

**REGULAR MEETING
ASHEBORO CITY COUNCIL
COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, AUGUST 5, 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 Planning and Development Department Intern
Holly H. Doerr, City Clerk/Senior Legal Assistant
John L. Evans, Planner
Casandra M. Fletcher, Marketing Specialist
R. Wendell Holland, Jr., Zoning Administrator
R. Reynolds Neely, Jr., Planning 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. Moment of silence 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. Prior to the consideration of the consent agenda, Mayor Smith acknowledged the deeply held beliefs and opinions that citizens hold with regard to the issue of legislative invocations. In order to facilitate the City Council's formal consideration of this issue, Mayor Smith asked the City Attorney to provide, during the next regular council meeting, a report on the status of the law

pertaining to legislative invocations. Following the presentation of this report, the council members will discuss this issue as part of an agenda item.

5. Consent agenda. [Agenda Item Number 4]

With the exception of consent agenda item (b), for which a continuance was requested by city staff, Dr. Fountain moved to approve the remaining consent agenda items. Mr. Baker seconded the motion. The council voted unanimously to continue consent agenda item (b) to the Council's regular September meeting and to approve the remaining consent agenda items that are listed as follows:

- (a) **The minutes of the regular meeting of the City Council that was held on July 8, 2010.**
- (b) **[Item (b) was continued to the Council's regular September meeting.]**
- (c) **The temporary closing of streets for Fall Festival XXXVIII.**

[A copy of the street map submitted as part of this request is on file in the City Clerk's office.]
- (d) **A resolution appointing J. Brooke Schmidly to a three-year term on the Asheboro ABC Board.**

28 RES 8-10

RESOLUTION APPOINTING J. BROOKE SCHMIDLY TO A THREE-YEAR TERM ON THE ASHEBORO ABC BOARD

WHEREAS, consistent with Section 18B-700 of the North Carolina General Statutes, the Asheboro ABC Board consists of three (3) members that are appointed by the Asheboro City Council; and

WHEREAS, Section 18B-700(a) of the North Carolina General Statutes provides, in pertinent part, as follows:

One member of the initial board of a newly created ABC system shall be appointed for a three-year term, one member for a two-year term, and one member for a one-year term. As the terms of the initial board members expire, their successors shall each be appointed for three-year terms; and

WHEREAS, J. Brooke Schmidly was first appointed to the Asheboro ABC Board for a two-year term on August 12, 2008, when the initial local board was appointed by the Asheboro City Council; and

WHEREAS, subsequent to the initial appointment of the current board members, the Asheboro ABC Board has performed its duties in a very efficient and professional manner; and

WHEREAS, the Asheboro City Council believes that it is in the best interest of the Asheboro ABC system and the municipal corporation to appoint J. Brooke Schmidly to the Asheboro ABC Board for a full three-year term, and Ms. Schmidly has agreed to accept this appointment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that, effective August 12, 2010, J. Brooke Schmidly is appointed to a three-year term on the Asheboro ABC Board.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 5th day of August, 2010.

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

ATTEST:

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

(e) An ordinance to amend the Economic Development Fund Fiscal Year 2010-2011.

38 ORD 8-10

ORDINANCE TO AMEND THE ECONOMIC DEVELOPMENT FUND FY 2010-2011

WHEREAS, on February 23, 2010, the City of Asheboro submitted a grant request for the Rural Center Building Reuse and Restoration Program Grant for Premiere Fibers in the amount of \$40,000, and:

WHEREAS, this grant request was to support Premiere Fibers' improvements to and reuse of the former Universal Fibers building at 749 Pineview Rd as well as the creation of two new employees, and;

WHEREAS, the City of Asheboro's application was approved and subsequently entered into a grant agreement with the Rural Economic Development Center Inc. on May 20th, 2010, and;

WHEREAS, the structure of the agreement is that funds from the Rural Economic Development Center Inc. will pass thru the City of Asheboro on to Premier Fibers as Premier Fibers incurs certain costs, and

WHEREAS, the City of Asheboro has received its first distribution in the amount of \$21,541.88 from the Rural Economic Development Inc and therefore needs to account for these and future pass through funds in the Economic Development Fund, 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:

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

<u>Account #</u>	<u>Revenue Description</u>	<u>Increase</u>	<u>Amended Budget</u>
72-380-0000	Rural Economic Dev. Center Inc.	40,000	40,000

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

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>	<u>Amended Budget</u>
72-870-0000	Premiere Fibers	40,000	40,000

Adopted this the 5th day of August 2010.

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

ATTEST:

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

OLD BUSINESS

6. **RZ-10-06: Request to rezone from Medium-Density Residential (R10) to Conditional Use General Commercial (CUB2). [Agenda Item Number 5]** The 4.55 acres of land owned by CommunityOne Bank and located immediately south of 187 Browers Chapel Road. This property is more specifically identified by Randolph County Parcel Identification Number 7760473123.

The public hearing for the above-referenced rezoning request was continued from the Council's regular July meeting. Since the date of the July hearing, the Applicant has modified the request. The original application requested the rezoning of the above-described parcel of land as well as the parcel of land located at 187 Browers Chapel Road (Randolph County Parcel Identification Number 7760473548). This original request sought to place these parcels of land in a B2 zoning district.

The modified request considered by the City Council during its regular August meeting included only the parcel of land located immediately south of 187 Browers Chapel Road. Additionally, this modified request sought to place the parcel in a CU-B2 zoning district, not a B2 zoning district. The modified application did not include a request for the issuance of a Conditional Use Permit.

