE, BE IT RESOLVED that the Agreement for Project E-4785 in Randolph County is hereby formally approved by the City Council of the City of Asheboro, and that the Mayor and Clerk of this Municipality are hereby empowered to sign and execute the required Agreement with the Department of Transportation.

Adopted this the 10<sup>th</sup> day of July, 2003.

S/ Carol J. Cole  
Clerk, City of Asheboro

- (c) Resolution Authorizing the City Manager to Enter Into a Grant Agreement Between the NC Department of Transportation and the City of Asheboro for the City to Receive a Federal AIR 21 Grant in the Amount of \$150,000 for 90% Funding of the Airport Ground Communications Outlet (GCO), Airport Layout Plan (ALP) Update, Strengthening of the Corporate Taxilane, Approach Obstruction Evaluation Surveys, Approach Obstruction Removal, Widening of the Runway and Strengthening of the Runway, Taxiways and Ramp.

**Resolution**

**For Federal AIR 21 Grant Agreement Pertaining to Airport GCO, ALP Update,  
Strengthening Corporate Taxilane, Obstruction Removal, Widening R/W,  
Strengthening R/W, Taxiways and Ramp**

WHEREAS, a Grant in the amount of \$150,000 has been approved by the Department based on total estimated cost of \$166,667; and

WHEREAS, an amount equal to or greater than ten percent (10%) of the total estimated project cost has been appropriated by the Sponsor for this Project.

Minutes  
Page 3  
July 10, 2003

NOW, THEREFORE, BE AND IT IS RESOLVED THAT THE City Manager of the Sponsor be and he hereby is authorized and empowered to enter into a Grant Agreement with the Department, thereby binding the Sponsor to the fulfillment of its obligation incurred under this Grant Agreement or any mutually agreed upon modification thereof.

Adopted this the 10<sup>th</sup> day of July, 2003.

S/ Carol J. Cole  
City Clerk, City of Asheboro

(d) Resolution to Apply to Golden Leaf's Foundation for Assistance.

69 RES 7-03

**Resolution to Apply to Golden Leaf's Foundation for Assistance**

WHEREAS, the Asheboro Redevelopment Commission desires to establish a sheltered structure "Farmers Market,"

WHEREAS, Regional Consolidated Services, a private nonprofit human services agency supports construction of a sheltered structure for a "Farmers Market,"

WHEREAS, the Asheboro/Randolph County Chamber Downtown Revitalization Committee supports a sheltered structure for a "Farmers Market,"

NOW, THEREFORE, be it resolved by the Asheboro City Council that the Asheboro Redevelopment Commission submit an application to the Golden LEAF Foundation for financial assistance for the construction of a sheltered structure for a "Farmers Market."

Adopted this the 10<sup>th</sup> day of July, 2003.

S/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole  
Carol J. Cole, City Clerk

**6. Public Hearing on Zoning Matter.**

Mayor Jarrell opened the public hearing on the following request:

- (a) From CU-B-1 Commercial to B-1 Commercial (RZ-03-34): The property of Bread of Life World Christian Center (formerly St. John Outreach Christian Church) located at the intersection of East Presnell Street Extension and Rock Crusher Road totaling 18 acres more or less, and more specifically identified by Randolph County Parcel ID Number 7761658018.

Mr. Neely described the aforementioned property and stated that East Presnell Street Extension is a major thoroughfare, and Rock Crusher Road is a local street. The site is outside the corporate limits. Water service is in place along Cedar Falls Road and serves nearby Winningham Farms. No sewer is available. The previous request for a CU district was the result of the requirements for a medium day care center. The day care was never developed or opened. The SUP for the day care center has expired.

Minutes  
Page 4  
July 10, 2003

Mr. Neely reported that the planning board recommended approval, as the request complies with the goals and policies and map of the Land Development Plan.

Ms. Rosa Butler appeared before council on behalf of Bread of Life World Christian Center and stated that they want to build onto the church and extend water to the property.

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

Upon motion by Mrs. Carter and seconded by Mrs. Hunter, council voted unanimously to accept the recommendation of the planning board for approval.

**7. Subdivisions.**

(a) Final Plat Approval for North Point Acres

Mr. Neely presented the final plat for the aforementioned subdivision. North Point Acres is located on Humble Street, which contains 19.230 acres and consists of 19 lots. Mr. Neely reported that the applicant has submitted an Irrevocable Standby Letter of Credit for the monetary amount of the street and utilities improvements and a Maintenance and Defects Guarantee. Deed restrictions have also been submitted.

The planning board recommended approval of the final plat.

Mr. Al Morton, developer, was present to answer questions.

Upon motion by Mr. Baker and seconded by Mrs. Carter, council voted unanimously to accept the planning board's recommendation for approval.

(b) Preliminary Plat Approval for Edgewood

Mr. Neely presented the preliminary plat for the aforementioned subdivision. Edgewood Subdivision is located at the south end of Pepperidge Road and contains 7.170 acres, which consists of 15 lots. The applicant is also requesting a variance from 3 to 1 to 2 to 1 for the slope of the bank. The engineering plans have been submitted to the city engineer's office for approval.

The planning board recommended approval of the preliminary plat and the variance.

Mr. Tony Shane with Uwharrie Land Planning & Design stated that the right-of-way going into the property is narrow. The requested slope variance of 2 to 1 will involve approximately 300 feet of property, then will go back to the 3 to 1 slope.

