

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING
THURSDAY, AUGUST 7, 2014
7:00 p.m.**

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

David H. Smith) – Mayor Presiding

Talmadge S. Baker)
Clark R. Bell)
Edward J. Burks)
Linda H. Carter) – Council Members Present
Walker B. Moffitt)
Charles A. Swiers)

Michael W. Hunter) – Council Member Absent

John N. Ogburn, III, City Manager
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
Leigh Anna Johnson, Public Information Officer
Mark T. Lineberry, Police Captain
Trevor L. Nuttall, Community Development Director
Deborah P. Reaves, Finance Director
Michael D. Rhoney, Water Resources Director
Jeffrey C. Sugg, City Attorney

1. Call to order.

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

2. Silent prayer and pledge of allegiance.

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

3. Resolutions presented by the Mayor:

(a) Celebrating the 40th Anniversary of the North Carolina Zoological Park.

Mayor Smith presented a resolution honoring the 40th anniversary of the North Carolina Zoological Park.

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

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RESOLUTION

Honoring the 40th Anniversary of the North Carolina Zoo Asheboro, North Carolina

WHEREAS, in 1967 the North Carolina legislature created the NC Zoological Garden Study Commission to examine the feasibility of a state zoo; and

WHEREAS, the results of the study caused the formation of the North Carolina Zoological Society in 1968 with the goal of raising funds and public support for the zoo project; and

WHEREAS, Randolph County was selected from 6 potential zoo sites following a 2-year search by the zoo commission and following site selection, 1371 acres in Randolph County were donated to the state for the zoo; and

WHEREAS, the North Carolina Zoo officially opened on August 13, 1974 with their first two animals being a pair of Galapagos Tortoises; and

4. Consent agenda:

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

- (a) The minutes of the City Council's regular meeting on July 10, 2014.**
- (b) The general account of a closed session conducted pursuant to Section 143-318.11(a)(4) of the North Carolina General Statutes during the City Council's regular meeting on July 10, 2014.**
- (c) A resolution to seal the general account of the closed session that was held on July 10, 2014.**

RESOLUTION NUMBER _____ **23 RES 8-14**

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

SEALED GENERAL ACCOUNT OF A CLOSED SESSION

WHEREAS, Section 143-318.10(e) of the North Carolina General Statutes provides, in pertinent part, that the "minutes or an account of a closed session conducted in compliance with G.S. 143-318.11 may be withheld from public inspection so long as public inspection would frustrate the purpose of a closed session;" and

WHEREAS, pursuant to Section 143-318.11(a)(4) of the North Carolina General Statutes, the City Council of the City of Asheboro properly conducted a closed session during a regular meeting on July 10, 2014, in order to discuss matters relating to the location or expansion of industries or other businesses in the City of Asheboro;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the general account of the closed session held by the City Council on July 10, 2014, is to be sealed so long as public inspection of the records would frustrate the purpose of the closed session; and

BE IT FURTHER RESOLVED that the city manager is hereby authorized to act as the Asheboro City Council's agent with the authority to unseal these records when the purpose of the closed session would no longer be frustrated by making the records available for public inspection or when the unsealing of the said general account is otherwise required by law.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 7th day of August, 2014.

/s/David H. Smith
David H. Smith, Mayor
City of Asheboro, North Carolina

ATTEST:

/s/Holly H. Doerr
Holly H. Doerr, CMC, NCCMC, City Clerk
City of Asheboro, North Carolina

- (d) Acknowledgement of the receipt of the minutes of the Asheboro ABC Board meeting held on July 7, 2014.**

[A copy of the above-referenced minutes received from the Asheboro ABC Board is on file in the City Clerk's office.]

- (e) The temporary closing of the streets for Fall Festival XLII.**

The Randolph Arts Guild submitted the request (a parade permit application) to temporarily close the downtown area streets for Fall Festival XLII. The specific streets and sections of streets to be closed for the event that runs from the evening of October 3, 2013 through October 5, 2013 are identified on a street map submitted by the Arts Guild. With the approval of the consent agenda, this request was approved without modification. A copy of the approved street closure map is on file in the City Clerk's office.

- (f) **A resolution authorizing the City Manager to enter into a utility agreement between the City of Asheboro and the N.C. Department of Transportation to relocate a water line near the intersection of N.C. Highway 49 South and Mack Road for the proposed U.S. Highway 64/MackRoad connector road, wherein the estimated cost to the city is \$17,319.00.**

RESOLUTION NUMBER 24 RES 8-14

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

UTILITY AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

WHEREAS, the North Carolina Department of Transportation (hereinafter referred to as the "NCDOT") has prepared and adopted plans to make certain street and highway improvements under Project U5305; and

WHEREAS, the adopted plans pertain to improvement of the intersection of North Carolina Highway 49 with North Carolina Secondary Road 1144 (Mack Road) and the Connector Road as well as realignment with United States Highway 64 West; and