Mr. Evans presented the staff's analysis of the request by CommunityOne bank to rezone the above-referenced property from R10 (Medium Density) to CUB2 (Conditional Use General Commercial). As part of his presentation, Mr. Evans presented a copy of a valid protest petition that was submitted to the planning department and signed by the required number of qualifying property owners. Because a protest petition was submitted in compliance with Article 1000, Section 1011.7 of the Asheboro Zoning Ordinance, a super majority (3/4 of all members) of the City Council must vote affirmatively to approve this rezoning request.

The Planning Board recommended denial of the requested rezoning because the Board concurred with the analysis provided by the planning department staff. The staff's analysis is as follows:

“Although the Conditional Use zoning and permit process does have the potential to ensure that a commercial development is in greater harmony with surrounding land uses than the straight B2 zoning district, the Land Development Plan Proposed Land Use Map reflects neighborhood residential use, and thus, continuing to extend commercial zoning this far south along Browers Chapel Road does not comply with the goals, policies, or map of the Land Development Plan. Therefore, staff recommends denial of the request.”

Mr. H.R. Gallimore presented comments in support of the request.

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

Mr. Moffitt moved to rezone the above-referenced property to the requested CU-B2 (Conditional Use General Commercial) zoning district. Mr. Baker seconded the motion. Council Members Bell, Baker, Burks, Hunter, and Moffitt voted in favor of the motion. Dr. Fountain and Ms. Carter voted no. The basis of the "no" votes was the council members' concurrence with the Planning Board and the Planning Department Staff's analysis. Due to the fact that the required super majority of six (6) affirmative votes were not obtained, the motion failed, and the requested rezoning was denied.

7. Land Use Issues: [Agenda Item Number 6]

- (a) **RZ-10-10: Request for technical amendments to the zoning ordinance.** An application filed by the City of Asheboro to amend Article 200, Article 300A, Article 600, Article 800, and Article 1100 of the Asheboro Zoning Ordinance.

Mayor Smith opened the public hearing on the following request.

Mr. Neely presented an overview of the Planning Department Staff's proposed amendments to the Asheboro Zoning Ordinance based on the following analysis:

"The purpose of these technical amendments is to amend the provisions regarding manufactured homes. Manufactured homes that are built to the North Carolina Building code are not considered manufactured or mobile homes by the ordinance. Manufactured homes are regulated by this ordinance if they are built to HUD regulations, rather than modular homes that are built to the specifications of the North Carolina Building Code.

The zoning ordinance definition of manufactured homes includes three (3) classifications (Class A, Class B, and Class C). Class A manufactured homes are ten (10) years old or less and meet appearance criteria of the City of Asheboro (i.e. masonry foundation, towing tongue removed, etc.) Class B manufactured homes are ten (10) years old or less and do not meet the city's appearance criteria. Class C manufactured homes are those that do not fit the definition of Class A or Class B. Class C homes are not permitted.

Class A manufactured homes on individual lots are permitted in the R40 zoning district. A manufactured home park is permitted in the R40, R10, R7.5 and RA6 zoning districts with a Special Use Permit. Staff does not propose amendments to the location provisions of manufactured homes found in Table 200-2 of the zoning ordinance.

The current ordinance requires manufactured homes to be no older than ten (10) years at the time of placement. Exceptions to this age provision exist when replacing existing manufactured homes with new manufactured homes."

At its most basic level, the Planning Department Staff is proposing to eliminate provisions mandating that manufactured homes be no more than ten (10) years old at the time of placement. In lieu of this age requirement, the staff is proposing additional performance criteria for inclusion in the zoning ordinance. Copies of the exact text of the proposed amendments are on file in the City Clerk's office.

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

“Staff believes that the proposed regulations focus appropriately on performance standards (including appearance, placement, satisfying HUD requirements), instead of setting a particular age limit. Staff believes the proposed regulations achieve greater housing choices, while ensuring the appearance of manufactured housing blends harmoniously with its environs. Staff therefore believes the proposed amendments are within the public interest in supporting a reasonable use of property.”

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

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

Upon motion by Ms. Carter and seconded by Mr. Burks, Council followed the recommendations of the Planning Department Staff and Planning Board and voted unanimously to approve the proposed amendments to the Asheboro Zoning Ordinance.

- (b) **SUP-10-03: Request for Special Use Permit for a Child Day Care Center.** The property of Schwarz Properties, LLC is located at 203 English Street and consists of approximately 0.78 of an acre of land. Randolph County Parcel Identification Numbers 7762045118 and 7762045237 more specifically identify the property.

Mayor Smith opened the public hearing on the following request.

Mr. Neely was sworn in and presented the staff's analysis of the Applicant's request including the submitted site plan. The Applicant, RCS Head Start, requested a Special Use Permit for a child day care center (medium) to be located at 203 English Street within a multi-use commercial development.

Mr. Harry Fisher, Esq. was sworn in and addressed the four tests.

There being no further comments and no opposition from the public, Mayor Smith closed the public hearing. An audiotape of the testimony presented during this hearing is on file in the City Clerk's office.

Upon motion by Dr. Fountain and seconded by Ms. Carter, Council voted unanimously to approve the requested Special Use Permit. The issuance of this Special Use permit was based on the four standard tests being met.

The formal findings of fact, conclusions of law, and order granting the Special Use Permit will be entered by the Council during regular session on September 9, 2010. This order will reflect certain conditions imposed upon this permit as a consequence of the testimony presented during the hearing of this matter.