Upon motion by Mr. Trollinger and seconded by Mrs. Carter, council voted unanimously to accept the recommendation from the planning board for approval.

**8. Proposed City of Asheboro Water & Sewer Adjustment Policy.**

Ms. Juberg presented and recommended adoption of a resolution approving the Water & Sewer Adjustment Policy. She stated that the Policy has been posted in the water department in both English and Spanish and has been posted on the City's web site.

Upon motion by Mr. Smith and seconded by Mr. Trollinger, council voted unanimously to adopt the following resolution:

**Resolution to Approve Adjustment Policy**

Whereas, Section 5. Section 50.021 of the Code of Asheboro, "Adjustment Policy," states:

"With the approval of the City Council, the City Manager may adopt rules and regulations concerning billing adjustments that may be made by the Water and Sewer Billing Department during the course of collecting charges for water and sewer utility services."

NOW, THEREFORE BE IT RESOLVED that the City Council of Asheboro approves the adjustment policy as attached to this resolution.

Adopted by the City Council on the 10<sup>th</sup> day of July, 2003.

S/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole  
Carol J. Cole, City Clerk

The Water & Sewer Adjustment Policy is attached to the original resolution on file in the city clerk's office.

9. **Public Hearing on Proposed Resolution Adopting a Verifiable Percentage Goal for Participation by Minority Businesses in the Total Value of Work for Building Projects, and Approving a Minority Business Participation Outreach Plan to Comply With General Statute 143-128.2 (Senate Bill 914).**

Mayor Jarrell opened the public hearing on the aforementioned.

Mr. Sugg announced that notice of this public hearing was advertised as provided for by law. He presented and reviewed the subject resolution and recommended its adoption.

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

Upon motion by Mr. McGlohon and seconded by Mr. Baker, council voted unanimously to adopt the following resolution:

71 RES 7-03

**RESOLUTION ADOPTING A VERIFIABLE TEN PERCENT (10%) GOAL FOR PARTICIPATION BY MINORITY BUSINESSES IN THE TOTAL VALUE OF WORK FOR BUILDING PROJECTS**

WHEREAS, Section 143-128.2(a) of the North Carolina General Statutes requires the City of Asheboro to adopt, after proper public notice and a public hearing, an appropriate verifiable percentage goal for participation by minority businesses in the total value of work for building projects; and

WHEREAS, when the city receives state funding of any kind for a building project that has a project cost of one hundred thousand dollars (\$100,000.00) or more, the above-referenced statutory provision further requires the City of Asheboro to have a verifiable ten percent (10%) goal for participation by minority businesses in the total value of work for such a building project; and

Minutes  
Page 6  
July 10, 2003

WHEREAS, by means of a legal notice that was published in the Courier Tribune on June 29, 2003, proper notice has been given of the consideration by the City Council of the City of Asheboro of the above-referenced verifiable percentage goal; and

WHEREAS, a public hearing has been held and properly conducted on the question of the adoption of the above-referenced verifiable percentage goal; and

WHEREAS, no evidence has been presented to the City Council to indicate that a verifiable percentage goal other than the ten percent (10%) goal prescribed by Section 143.128.2(a) of the North Carolina General Statutes should be adopted by the City of Asheboro; and

WHEREAS, the City Council wishes to express its formal approval of the Minority Business Participation Outreach Plan that has been adopted by the City Manager in compliance with North Carolina Session Law 2001-496, said plan is attached to this resolution as Exhibit A and is hereby incorporated into this resolution by reference as if copied fully herein:

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

Section 1. A verifiable ten percent (10%) goal for participation by minority businesses in the total value of work for building projects is hereby adopted by the City of Asheboro.

Section 2. The "Minority Business Participation Outreach Plan" that has been attached to this resolution as Exhibit A and incorporated by reference is hereby formally approved by the City Council as the minority business participation outreach plan for the City of Asheboro.

Adopted this the 10<sup>th</sup> day of July, 2003.

S/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole  
Carol J. Cole, City Clerk

## **EXHIBIT A**

CITY OF ASHEBORO

MINORITY BUSINESS PARTICIPATION OUTREACH PLAN

June 3, 2002

### **1. Goal**

The goal of the City of Asheboro in adopting its plan for expansion of participation by Minority Businesses is to provide minority businesses as defined in GS 143-128.2(g), equal access and opportunity to participate fully in all aspects of construction projects subject to this plan. The City of Asheboro encourages all those associated with construction projects subject to this plan to commit to this goal through a good faith effort.

### **2. Statement of Policy**

It is the policy of the City of Asheboro to award public building contracts without regard to race, religion, color, creed, national origin, sex, age, or handicapping condition, as defined in G.S. 168A-3.[143-28.2(h)]

### **3. Plan Objectives and Applicability**

This City of Asheboro Minority Business Participation Outreach Plan is developed to comply with State Law 2001-496 (Senate Bill 914, signed 19 December 2001, and effective 1 January 2002).

This plan has further been developed to assist the City of Asheboro in reaching its verifiable percentage goal of 10% minority business participation in all construction contracts, originally adopted by resolution 4<sup>th</sup> of January, 1990.