WHEREAS, city staff members have concluded, and the City Council concurs, that it would be advisable for the city to enter into an agreement with the NCDOT for the adjustment and relocation of city-owned utility lines/infrastructure during the course of this project by the NCDOT's contractor(s) with full reimbursement by the city for the cost of such work; and

WHEREAS, the attached UTILITY AGREEMENT (hereinafter referred to as the "Agreement"), which is attached hereto as ATTACHMENT A and is hereby incorporated into this Resolution by reference as if copied fully herein, has been presented to the city as the legal instrument that must be used in order to procure the proposed utility work;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the said Agreement is hereby approved; and

BE IT FURTHER RESOLVED that the Mayor, City Clerk, and all other necessary city officials are hereby authorized to execute duplicate originals of the attached Agreement.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 7th day of August, 2014.

/s/David H. Smith
David H. Smith, Mayor
City of Asheboro, North Carolina

ATTEST:

/s/Holly H. Doerr
Holly H. Doerr, CMC, NCCMC, City Clerk
City of Asheboro, North Carolina

[Attachment A that is referred to in the above resolution is on file in the City Clerk's office.]

- (g) **An ordinance amending Section 130.01 of the Code of Asheboro, which pertains to the regulation of the use of firearms, to harmonize the text of the city ordinance with the state statutory provisions.**

ORDINANCE NUMBER 19 ORD 8-14

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

AMNEDMENT OF SECTION 130.01 OF THE CODE OF ASHEBORO

WHEREAS, Section 160A-189 of the North Carolina General Statutes provides, in pertinent part, as follows:

A city may by ordinance regulate, restrict, or prohibit the discharge of firearms at any time or place within the city except when used in defense of person or property or pursuant to lawful direction of law enforcement officers, and may regulate the display of firearms on the streets, sidewalks, alleys, or other public property; and

WHEREAS, the regulation of the discharge of firearms within the City of Asheboro is addressed by Section 130.01 of the Code of Asheboro; and

WHEREAS, the Asheboro City Council has concluded that the said Section 130.01 of the Code of Asheboro should be amended in order to align the ordinance text more closely with the text found in the enabling statute for the regulation of the discharge of firearms;

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

Section 1. Section 130.01 of the Code of Asheboro is hereby rewritten to provide as follows:

§ 130.01 REGULATION OF USE OF FIREARMS OR ANY DEVICE DESIGNED OR USED TO PROJECT PELLETS, ARROWS, OR OTHER PROJECTILES.

(A) Subject to the exceptions listed in division (B), it is unlawful for a person to discharge any pistol, rifle, gun, or other type of firearm within the city or within the boundary lines of any city-owned property that is located beyond the city limits.

(B) The prohibition listed above in division (A) does not apply to the following situations:

- (1) The discharge of a firearm at a shooting gallery or range that is operating in compliance with the Asheboro Zoning Ordinance.
- (2) The discharge of a firearm by a sworn law enforcement officer.
- (3) The discharge of a firearm by a person in self-defense, in the lawful defense of others, in the lawful defense of property, pursuant to lawful directions of law enforcement officers, and/or pursuant to a duty established by federal, state, or local statute or ordinance, specifically including by way of illustration and not limitation the discharge of a firearm by a duly appointed animal control officer or his or her designee.
- (4) Upon receipt of written permission from the Chief of Police or his or her designee, blank cartridges may be discharged during historical reenactments, military or similar displays, or during theatrical, athletic, or like performances. Such written permission from the Chief of Police or his or her designee cannot be granted unless and until the applicant establishes that the proposed activity for which the use of blank cartridges is requested will occur with the consent of the property owner and in compliance with the city's noise ordinance and zoning ordinance.
- (5) A person 21 years of age or older may use an exploding device or similar scare device for the purpose of dispersing birds, fowl, or other wildlife on the condition that the device does not have the capacity to physically harm such bird, fowl, or other wildlife and on the additional condition that the use of the device conforms with all federal and state laws as well as the regulations adopted by the North Carolina Wildlife Resources Commission. The person utilizing such a device shall exercise due care in the use of the device so as not to cause injury to persons or damage to another person's property. Prior to the utilization of such a device, the person using the device shall notify his or her adjacent property owners (or lessees) and the Asheboro Police Department of the intended use of such a device, including the location, the date, and the approximate time of day of such use. Such a device shall not be used between the hours of 11:00 p.m. and 8:00 a.m. on any day of the week.
- (6) The use of a firearm for hunting ducks and dark geese (includes Canada geese and white-fronted geese) is permitted at Lake Reese when such hunting is undertaken in compliance with Chapter 91 of the Code of Asheboro.