- (c) **RZ-10-11: Request for technical amendments to the zoning ordinance.** An application filed by Carillon Assisted Living to amend Article 600 of the Asheboro Zoning Ordinance.

Mr. Neely presented the staff's analysis of the request by Carillon Assisted Living to amend Article 600 of the Asheboro Zoning Ordinance. The Applicant proposes the following amendment to Section 620.1:

“Such facilities may be developed to a ~~Floor Area Ratio of .17~~, provided the development is located on a minimum of 2 acres.”

The Planning Board concurred with the Planning Department Staff’s analysis and recommended approval of the request. The Planning Department Staff’s analysis provided as follows:

“The applicant presents reasonable rationale in support of the text amendments. Staff believes a floor area ratio that matches the underlying zoning district is appropriate since the Special Use Permit process allows review of appropriate intensity and compatibility of congregate living facilities on a case by case basis. Additionally, the floor area ratio requirements being governed by the underlying zoning district is consistent with other non-residential uses requiring a Special Use Permit in a residential zoning district. Considering these factors, staff recommends approval of the amendment.”

Mr. Bob Stephenson of Carillon Assisted Living presented comments in support of the request.

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

Upon motion by Mr. Baker and seconded by Mr. Burks, Council followed the recommendations of the Planning Board and the Planning Department Staff and voted unanimously to approve the proposed amendment to the Asheboro Zoning Ordinance.

- (d) **SUP-10-04: Request for Special Use Permit for a Congregate Living Facility.** The property of Carillon Assisted Living, LLC is located at 2925 Zoo Parkway and consists of approximately 4.53 acres of land. Randolph County Parcel Identification Number 7669473765 more specifically identifies the property.

Mayor Smith opened the public hearing on the following request.

Mr. Neely was sworn in and presented a written request from the Applicant to continue this item to the Council’s regular September meeting.

Upon motion by Mr. Baker and seconded by Mr. Burks, Council voted unanimously to continue the above-referenced item to its regular September meeting.

- (e) **RZ-10-12: Request to rezone from R10/R40/B2 to I2 (General Industrial).** The property of Thayer, Thayer and Neely, Thomas A. and Barbara Luther, William F. and Janet A. Tyler, and Larry W. and Christy B. McKenzie is located along Veterans Loop Road and consists of approximately 70.63 acres of land. Randolph County Parcel Identification Numbers 7659261516, 7659374126, 7659268704, 7659275451, and 7659273991 more specifically identify the property.

Mayor Smith opened the public hearing on the following request.

Mr. Neely presented the staff’s analysis of the request by Jim Neely, Thomas A. and Barbara Luther, and Larry McKenzie to rezone the above-referenced property from R10 (Medium Density Residential)/R40 (Low Density Residential)/B2 (General Commercial) to I2 (General Industrial). The Planning Board recommended approval of the requested rezoning because the Board concurred with the analysis provided by the planning department staff. The staff’s analysis is as follows:

“The request is supported by the Land Development Plan map text. Additionally, the property’s location in an Economic Development Zone as envisioned by the Land Development Growth Strategy Map is appropriate for the I2 (General Industrial) zoning classification. Considering these factors, staff believes the rezoning is generally within the public interest in supporting a reasonable use of property.”

Mr. Joey Trogdon presented comments in support of the request.

Mr. Avon Craven presented comments relating to his concerns about the requested rezoning. Specifically, Mr. Craven was concerned with the appearance of the site and preferred that the area be kept clean.

Mr. Lynn Lancaster questioned the expenditure of public funds for the development of this particular project. Mr. Bunker responded to some of Mr. Lancaster’s concerns.

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

Upon motion by Dr. Fountain and seconded by Mr. Hunter, Council unanimously followed the recommendation of the Planning Board and approved the requested rezoning.

8. Consideration of a petition received from Thayer and Neely requesting contiguous annexation of 19.203 acres of land located at the end of Veterans Loop Road. [Agenda Item Number 7]

Mayor Smith opened the public hearing on the proposed annexation of 19.203 acres of land located at the end of Veterans Loop Road.

In order to address an inquiry by Mr. Lynn Lancaster concerning the cost of the project if the grants were not approved for a particular economic development project, Mr. Bunker discussed the city’s policy for the extension of the city’s services during a voluntary annexation.

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

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

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

Ordinance Number 39 ORD 8-10
ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
CITY OF ASHEBORO, NORTH CAROLINA
(A Total of 19.203 Acres of Land Located at the End of Veterans Loop Road)

WHEREAS, pursuant to Section 160A-31 of the North Carolina General Statutes, a petition for annexation into the corporate limits of the City of Asheboro of the territory described in Section 1 of this ordinance was presented to the Asheboro City Council on July 8, 2010; and

WHEREAS, this petition for annexation was signed by the owners of all of the real property located within the area for which annexation was requested; and

WHEREAS, by means of a duly adopted resolution, the Asheboro City Council directed the City Clerk of the City of Asheboro to investigate the sufficiency of the petition, and the clerk has certified the sufficiency of the said petition; and

WHEREAS, pursuant to instructions received from the Asheboro City Council, notice was published to the public on the 15th day of July, 2010, in *The Courier-Tribune*, a newspaper having general circulation in the City of Asheboro, setting forth that a public hearing would be held during the Asheboro City Council's regular meeting at 7:00 o'clock p.m. on the 5th day of August, 2010, at the City of Asheboro Municipal Building, to consider the adoption of an ordinance annexing the said area to the City of Asheboro; and

WHEREAS, the said public hearing was in fact held on the 5th day of August, 2010; and

WHEREAS, the Asheboro City Council has determined that the petition meets the requirements of Section 160A-31 of the North Carolina General Statutes.