Minutes  
Page 7  
July 10, 2003

It is not the intent of this plan to require the City of Asheboro to take additional steps beyond those required by G.S. 143-128.2. Rather, it is the intent of this plan to establish the procedures that the City of Asheboro will use to comply with G.S. 143-128.2. This plan establishes the good faith efforts that the City of Asheboro will take to meet the plan objectives and accomplish the plan goal.

**This plan applies only to projects required to have a verifiable percentage goal under G.S. 143-128.2(a).** It will remain in this form unless modifications are necessary to further comply with any applicable change in construction procurement rules or regulations.

### **4. Plan Administration**

The City Manager will cause this policy to be implemented and will be responsible for all activities contained in this policy.

### **5. Good Faith Efforts**

In an effort to encourage minority business participation in all construction contracts, the City will undertake the following actions for projects **to which this plan applies.**

- I. The City of Asheboro establishes these procedures as the "minority business participation outreach plan" required by 143-128.2(e)(1).

- a) The City of Asheboro, its employees, and its consultants will take whatever measures it deems appropriate to encourage the education, recruitment, and interaction between minority businesses, non-minority business and the City. [143-128.2(e)(1)]
  - b) The City will make efforts to require bidders and contractors to undertake the good faith efforts in 143-128.2(f).
- II. The City of Asheboro will schedule and hold a Prebid meeting for potential bidders and interested HUB subcontractors. [143-128.2(e)(2)]
- a) At this Prebid meeting, the City will furnish a copy of the City's solicitation list.
- III. The City of Asheboro will establish a solicitation list of HUBs:
- a) The City will research the Historically Underutilized Business web site for each contract and record all HUBs who have registered on the site, in the general geographical area of the City.
  - b) In the same time frame, the City of Asheboro will research Federal web sites that also list HUBs (currently including Pro-Net), and record those HUBs who have registered on the site, in the general area of the City .
  - c) The City of Asheboro will also record HUBs who directly contact the City of Asheboro to request that they be contacted in the event of a public bid offering.
- IV. The City of Asheboro will directly solicit HUBs in the City's solicitation list. [143-128.2(e)(3)]
- a) At least 10 days prior to bid opening, the City of Asheboro will furnish HUBs on the City's solicitation list with a copy of advertisements for bid in the categories that they have requested. The advertisement will include a description of the work for which the bid is being solicited, the date, time, and location where the bids may be submitted and where the bids will be opened, the name of the City employee or representative who is available to answer questions about the project, where the bid documents may be reviewed or a copy obtained, and any other special requirements that may exist.
  - b) The City of Asheboro may contact such HUBs by email, mail, FAX or other means.
- V. The City of Asheboro will widely advertise opportunities to bid so as to be open to HUB bidders. [143-128.2(e)(4)]
- a) The City of Asheboro will advertise opportunities to bid as follows:
    - (1) in a local newspaper, currently the Courier Tribune,
    - (2) in a newspaper serving the area which currently serves a large minority population, currently *The Challenger*,
    - (3) in a newspaper which currently serves a large Spanish speaking population, currently the *Diario*.

Minutes  
Page 8  
July 10, 2003

## 6. Post Award Monitoring

To enable the City of Asheboro to properly report MBE participation, the City of Asheboro will require contractors engaged in the construction projects subject to this plan to submit **Appendix E – 'MBE Documentation for Contract Payment'** with each request for payments. The City of Asheboro will not consider the request for payment to be complete and will not process it without **Appendix E – 'MBE Documentation for Contract Payment.'**

A contractor who has been awarded a project based upon a given level of minority business participation is responsible for ensuring that the minority business participation does not materially vary from that originally specified when receiving the contract award.

Contractors must follow the requirements of G.S. 143-128.2 and the contract documents. The City of Asheboro will consider failure to comply with the law and contract documents to be a breach of contract and may subject the contractor to annulment of the contract.

## 7. Professional Services

The City of Asheboro will review and consider the utilization of minority business consultants when evaluating professional service proposals. The goal for the participation of minority businesses will be consistent with their general availability within the professional communities involved. Advertisements for professional services will encourage participation by minority business firms.

**8. Reporting and Review**

With respect to each building project, the City of Asheboro will report the following to the North Carolina Department of Administration's Office for Historically Underutilized Businesses (HUB) semiannually [G.S. 43-128.3]:

1. The verifiable percentage goal.
2. The type and total dollar value of the project, minority business utilization by minority category, trade, total dollar value of contracts awarded to each minority group for each project, the applicable good faith effort guidelines or rules used to recruit minority business participation, and good faith documentation accepted by the public entity from the successful bidder.
3. The utilization of minority businesses under the various construction methods under G.S. 143-128(a1).

The reports shall be in the format and contain in the data prescribed by the Secretary of Administration.

The City of Asheboro will make the report even if there is no building project to report during that period.

John N. Ogburn III  
 City Manager  
 June 3, 2002

**APPENDIX E**

**MBE DOCUMENTATION FOR CONTRACT PAYMENTS**

Prime Contractor/Architect: \_\_\_\_\_

Address & Phone: \_\_\_\_\_

Project Name: \_\_\_\_\_

Pay Application #: \_\_\_\_\_ Period: \_\_\_\_\_

The following is a list of payments to be made to minority business contractors on this project for the above-mentioned period.