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

Section 1. By virtue of the authority granted in the North Carolina General Statutes, Chapter 160A, Article 4A, Part 1, the following described area is hereby annexed and made part of the City of Asheboro, North Carolina:

Cedar Grove Township, Randolph County, North Carolina:

BEGINNING at the control corner that is located by means of the North Carolina Coordinate System at the coordinates of North 696,114.25924 feet and East 1,751,770.98724 (NAD 83) and is marked with an axle that is up 10", the said control corner is South 51 degrees 07 minutes 09 seconds East 277.61 feet from North Carolina Geodetic Survey Monument "SIGN," which is located at the coordinates of North 696,288.51557 feet and East 1,751,554.88068 feet (NAD 83) (2001); thence from the said beginning point following the proposed primary corporate limits line for the City of Asheboro along the Shirley Keeling Anderson property described in Estate File 09E – 878 in the office of the Randolph County Clerk of Superior Court and further described by a plat recorded in Plat Book 125, Page 8, Randolph County Public Registry the following course and distance: South 00 degrees 06 minutes 15 seconds East 217.50 feet to a concrete right-of-way monument control corner set in the eastern margin of the right-of-way for United States Highway 220 By-Pass (I-73/74); thence following the eastern margin of the right-of-way for United States Highway 220 By-Pass in a northeasterly direction along the arc of a curve with a radius of 3,690.00 feet a chord bearing and distance of North 02 degrees 57 minutes 19 second East 1,411.55 feet (Delta Angle = 22 degrees 03 minutes 13 seconds) to a 1-c" existing iron pipe that is up 1'6"; thence along the George Henry Rider property described in Deed Book 2054, Page 560, Randolph County Public Registry the following courses and distances: North 77 degrees 49 minutes 44 seconds East 174.71 feet to a 60D nail set at a ½" existing iron rod that is flush with the ground; thence North 72 degrees 18 minutes 51 seconds East 113.21 feet to a 1" existing iron rod that is down 5"; thence North 72 degrees 18 minutes 51 seconds East 2.18 feet to a point not set at the western margin of the 60-foot right-of-way for Veterans Loop Road (North Carolina Secondary Road 1149); thence continuing

along the property line of the George Henry Rider property and into the right-of-way for Veterans Loop Road the following course and distance: North 67 degrees 12 minutes 31 seconds East 120.57 feet to a point not set; thence North 35 degrees 18 minutes 59 seconds West 20.00 feet along the property line of the William Tyler and Larry McKenzie property described in Deed Book 1956, Page 1447, Randolph County Public Registry to a point not set in the northern margin of the right-of-way for Veterans Loop Road; thence along the existing primary corporate limits line of the City of Asheboro and the northern margin of the right-of-way for Veterans Loop Road the following courses and distances: North 65 degrees 50 minutes 52 seconds East 61.75 feet to a point not set; thence in a northeasterly direction along the arc of a curve with a radius of 924.93 feet a chord bearing and distance of North 62 degrees 57 minutes 24 seconds East 85.62 feet (Arc Distance = 85.65 feet; Tangent = 42.86 feet; Delta Angle = 05 degrees 18 minutes 21 seconds) to an aluminum right-of-way disc; thence North 60 degrees 27 minutes 17 seconds East 49.85 feet to a point not set; thence departing from the existing primary corporate limits of the City of Asheboro and across the right-of-way for Veterans Loop Road the following courses and distances: South 01 degree 20 minutes 43 seconds East 35.67 feet to a point not set; thence South 01 degree 20 minutes 43 seconds East 32.41 feet to a ½" new iron rod that is up 4"; thence South 01 degree 20 minutes 43 seconds East 69.83 feet along the Thomas A. Luther property described in Deed Book 1387, Page 578, Randolph County Public Registry to a 60D nail set in a stone pile; thence South 01 degree 20 minutes 43 seconds East 1,219.56 feet along the Tom Luther property described in Deed Book 1300, Page 1426, Randolph County Public Registry to a ½" existing iron rod and stone pile; thence continuing with the proposed primary corporate limits line for the City of Asheboro along the Shirley Keeling Anderson property described in Estate File 09E – 878 the following courses and distances: South 00 degrees 32 minutes 59 seconds East 69.00 feet to a ½" existing iron rod that is up 6"; thence North 89 degrees 03 minutes 08 seconds West 166.46 feet to a ½" existing iron rod that is up 6"; thence North 89 degrees 03 minutes 21 seconds West 493.54 feet to the point and place of BEGINNING, and containing 19.203 acres of land, more or less, to be annexed.

The above-listed description is in accordance with a plat of survey entitled "ANNEXATION SURVEY FOR CITY OF ASHEBORO." This plat was drawn under the supervision of Jerry A. King, Professional Land Surveyor with Registration Number L-3373, from an actual survey made under his supervision. The said plat is dated July 1, 2010, and the job number listed on the plat is 5969 A 10.

Section 2. Upon and after August 5, 2010, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Asheboro and shall be entitled to the same privileges and benefits as other parts of the City of Asheboro. Said territory shall be subject to municipal taxes according to Section 160A-58.10 of the North Carolina General Statutes.

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

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

Section 5. This ordinance shall be in full force and effect upon and after the 5th day of August, 2010.

This ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 5th day of August, 2010.

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

ATTEST:

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

Approved as to form:

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

9. Consideration of a proposed economic development project on Veterans Loop Road. [Agenda Item Number 8]

- (a) Public hearing on the possible submission of a Community Development Block Grant application for an economic development project designed to extend municipal water and sewer lines to serve Allen Precision Industries at Veterans Loop Road.**

Mayor Smith opened the public hearing on the possible submission of a Community Development Block Grant application.

Mr. Harry Lane of the Randolph County Economic Development Corporation presented an overview of the Allen Precision Industries project. The company has operated in Randolph County for approximately 48 years and is a parts manufacturer specializing in heavy transportation industry. Some of its customers include Eaton Corporation, Freightliner, Caterpillar and John Deere. Currently, the company is operating out of three (3) buildings but hopes to build a new facility in order to consolidate its operations and allow for expansion.

This project will create approximately fourteen (14) new jobs, invest in approximately \$800,000 in new equipment, and make a capital investment of approximately \$2 million for the construction of a new facility to be located on Veterans Loop Road. The company is currently seeking assistance for water and sewer infrastructure and road adjustments to its potential site on Veterans Loop Road. In addition to possible grant funding from the Community Development Block Grant Program, the Industrial Development Fund, and the N.C. Rural Center's Economic Infrastructure Program, the City of Asheboro and the County of Randolph will be asked to provide matching funds of approximately \$10,975 each.

Additionally, Mr. Lane announced that the public notices have been properly published for this Community Development Block Grant (CDBG) public hearing. The first public notice was published in The Courier-Tribune on June 22, 2010, while the second public notice was published in the same newspaper on July 23, 2010 and July 25, 2010. The second public notice reflected that the CDBG would be \$168,000 or 38% of the cost of the project. According to Mr. Lane, the

actual amount for the CDBG is for \$154,360, which is 35% of the project. And, a pre-application conference was held on July 28, 2010 with representatives from the N.C. Department of Commerce, Rural Center, Randolph County Economic Development Corporation, the City of Asheboro, and Allen Precision Industries. The total amount for the project is approximately \$446,405.

Mr. Rick Powell, President of Allen Precision, presented comments in support of the economic development project.

Mr. Lynn Lancaster expressed his opposition as a matter of principle to the use of taxpayers' money for the above-referenced economic development project.

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

(b) Resolution approving the submission of a formal application for funding from the North Carolina Industrial Development Fund as well as funding from the Community Development Block Grant Program.

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

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

29 RES 8-10

RESOLUTION AUTHORIZING THE CITY OF ASHEBORO TO SUBMIT APPLICATIONS FOR FUNDING FROM THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM AND THE NORTH CAROLINA INDUSTRIAL DEVELOPMENT FUND FOR THE ALLEN PRECISION INDUSTRIES PROJECT

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

WHEREAS, the Asheboro City Council has held two public hearings concerning the proposed application for Community Development Block Grant funding to benefit Allen Precision Industries; and

WHEREAS, with the assistance of the proposed economic development project, Allen Precision Industries anticipates expending approximately two million eight hundred thousand dollars (\$2,800,000) to construct and equip a new facility that will create fourteen (14) new jobs; and

WHEREAS, the proposed economic development project with Allen Precision Industries would require the City of Asheboro to administer grant funding and to invest city funds in the amount of ten thousand nine hundred seventy-five dollars (\$10,975); and

WHEREAS, the Asheboro City Council has concluded that the City of Asheboro should pursue the proposed economic development project with Allen Precision Industries by submitting a formal application for funding from the Community Development Block Grant Program as well as the North Carolina Industrial Development Fund.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Asheboro, North Carolina that the city's officers and employees are authorized to submit, on behalf of the City of

Asheboro, a formal application to the North Carolina Department of Commerce for a Community Development Block Grant for Economic Development; and

BE IT FURTHER RESOLVED that the city's officers and employees are authorized to submit, on behalf of the City of Asheboro, a formal application to the North Carolina Department of Commerce for funding from the North Carolina Industrial Development Fund to benefit Allen Precision Industries; and

BE IT FURTHER RESOLVED that the Asheboro City Council certifies the City of Asheboro will meet all federal regulatory and statutory requirements of the Small Cities Community Development Block Grant Program and of the North Carolina Industrial Development Fund; and

BE IT FURTHER RESOLVED that the City of Asheboro will administer this grant funding in accordance with the rules and regulations of the North Carolina Department of Commerce; and

BE IT FURTHER RESOLVED that the City of Asheboro will administer this grant funding through the city's finance office, and this administration will include, at a minimum, quarterly monitoring of job creation and compliance with the representations made as part of the submitted application.

This resolution was duly adopted by the Asheboro City Council in open session during a regular meeting held on the 5th day of August, 2010.

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

ATTEST:

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

- (c) Resolution exempting this economic development project from the advertisement/qualification based selection procedure and authorizing a contract with Froehling and Robertson, Inc. for the engineering services needed to complete the environmental assessment required as part of the application process for funding from the Community Development Block Grant Program.**

Mr. Bunker presented and recommended adoption, by reference, of the aforementioned resolution as well as the resolution as listed in Agenda Item Number 7 (d).