Minutes  
 Page 9  
 July 10, 2003

Firm Name	*Minority Category	Payment Amount	Owner Use Only

\*Minority categories: Black, African American (B), Hispanic (H), Asian American (A) American Indian (I), Female (F) Socially and Economically Disadvantaged (D)

Date: \_\_\_\_\_

Approved/Certified By: \_\_\_\_\_

Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

**\*\*THIS DOCUMENT MUST BE SUBMITTED WITH EACH PAY REQUEST & FINAL PAYMENT\*\***

**10. Resolution of Intent to Permanently Close West Dorsett Avenue and the Portion of South Church Street South of West Walker Avenue, Scheduling a Public Hearing on September 4, 2003.**

Assistant City Engineer Michael Rhoney reported that federal funding will not be available if all of West Dorsett Avenue is closed at this time. However, the City can still close the portion of West Dorsett Avenue that crosses the Norfolk Southern Railroad at Crossing Number 722496E, Railroad Milepost M 28.9. At a later date, the City can permanently close West Dorsett Avenue and the portion of South Church Street south of West Walker Avenue.

Mr. Rhoney discussed the timeline for this project, and the anticipated date for project completion is January 1, 2004. After this date, the City may proceed with a Resolution of Intent to close the remaining portion of West Dorsett Avenue and South Church Street.

Mr. Rhoney presented and recommended adoption of the resolution prepared by the city attorney for last month's meeting, entitled "Resolution of Intent to Permanently Close a Portion of West Dorsett Avenue." The resolution also calls for a public hearing on this matter to be scheduled for the council's regular meeting on September 4, 2003.

Upon motion by Mr. Smith and seconded by Mr. Priest, council voted unanimously to adopt the following resolution by reference:

Minutes  
Page 10  
July 10, 2003

72 RES 7-03

**RESOLUTION OF INTENT TO PERMANENTLY CLOSE A PORTION OF WEST DORSETT AVENUE**

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

WHEREAS, the City Council of the City of Asheboro has determined that it is advisable to consider permanently closing a portion of West Dorsett Avenue, specifically including without limitation the portion of the street that crosses the Norfolk Southern Railroad at Crossing Number 722 496E, Railroad Milepost M 28.9; and

WHEREAS, in order for a municipality to properly and lawfully permanently close a street, Section 160A-299 of the North Carolina General Statutes requires that a city council first adopt a resolution declaring its intent to permanently close the street in question and then call a public hearing on the question.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, this 10th day of July, 2003, as follows:

Section 1. It is the intent of the City Council of the City of Asheboro to permanently close a portion of West Dorsett Avenue, specifically including without limitation the portion of the street that crosses the Norfolk Southern Railroad at Crossing Number 722 496E, Railroad Milepost M 28.9. Said street is located within the corporate limits of the City of Asheboro and is more particularly described as follows:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a point marked by an existing iron pipe that is located at the intersection of the Western right-of-way line of South Fayetteville Street (United States Highway 220 Business) with

the Southern right-of-way line of West Dorsett Avenue, said point is located North 65 degrees 46 minutes 21 seconds East 1264.06 feet from City of Asheboro Monument 25 which is located by means of the North Carolina Coordinate System at the coordinates of North 706,322.405 feet and East 1,756,419.502 feet (NAD 27); thence from said Beginning point along the Southern right-of-way line of West Dorsett Avenue and across a fifty (50) foot wide Norfolk Southern Railroad right-of-way the following course and distance: North 89 degrees 55 minutes 13 seconds West 86.73 feet to a new iron pipe located at the intersection of the Southern right-of-way line of West Dorsett Avenue with the Western right-of-way line of the Norfolk Southern Railroad right-of-way; thence North 09 degrees 46 minutes 30 seconds East 50.72 feet across West Dorsett Avenue to a new iron pipe that is located at the intersection of the Northern right-of-way line of West Dorsett Avenue with the Western right-of-way line of the Norfolk Southern Railroad right-of-way; thence across the Norfolk Southern Railroad right-of-way the following course and distance: South 89 degrees 55 minutes 13 seconds East 50.24 feet to an existing iron pipe located at the intersection of the Northern right-of-way line of West Dorsett Avenue with the Eastern right-of-way line of the Norfolk Southern Railroad right-of-way; thence continuing along the Northern right-of-way line of West Dorsett Avenue the following course and distance: South 89 degrees 55 minutes 13 seconds East 33.00 feet to an existing iron pipe located at the intersection of the Northern right-of-way line West Dorsett Avenue with the Western right-of-way line of South Fayetteville Street; thence South 05 degrees 50 minutes 47 seconds West 50.25 feet across West Dorsett Avenue to the point and place of the BEGINNING and being all of that certain portion of West Dorsett Avenue located within the 0.955 of an acre encompassed by the preceding metes and bounds description.

Also included is the fifty (50) foot right-of-way that includes West Dorsett Avenue, which right-of-way is shown on the below-referenced plat of survey.

This description is in accordance with a plat of survey entitled "Survey Of Proposed Closing Of A Portion Of West Dorsett Avenue For City of Asheboro," dated June 18, 2003, and drawn under the supervision of Philip M. Henley, P.L.S. with Registration Number L-1494.