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

30 RES 8-10

RESOLUTION EXEMPTING A PROJECT FROM THE PROVISIONS OF ARTICLE 3D OF CHAPTER 143 OF THE NORTH CAROLINA GENERAL STATUTES

(Environmental Assessment for the Allen Precision Industries Economic Development Project)

WHEREAS, Section 143-64.31 of Chapter 143, Article 3D of the North Carolina General Statutes provides in pertinent part as follows:

It is the public policy of this State and all public subdivisions and Local Governmental Units thereof . . . to announce all requirements for

architectural, engineering, surveying, and construction management at risk services, to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm; and

WHEREAS, Section 143-64.32 of the North Carolina General Statutes provides in pertinent part as follows:

Units of local government . . . may in writing exempt particular projects from the provisions of this Article (Article 3D) in the case of:

- (a) Proposed projects where an estimated professional fee is in an amount less than thirty thousand dollars (\$30,000), or
- (b) Other particular projects exempted in the sole discretion of . . . the unit of local government, stating the reasons therefore and the circumstances attendant thereto; and

WHEREAS, the City of Asheboro has undertaken a project to explore the possibility of applying for grant funding in furtherance of a potential economic development project with Allen Precision Industries; and

WHEREAS, one of the funding sources that may be utilized by the city is the Community Development Block Grant Program administered by the North Carolina Department of Commerce; and

WHEREAS, during a pre-application meeting attended by personnel from the North Carolina Department of Commerce, city staff members learned that the firm of Froehling & Robertson, Inc. has provided for a significant number of economic development projects the engineering services needed to prepare an environmental assessment that complies with the requirements of the Community Development Block Grant Program; and

WHEREAS, Froehling & Robertson, Inc. has submitted to the City of Asheboro a proposal to provide, in consideration of the payment of estimated professional services fees in the amount of three thousand five hundred and no/100 dollars (\$3,500.00), the engineering services needed to complete in a timely manner the environmental assessment that must be submitted as part of an application for Community Development Block Grant funding for the proposed economic development project with Allen Precision Industries; and

WHEREAS, on the basis of the estimated professional fee and the firm's demonstrated competence in preparing environmental assessments that comply with the requirements of the Community Development Block Grant Program, the City Manager and the City Engineer have recommended that Froehling & Robertson, Inc. be utilized to provide the engineering services needed to successfully prepare the requisite environmental assessment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the above-described project to prepare an environmental assessment as part of an application for Community Development Block Grant Program funding for the economic development project with Allen Precision Industries is hereby exempted from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes on the basis of Froehling & Robertson, Inc.'s demonstrated competence in preparing environmental assessments that comply with the requirements of the Community Development Block Grant Program and on the basis of the fact that the estimated professional fee for the required engineering services is less than thirty thousand and no/100 dollars (\$30,000.00); and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute, in accordance with the applicable laws and the city's standard contracting policies, a contract with Froehling

- (d) Other particular projects exempted in the sole discretion of . . . the unit of local government, stating the reasons therefore and the circumstances attendant thereto; and

WHEREAS, the City of Asheboro is attempting to foster new investment and job creation in the City of Asheboro by undertaking an economic development project with Allen Precision Industries; and

WHEREAS, the proposed economic development project includes the extension of municipal water and sewer lines to Veterans Loop Road as well as the relocation on Veterans Loop Road of a cul-de-sac that, with the concurrence of the North Carolina Department of Transportation, is to be maintained by the City of Asheboro; and

WHEREAS, in order for this proposed economic development project to proceed, grant funding must be secured for the project by the City of Asheboro, and one of the sources from which the city hopes to obtain funding is the Community Development Block Grant Program administered by the North Carolina Department of Commerce; and

WHEREAS, if the city is successful in obtaining the requisite funding, the city will need to contract for the engineering and surveying services needed to relocate the above-described cul-de-sac and extend the municipal water and sewer lines to Veterans Loop Road; and

WHEREAS, Deep River Engineering, PLLC provided the engineering services needed to design infrastructure for adjacent property that is to be traversed by the city's water and sewer lines in order to extend municipal water and sewer services to Allen Precision Industries on Veterans Loop Road; and

WHEREAS, the city's professional staff has observed over time that Deep River Engineering, PLLC has demonstrated competency in providing professional services to developers of other projects that required infrastructure improvements; and

WHEREAS, Deep River Engineering, PLLC has submitted a proposal to the City of Asheboro offering to provide, in consideration of the payment of professional services fees that are not to exceed thirty thousand five hundred and no/100 dollars (\$30,500.00), the engineering and surveying services needed to complete the proposed economic development project; and

WHEREAS, based on the demonstrated competence of Deep River Engineering, PLLC and the firm's preexisting knowledge of the land that must be traversed in order to complete the contemplated extension of municipal water and sewer services to Veterans Loop Road, the city's professional staff has recommended that the economic development project with Allen Precision Industries on Veterans Loop Road be exempted from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that, on the basis of the facts and circumstances enumerated in the above-stated recitals, the economic development project with Allen Precision Industries on Veterans Loop Road is hereby exempted from the provisions of Article 3D of Chapter 143 of the North Carolina General Statutes; and

BE IT FURTHER RESOLVED that, subject to the award of funding for the project from the Community Development Block Grant Program, the City Manager is hereby authorized to execute, in accordance with the applicable laws and the city's standard contracting policies, a contract with Deep River Engineering, PLLC for the provision of the engineering and surveying services needed to complete the above-described economic development project.

This resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 5th day of August, 2010.