Section 2. A public hearing on the matter of the above-described proposed permanent closure of the described portion of West Dorsett Avenue is hereby called and is to be held at the regular meeting of the City Council of the City of Asheboro on September 4, 2003, at 7:00 p.m. in the Council Chambers of the City of Asheboro Municipal Building located at 146 North Church Street in Asheboro. At Minutes  
Page 11  
July 10, 2003

said public hearing, any person may be heard on the question of whether or not the intended closing of the specified portion of West Dorsett Avenue would be detrimental to the public interest or the property rights of any individual.

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

Section 4. The City Clerk is further directed to transmit a copy of this Resolution of Intent by registered or certified mail to each owner of property adjoining the above-described portion of West Dorsett Avenue. The identity of said property owners is to be determined on the basis of the Randolph County Tax Department's records.

Section 5. The City Clerk is further directed to cause the prominent posting of this Resolution of Intent in a minimum of two (2) locations along the portion of West Dorsett Avenue that is proposed for closure.

S/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole  
Carol J. Cole, City Clerk

**11. Proposal by AT&T Wireless to Lease Space for an Antenna Installation on the City-Owned Water Tank at 903 NC Highway 49 South, for Payment of \$1,500 Per Month to the City for Six (6) Five-Year Terms, With a 15% Increase at the Beginning of Each Renewal Term.**

Mr. Sugg reported that notice of the City's intent to lease the aforementioned property has been advertised as provided for by law. He presented and recommended adoption, by reference, of a resolution authorizing the lease of said property.

Upon motion by Mr. Priest and seconded by Mr. Baker, council voted unanimously to adopt

the following resolution by reference:

73 RES 7-03

**RESOLUTION AUTHORIZING THE LEASE OF PROPERTY BY THE  
CITY OF ASHEBORO**

WHEREAS, the City of Asheboro (hereinafter referred to as the "City") owns in fee certain real property that is located at 903 North Carolina Highway 49 in Randolph County and is identified by Randolph County Parcel Identification Number 7740732225, said real property is more particularly described in Deed Book 1531, Page 101, Randolph County Registry; and

WHEREAS, a water tower that is owned and operated by the City is located upon the premises described in the preceding paragraph (said premises shall be hereinafter referred to as the "Water Tower Premises"); and

WHEREAS, AT&T Wireless PCS, LLC, a Delaware limited liability company, d/b/a AT&T Wireless, acting by and through its member, AT&T Wireless Services, Inc., a Delaware corporation, (hereinafter referred to as "AT&T") has expressed its desire to the City to lease a portion of the Water Tower Premises for use in connection with AT&T's federally licensed communications business; and

WHEREAS, Section 160A-272 of the North Carolina General Statutes provides that property owned by the City may be leased to a tenant if the desired property will not be needed by the City for the term of the lease; and

WHEREAS, public notice was given by the City Council of the City of Asheboro in accordance with Section 160A-272 of the North Carolina General Statutes that said council intended to consider a resolution authorizing the lease of the property desired by AT&T during the council's regularly scheduled meeting on July 10, 2003; and

Minutes  
Page 12  
July 10, 2003

WHEREAS, on the basis of the recommendation from the City's professional staff, the City Council of the City of Asheboro has determined that the portion of the Water Tower Premises that AT&T wishes to lease will not be needed by the City during the term of the lease:

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, during a regular meeting of the council, as follows:

Section 1. The lease to AT&T of the portion of the Water Tower Premises sought by AT&T shall be granted when, and only if, AT&T enters into a lessor/lessee relationship with the City pursuant to terms and conditions that are substantially and materially similar to the terms and conditions specified in the agreement that is attached to this resolution and labeled as "**Exhibit 1.**" Said Exhibit 1 is hereby incorporated into this resolution by reference as if copied fully herein.

Section 2. Due to the fact that AT&T is seeking a lease for a term in excess of ten (10) years, the City Manager, City Clerk, and City Attorney are hereby directed to negotiate with AT&T a proposed lease agreement that complies with the provisions of this resolution, require from AT&T a bid deposit that is equivalent to five percent (5%) of the rent payment due for one month under the proposed lease agreement, publish notice of the negotiated offer from AT&T, and accept upset bids in accordance with the provisions of Section 160A-269 of the North Carolina General Statutes. Once the procedures specified in Section 160A-269 of the North Carolina General Statutes are followed until no further qualifying upset bids are received, the final and best offer may be brought to the city council for final action.

Adopted this the 10<sup>th</sup> day of July, 2003.

S/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole  
Carol J. Cole, City Clerk

Exhibit 1, as referred to in this Resolution, is attached to the original resolution on file in the city clerk's office.

12. **Resolution Authorizing the Mayor and City Clerk to Execute an Instrument Granting a Temporary Access Easement From the City of Asheboro to Eric D. Luckenbach and Wife, Christie K. Luckenbach.**

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

Upon motion by Mr. Baker and seconded by Mrs. Carter, council voted unanimously to adopt the following resolution by reference:

74 RES 7-03

**RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN INSTRUMENT GRANTING A TEMPORARY ACCESS EASEMENT FROM THE CITY OF ASHEBORO TO ERIC D. LUCKENBACH AND WIFE, CHRISTIE K. LUCKENBACH**

WHEREAS, the City of Asheboro, hereinafter referred to as the "City," owns a certain tract of land at Lake Bunch that lies southwest of Old Lexington Road (North Carolina Secondary Road 1004) and is more particularly described in Deed Book 218, Page 134 and in Deed Book 261, Page 101, Randolph County Registry; and

Minutes  
Page 13  
July 10, 2003

WHEREAS, Eric D. Luckenbach and wife, Christie K. Luckenbach, hereinafter referred to as the "Luckenbachs," own a parcel of land that adjoins the city-owned property described in the preceding paragraph and that is more particularly described in Deed Book 1815, Page 2627, Randolph County Registry; and

WHEREAS, the Luckenbachs have requested that the City grant a temporary easement to them for the use of, and to maintain a driveway for ingress, egress, and regress over Little Lakes Trail Road where said road crosses the above-described city-owned property; and

WHEREAS, Section 160A-273 of the North Carolina General Statutes provides that a city has authority to grant easements over, through, under, or across any city property; and

WHEREAS, the City Council of the City of Asheboro has determined that the proposed temporary non-exclusive right of easement that is found in the DEED OF EASEMENT attached to this resolution as "EXHIBIT 1" is acceptable and should be granted by the City to the Luckenbachs, said EXHIBIT 1 is incorporated into this resolution by reference as if copied fully herein.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, this 5th day of June, 2003, that the Mayor and the City Clerk of the City of Asheboro are hereby authorized and directed to execute on behalf of the City of Asheboro a DEED OF EASEMENT that is substantially and materially similar to the DEED OF EASEMENT that is attached to this resolution as EXHIBIT 1.

ATTEST:

S/ David H. Jarrell  
David H. Jarrell, Mayor

S/ Carol J. Cole  
Carol J. Cole, City Clerk

Exhibit 1, as referred to in this Resolution, is attached to the original resolution on file in the city clerk's office.

13. **Ordinance Amending Section 51.36 of the Code of Asheboro.**

Mr. Sugg presented and reviewed the aforementioned Ordinance and recommended its adoption.

Upon motion by Mr. Priest and seconded by Mr. Smith, council voted unanimously to adopt the following ordinance:

67 ORD 7-03

## AN ORDINANCE AMENDING SECTION 51.36 OF THE CODE OF ASHEBORO

WHEREAS, Chapter 51 of the Code of Asheboro prescribes certain regulations pertinent to the services provided by the Sanitation Department for the City of Asheboro; and

WHEREAS, Section 51.36 specifies user charges for residential sanitation customers; and

WHEREAS, the City Council of the City of Asheboro concurs with the City Manager and Finance Officer that the above-listed section of the Code of Asheboro should be amended to address the appearance of a disparity in treatment between residential customers who reside in traditional single family dwellings and those residential customers who reside in town homes:

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

Section 1. Section 51.36 of the Code of Asheboro, which is entitled **"USER CHARGES FOR RESIDENTIAL SANITATION CUSTOMERS,"** shall be amended to provide as follows:

Minutes  
Page 14  
July 10, 2003

(A) A charge of \$17.00 per regularly scheduled pick-up of a dumpster for residential sanitation customers is hereby established; provided, however, no charge shall be made for the pick-up of dumpsters utilized by residential sanitation customers residing in developments or portions of developments that have been designed for occupancy by owner-occupants and that have, in fact, been conveyed primarily to owner-occupants. Subject to the exception specified in the immediately preceding sentence, all additional pick-ups for such dumpsters shall be \$27.00 per pick-up. No charge shall be made for pick-ups of cans for residential sanitation customers.

(B) A one pick-up per week minimum is hereby established for any residential customer using a dumpster.

(C) The collection charges instituted in this section will be added to the sanitation customer's water and sewer bill. Payment terms will be the same as for the water and sewer bill. In the event of nonpayment of this charge, collection of the customer's refuse will be discontinued until payment is remitted in full. In the event of a partial payment on a combined water-sewer and sanitation bill, the payment shall be first applied to the sanitation charge and the remainder, if any, shall be applied to the water-sewer charges. Failure to pay the full balance of the water-sewer bill shall result in the consequences specified in the city code; generally, termination of service.

(D) Unless arrangements are made otherwise and the city is notified of and agrees to these arrangements, the owner(s) of the real property where a residential dumpster is located shall be responsible for the charges specified in this section.

(E) The owner(s) of the property upon which a dumpster is located is deemed responsible for the maintenance of his or her lot(s) in general and the location of the dumpster site in particular so as to allow the city sanitation trucks reasonable access to the dumpster.

(F) In order to receive residential dumpster service, all property owners must complete a dumpster permit and sign a hold harmless agreement in favor of the city.

(G) The city is not liable for any damages resulting to parking lots, drives, and the like caused by the weight of the trucks used for dumpster pick-up. Each property owner is expected to maintain a lot or drive of sufficient structure to support the weight of the collection trucks.

(H) No refuse which is unacceptable as routine refuse at the landfill will be collected from residential sanitation customers. Examples of unacceptable waste include but are not limited to: hazardous waste, tires, batteries, medical waste, yard waste, liquid waste, and white goods. Any receptacles containing any of these materials will not be picked-up by the sanitation department until the unacceptable materials are removed.

(I) The owner of the premises where the dumpsters are located and the residents utilizing the dumpsters/containers are responsible for the contents of the containers. The city is not responsible for policing containers to prevent the dumping of unacceptable waste, or refuse from individuals not related to the customer(s).