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

ATTEST:

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

- (e) **Resolution authorizing the City of Asheboro, with the concurrence of the North Carolina Department of Transportation, to assume maintenance responsibilities for the portion of Veterans Loop Road (SR 1149) located within the corporate limits of the City of Asheboro.**

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

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

32 RES 8-10

RESOLUTION FOR THE CITY OF ASHEBORO TO MAINTAIN A PORTION OF VETERANS LOOP ROAD (SR 1149) THAT IS CURRENTLY PART OF THE NC DEPARTMENT OF TRANSPORTATION'S SECONDARY ROAD SYSTEM

WHEREAS, the NC Department of Transportation (NCDOT) currently maintains Veterans Loop Road (SR 1149) as part of the NCDOT Secondary Road System, and;

WHEREAS, a portion of Veterans Loop Road (SR 1149), consisting of approximately the last 0.14 mile, is within an area annexed to the City of Asheboro by Ordinance adopted and effective August 5, 2010, and;

WHEREAS, the City of Asheboro desires to accept maintenance of the portion of Veterans Loop Road (SR 1149) within the City Limits to facilitate the relocation of the existing cul-de-sac for a proposed economic development project.

NOW, THEREFORE, BE IT RESOLVED by the Asheboro City Council, that the City of Asheboro agrees to maintain the portion of Veterans Loop Road (SR 1149) that is within the City Limits as part of the City of Asheboro Street System, effective upon concurrence of the NC Department of Transportation.

Adopted by the Asheboro City Council in regular session on the 5th day of August, 2010.

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

ATTEST:

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

10. Public comment period. [Agenda Item Number 9]

Mr. Timothy Wiles presented comments and concerns in regards to a notice he received from the city informing citizens of the excessive amount of fluoride additives in the city's water during the time period of an equipment malfunction at the Water Treatment Plant. Mr. Wiles presented his research comparing the safety hazards to the benefits of water fluoridation.

In his capacity as a retired dentist, Dr. Fountain explained that with his experience, there have been no adverse effects of fluoride additives in the city's water. Instead, water containing fluoride additives has numerous health benefits in that it decreases the risk of dental diseases as well as osteoporosis. Dr. Fountain expressed his willingness to work with concerned citizens with additional research if necessary.

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

11. Consideration of a petition from Eric M. and Emma B. Hicks requesting contiguous annexation of 0.478 of an acre located at 999 Sherwood Avenue. [Agenda Item Number 10]

- (a) Mr. Bunker presented and recommended adoption, by reference, of a resolution directing the city clerk to investigate a petition requesting contiguous annexation of 0.478 of an acre of land located at 999 Sherwood Avenue.

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

33 RES 8-10

RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE AN ANNEXATION PETITION RECEIVED PURSUANT TO SECTION 160A-31 OF THE NORTH CAROLINA GENERAL STATUTES (0.478 of an Acre of Land Located at 999 Sherwood Avenue)

WHEREAS, a petition and a plat of survey have been received by the City of Asheboro from Eric M. Hicks and Emma B. Hicks as part of a request for the annexation into the corporate limits of the City of Asheboro of approximately 0.478 of an acre of land that is contiguous to the municipality's existing primary corporate limits at 999 Sherwood Avenue; and

WHEREAS, Section 160A-31 of the North Carolina General Statutes provides that the sufficiency of the petition shall be investigated by the city clerk before further annexation proceedings may take place; and

WHEREAS, in response to this petition, the Asheboro City Council has decided to proceed with the statutorily prescribed voluntary annexation proceedings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the city clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify as soon as possible to the city council the results of her investigation.

This resolution was adopted in open session during a regular meeting of the Asheboro City Council that was held on the 5th day of August, 2010.

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

ATTEST:

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

CERTIFICATE OF SUFFICIENCY
(0.478 of an Acre of Land Located at 999 Sherwood Avenue)

TO: The City Council of the City of Asheboro, North Carolina

I, Holly H. Doerr, City Clerk of the City of Asheboro, North Carolina, do hereby certify that I have investigated the petition attached hereto. As a consequence of that investigation, I have found as a fact that all owners of real property lying in the area described therein have signed the said petition, and the petition appears to be sufficient to satisfy the provisions of Section 160A-31 of the North Carolina General Statutes.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Asheboro, North Carolina in order to make this certification effective as of the 5th day of August, 2010.

(SEAL)

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

- (b) As a consequence of the receipt of written certification from the City Clerk as to the sufficiency of said annexation petition, Mr. Bunker presented and recommended adoption, by reference, of a resolution setting the date for a public hearing on the question of annexation.

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

34 RES 8-10

RESOLUTION SETTING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO SECTION 160A-31 OF THE NORTH CAROLINA GENERAL STATUTES
(0.478 of an Acre of Land Located at 999 Sherwood Avenue)

WHEREAS, the City of Asheboro has received a petition and plat of survey requesting the annexation of approximately 0.478 of an acre of land located at 999 Sherwood Avenue; and

WHEREAS, the City Council of the City of Asheboro, North Carolina has, by resolution, directed the city clerk to investigate the sufficiency of the annexation petition; and

WHEREAS, on the basis of her review of information gathered by city staff members during an investigation of the submitted petition, the city clerk has certified to the Asheboro City Council the sufficiency of this petition to proceed with setting a date for a public hearing on the question of annexation pursuant to Section 160A-31 of the North Carolina General Statutes.