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 this the 10th day of July, 2003.

S/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole  
Carol J. Cole, City Clerk  
Minutes  
Page 15  
July 10, 2003

**14. Ordinance Amending Chapter 151 of the Code of Asheboro.**

Mr. Sugg presented and reviewed the aforementioned ordinance and recommended its adoption.

Upon motion by Mrs. Carter and seconded by Mr. Baker, council voted unanimously to adopt the following ordinance by reference:

68 ORD 7-03

**AN ORDINANCE AMENDING CHAPTER 151 OF THE CODE OF ASHEBORO**

WHEREAS, in accordance with Section 160A-444 of the North Carolina General Statutes, Chapter 151 of the Code of Asheboro prescribes minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation within the City of Asheboro; and

WHEREAS, the regulatory provisions found within Chapter 151 of the Code of Asheboro make reference to a Housing Appeals Board; and

WHEREAS, the City of Asheboro does not currently have a properly constituted Housing Appeals Board; and

WHEREAS, Section 160A-446(a) of the North Carolina General Statutes provides that the governing board of a municipality may provide for appeals from any decision or order of the public officer designated in accordance with Part 6 (Minimum Housing Standards) of Article 19 of Chapter 160A of the North Carolina General Statutes to be heard by the municipality's zoning board of adjustment; and

WHEREAS, the City Council of the City of Asheboro has determined that the Asheboro Board of Adjustment is well qualified and suited to hear such appeals:

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

Section 1. Section 151.14 of the Code of Asheboro is hereby amended to provide as follows:

§ 151.14 PROCEDURE FOR ENFORCEMENT.

(A) Preliminary investigation; notice; hearing. Whenever a petition, is filed with the Inspector by a Public Authority or by at least five residents of the city charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Inspector, upon inspection, that any dwelling or unit is unfit for human habitation he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the Inspector at a place therein fixed, not less than ten nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant in courts of law or equity shall not be controlling in hearings before the Inspector.

(B) Procedure after hearing. After such notice and hearing, the Inspector shall state in writing his determination whether the dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.

(1) If the Inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter within a specified period of time, not to exceed 90 days. Such order may also

Minutes  
Page 16  
July 10, 2003

direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made.

(2) If the Inspector determines that the dwelling is dilapidated, he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner either to repair, alter or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter, or else to vacate and remove or demolish the same within a specified period of time not to exceed 90 days.

(C) Failure to comply with order.

(1) In personam remedy. If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter, or improve or to vacate and close the same within the time specified therein, or if the owner of a dilapidated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter or improve or to vacate and close and remove or demolish the same within the time specified therein, the Inspector shall submit to the City Council at its next regular meeting a resolution directing the City Attorney to petition the superior court for an order directing such owner to comply with the order of the Inspector, as authorized by G.S. § 160A-446(g).

(2) In rem remedy. After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding division (1), the Inspector shall submit to the City Council an ordinance ordering the Inspector to cause such dwelling or dwelling unit to be repaired, altered, improved, vacated, closed, removed or demolished, as provided in the original order of the Inspector, and pending removal or demolition, to place a placard on such dwelling as provided by G.S. § 160A-443 and § 151.16.

(D) Appeals from orders of Inspector. An appeal from any decision or order of the Inspector may be taken by any person aggrieved thereby. Any appeal from the Inspector shall be taken within ten days from the rendering of the decision or service of the order, and shall be taken by filing with the Inspector and with the ~~Housing Appeals Board~~ zoning board of adjustment for the City of Asheboro a notice of appeal which shall specify the grounds upon which the appeal is based. Said notice of appeal to the zoning board of adjustment, hereinafter referred to as the "Board," shall be filed with the Zoning Administrator for the City of Asheboro on a form prescribed by the Zoning Administrator. Upon the proper filing of any notice of appeal, the Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When an appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Inspector certifies to the Board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished to the appellant), a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except for due cause shown upon not less than one day's written notice to the Inspector, by the Board, or by a court of record upon petition made pursuant to G.S. § 160A-446(f) and division (E) below.

(1) The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Inspector, but the concurring vote of ~~four~~ seven members of the Board shall be necessary to reverse or modify any

decision or order of the Inspector. The Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

Minutes  
Page 17  
July 10, 2003

(2) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

(E) Petition to superior court by owner. Any person aggrieved by an order issued by the Inspector or a decision rendered by the Board shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the Inspector pending a final disposition of the cause, as provided by G.S § 160A-446(f).

Section 2. Section 151.19 of the Code of Asheboro is hereby amended to provide as follows:

§ 151.19 ~~HOUSING APPEALS BOARD.~~ ZONING BOARD OF ADJUSTMENT DESIGNATED TO HEAR APPEALS.

~~There is hereby created a Housing Appeals Board to which appeals may be taken from decisions or orders of the Inspector, as provided by § 151.14(D). The Board shall consist of five members to serve for three year staggered terms. The Board shall have the power to elect its own officers, to fix the times and places of its meetings, to adopt necessary rules of procedure and to adopt other rules and regulations for the proper discharge of its duties. Pursuant to and in accordance with Section 160A-446(a) of the North Carolina General Statutes, the Board of Adjustment established by Article 900 of the Asheboro Zoning Ordinance is hereby designated as the board that shall perform the duties prescribed by § 151.14(D) of the Code of Asheboro. and When discharging its duties pursuant to Chapter 151 of the Code of Asheboro and Article 19 of Chapter 160A of the North Carolina General Statutes, the Board of Adjustment shall keep an accurate record of all its proceedings.~~

Section 3. If any section or provision of this ordinance is declared invalid, such a decision will not affect the validity of the remaining portions of this ordinance.

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

Section 5. This ordinance shall become effective upon adoption.

Adopted this the 10th day of July, 2003.

ATTEST:

S/ David H. Jarrell  
David H. Jarrell, Mayor

S/ Carol J. Cole  
Carol J. Cole, City Clerk

**15. Resolution Authorizing the Mayor and City Clerk to Execute an Amendment to an Existing Economic Development Incentives Contract Between the City of Asheboro, the County of Randolph, and Unilever Bestfoods, Inc.**

Mr. Sugg reported that the existing contract between the City of Asheboro, County of Randolph, and Unilever Bestfoods, Inc. specifies that a written certification from Unilever's external auditor establish that Unilever has satisfied a certain performance requirement. Unilever is requesting that the contract be amended to allow its Senior Vice President of Finance to provide written certification that the certain performance requirement has been satisfied.

Mr. Sugg presented and recommended adoption of a resolution authorizing this modification. This request for modification of the contract will also have to be approved by the County of Randolph.

Upon motion by Mr. McGlohon and seconded by Mr. Smith, council voted unanimously to adopt the following resolution by reference:

**RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AMENDMENT TO AN EXISTING ECONOMIC DEVELOPMENT INCENTIVES CONTRACT**

WHEREAS, the City of Asheboro (hereinafter referred to as the "City"), the County of Randolph (hereinafter referred to as the "County"), and Unilever Bestfoods, Incorporated (hereinafter referred to as "Unilever"), an Anglo-Dutch corporation licensed to do business in North Carolina, previously entered into a binding written contract, which was captioned as an AGREEMENT FOR ECONOMIC INCENTIVES and dated May 5, 2003, whereby the County and the City agreed to pay Unilever an economic development incentive, upon Unilever achieving certain performance requirements, in a single lump-sum payment of two hundred fifty thousand dollars (\$250,000.00) for the purpose of aiding and encouraging the expansion of Unilever's facilities in the City of Asheboro, Randolph County, North Carolina; and

WHEREAS, Unilever has requested that the County and City consider modifying one (1) provision of said contract to reflect that Unilever may, in lieu of producing a written certification from its external auditor, establish by way of a written certification from its Senior Vice President of Finance of Unilever Bestfoods North America that Unilever has in fact satisfied a performance requirement, which was imposed under the existing contract, that the actual new value/investment in real and personal property of the expansion project contemplated by the contract equal or exceed the sum of five million five hundred thousand dollars (\$5,500,000.00); and

WHEREAS, Unilever is making this request on the basis of the fact that Unilever's corporate governance structure and audit system is designed in a manner that renders the attainment of the required certification from the corporation's external auditor cost prohibitive; and

WHEREAS, Unilever is willing and able to provide a written certification from the Senior Vice President of Finance of Unilever Bestfoods North America as to the same facts required under the existing contract from the company's external auditor; and

WHEREAS, the City Council has found the available evidence sufficient to support the conclusion that Unilever is credible when its corporate officers make the assertion that the corporation has complied with the performance requirements imposed by the existing economic development incentives contract.

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

Section 1. The request by Unilever to amend the existing economic development incentives contract between Unilever, the County, and the City so as to allow the corporation's Senior Vice President of Finance of Unilever Bestfoods North America to make a written certification in lieu of the corporation's external auditor as to the actual new value/investment in real and personal property of the expansion project contemplated by the economic development incentives contract does not represent, in the opinion of the city council, an unacceptable or material alteration of the terms of the existing contract.

Section 2. The Mayor and City Clerk of the City of Asheboro are authorized and directed to execute on behalf of the City of Asheboro an instrument drafted by the city attorney to effectuate the contract amendment authorized by this resolution.

Adopted this 10<sup>th</sup> day of July, 2003.

S/ David H. Jarrell  
David H. Jarrell, Mayor

ATTEST:

S/ Carol J. Cole  
Carol J. Cole, City Clerk

**16. Finance & Public Safety Matters.**

No official meeting was held.

**17. Public Works Matters.**

Mr. Priest, chairman of the public works committee, stated that the committee met at 4:00 PM on Wednesday, July 9, 2003. Assistant City Engineer Michael Rhoney reported on the Harvell Street area that has petitioned for annexation. He stated that all of Harvell Street has water service but only part of Harvell Street has sewer provided through private sewer services located in the street right-of-way. The NCDOT will not accept maintenance of streets with private services in the right-of-way. Mr. Rhoney discussed the cost of street paving and additional curb and guttering. The committee discussed extending sewer mains to all of these properties. Mr. Ogburn stated that he would have the staff prepare an annexation study of the entire neighborhood all the way back to Mack Road, Sherwood Avenue and Mine Street.

Mr. Priest stated that the committee also discussed the Water & Sewer Adjustment Policy, which was adopted by council earlier tonight.

There being no further business, the meeting adjourned at 8:00 PM.

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Carol J. Cole, CMC, City Clerk

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David H. Jarrell, Mayor

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