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

Section 1. A public hearing on the question of annexing the area described herein will be held in the Council Chamber of the City of Asheboro Municipal Building, which is located at 146 North

Church Street, Asheboro, North Carolina 27203, during a regular meeting of the city council that will begin at 7:00 o'clock p.m. on the 9th day of September, 2010.

Section 2. A metes and bounds description of the area proposed for annexation is attached to this resolution as EXHIBIT 1 and is hereby incorporated into this resolution by reference as if copied fully herein.

Section 3. Notice of the public hearing shall be published in *The Courier-Tribune*, a newspaper having general circulation in the City of Asheboro, at least ten (10) days prior to the date of the public hearing.

This resolution was adopted in open session during a regular meeting of the Asheboro City Council that was held on the 5th day of August, 2010.

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

ATTEST:

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

EXHIBIT 1

Asheboro Township, Randolph County, North Carolina:

BEGINNING at an existing iron pipe set in the southern margin of the 60-foot right-of-way for Sherwood Avenue (North Carolina Secondary Road 1204) at the northwest corner of the Eric M. Hicks and wife, Emma B. Hicks property described in Deed Book 1081, Page 145, Randolph County Public Registry, the said existing iron pipe is located by means of the North Carolina Coordinate System at the coordinates of North 704,489.509 feet and East 1,751,351.600 feet (NAD 83); thence from the said beginning point along the southern margin of the right-of-way for Sherwood Avenue the following course and distance: South 84 degrees 21 minutes 46 seconds East 100.32 feet to an existing iron pipe that is located by means of the North Carolina Coordinate System at the coordinates of North 704,479.654 feet and East 1,751,451.435 feet (NAD 83); thence along the Hubert V. Henderson, Jr. property described in Deed Book 1758, Page 1953, Randolph County Public Registry the following course and distance: South 05 degrees 45 minutes 26 seconds West 200.80 feet to an existing iron pipe that is located by means of the North Carolina Coordinate System at the coordinates of North 704,279.867 feet and East 1,751,431.292 feet (NAD 83); thence along the existing primary corporate limits line for the City of Asheboro the following course and distance: North 84 degrees 50 minutes 00 seconds West 109.01 feet to an existing iron pipe that is located by means of the North Carolina Coordinate System at the coordinates of North 704,289.684 feet and East 1,751,322.724 feet (NAD 83); thence along the Garner & Son, LLC property described in Deed Book 2014, Page 2390, Randolph County Public Registry the following courses and distances: North 09 degrees 48 minutes 07 seconds East 89.99 feet to an existing iron pipe that is located by means of the North Carolina Coordinate System at the coordinates of North 704,378.358 feet and East 1,751,338.044 feet (NAD 83); thence North 06 degrees 57 minutes 13 seconds East 111.97 feet to the point and place of BEGINNING, and containing 0.478 of an acre of land, more or less, to be annexed.

The above-listed description is in accordance with a plat of survey entitled "Annexation Survey City Of Asheboro Plat Prepared For Eric M. Hicks & Emma B. Hicks." This plat was drawn under the supervision of Michael R. Stout, Professional Land Surveyor with Registration Number L-3492, from an actual survey

made under his supervision. The said plat is dated July 26, 2010, and the job number listed on the plat is 10-Erick Hicks-01.

12. Appointments to the Asheboro Planning Board. [Agenda Item Number 11]

(a) Recommendation from the Planning Board to appoint David Whitaker to serve the remainder of Steve W. Cofer's unexpired term.

Mr. Neely presented a recommendation from the Planning Board to appoint David Whitaker to serve the remainder of Steve W. Cofer's unexpired term.

Upon motion by Dr. Fountain and seconded by Mr. Moffitt, Council voted to follow the Planning Board's original recommendation and appointed David Whitaker to serve the remainder of Steve W. Cofer's unexpired term on the Planning Board. Council Members Baker, Bell, Burks, Fountain, Hunter and Moffitt voted in favor of the motion. Council Member Carter voted no.

(b) Update on the Planning Board's discussion of the potential establishment of a formal application review process.

Mr. Neely updated the Council on the Planning Board's on-going discussion of the potential establishment of a formal application review process for potential appointees to the Planning Board. The Planning Board recommended that detailed information, including but not limited to, the description and duties of said board should be posted onto the city's website.

Additionally, the Planning Board is discussing the possibility of having a printed application for interested individuals to complete and return to the Planning Department Staff. Said application would also be posted onto the city's website access by the citizens. Mr. Neely expressed that the Planning Board will continue to discuss this matter in further detail. Additionally, city staff will discuss this matter with Randolph County staff members since some of the members of the board are appointed by the county commissioners.

Mr. Neely also expressed that the Planning Board is in the process of reviewing the rules of procedure.

During discussion, Ms. Carter asked that membership vacancies be advertised in local newspapers. Additionally, Ms. Carter expressed the need for a more diverse membership of the Planning Board.

With the general consensus of the council members, the Planning Department Staff and the Planning Board will continue to refine their preliminary ideas for implementing a formal application process. Council members expressed positive comments in regards to the Planning Board's discussion and progress thus far.

13. Discussion of items not on the agenda. [Agenda Item Number 12]

Council members were notified of the following upcoming events:

- August 12, 2010 at 9:00 p.m. and August 13, 2010 at 8:00 p.m. a segment on the City of Asheboro will be broadcast on "North Carolina Now."

- September 23, 2010 – Potential date for a special council meeting at 5:00 p.m.

There being no further business, the meeting was adjourned at 9:11 p.m.

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

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