(C) Subject to the exceptions listed in division (D), it is unlawful for a person to shoot or project any arrow, shot, pellet, stone, rock, or other hard substance by means of a bow, air rifle, pellet gun, paintball gun, popgun, slingshot, bean shooter, or other similar type of device or contrivance within the city or within the boundary lines of any city-owned property that is located beyond the city limits.

(D) The prohibition listed above in division (C) is subject to the following exceptions:

- (1) Archery is permitted at an archery range that is operating in compliance with the Asheboro Zoning Ordinance.
- (2) The discharge of air rifles, pellet guns, paintball guns, and similar devices is permitted at shooting galleries or ranges that are operating in compliance with the Asheboro Zoning Ordinance.
- (3) Activities undertaken by a person in self-defense, in the lawful defense of others, in the lawful defense of property, pursuant to lawful directions of law enforcement officers, and/or pursuant to a duty established by federal, state, or local statute or ordinance, specifically including by way of illustration and not limitation the use of a device that

would otherwise fall within the scope of division (C) by a duly appointed animal control officer or his or her designee.

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

Section 3. This Ordinance shall be in full force and effect upon and after the date of its adoption.

This Ordinance was adopted by the Asheboro City Council in open session during a regular meeting held on the 7th day of August, 2014.

/s/David H. Smith
David H. Smith, Mayor
City of Asheboro, North Carolina

ATTEST:

/s/Holly H. Doerr
Holly H. Doerr, CMC, NCCMC, City Clerk
City of Asheboro, North Carolina.

- (h) **A resolution authorizing city staff to publish legal notice of the intent of the city council to approve a lease of space on a city water tank to ALLTEL Communications of North Carolina Limited Partnership d/b/a Verizon Wireless.**

RESOLUTION NUMBER _____ **25 RES 8-14**

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

**PUBLICATION OF INTENT TO APPROVE THE LEASE OF SPACE
ON A CITY-OWNED ELEVATED WATER TANK**

WHEREAS, Section 160A-272(a) of the North Carolina General Statutes provides as follows:

Any property owned by a city may be leased or rented for such terms and upon such conditions as the council may determine, but not for longer than 10 years (except as otherwise provided herein) and only if the council determines that the property will not be needed by the city for the term of the lease. In determining the term of a proposed lease, periods that may be added to the original term by options to renew or extend shall be included. Property may be rented or leased only pursuant to a resolution of the council authorizing the execution of the lease or rental agreement adopted at a regular council meeting upon 10 days' public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the council's intent to authorize the lease or rental at its next regular meeting; and

WHEREAS, the city currently leases space on its South Church Street elevated water tank to ALLTEL Communications of North Carolina Limited Partnership d/b/a Verizon Wireless ("Verizon Wireless") for electronic communications equipment, and the current lease agreement is nearing the end of its term; and

WHEREAS, the legal staffs for the city and Verizon Wireless have been engaged in negotiations to craft a new lease agreement that is acceptable to both parties; and

WHEREAS, the city attorney anticipates a new lease agreement, which will contain terms and conditions that are consistent with the material terms and conditions of other previously approved leases of space for electronic communications equipment on elevated water tanks, will be ready for review and approval during the City Council's regular meeting in September 2014; and

WHEREAS, the city attorney has requested permission for the city clerk to publish in a timely manner the notice prescribed by Section 160A-272(a) of the North Carolina General Statutes; and

WHEREAS, the Asheboro City Council has concluded that it is appropriate to grant the requested authorization;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that the city clerk is hereby authorized to publish the notice specified in Section 160A-272(a) of the North Carolina General Statutes if and when the city attorney advises her that the legal staffs for the city and Verizon Wireless have agreed upon a draft lease agreement for review and approval by the City Council.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 7th day of August, 2014.

/s/David H. Smith
David H. Smith, Mayor
City of Asheboro, North Carolina

ATTEST:

/s/Holly H. Doerr
Holly H. Doerr, CMC, NCCMC, City Clerk
City of Asheboro, North Carolina

5. Community Development Items:

- (a) **Zoning Case No. RZ-14-05: A legislative hearing on the application filed by Gary Richardson on behalf of Green Light Holdings, LLC to rezone property located at 527 West Central Avenue (including property north of West Central Avenue) from R10 (Medium-Density Residential) and I3 (Limited Industrial) to I2 (General Industrial).**

Mayor Smith opened the public hearing on the following request.

The requested rezoning pertains to approximately 14.5 acres of land. The property of Ms. Jewel H. Rich is located at 527 West Central Avenue (including property on the north side of West Central Avenue) and is more specifically identified by Randolph County Parcel Identification Number 7752891801.

Mr. Nuttall presented the Community Development Division staff's analysis of the request submitted by Green Light Holdings, LLC to rezone the above-described property from R10 (Medium-Density Residential) and I3 (Limited Industrial) to I2 (General Industrial).

The staff report noted that the property is located inside the city's corporate limits, and that all city services are available. The area in which the property is located includes a mix of uses including single-family residential uses, industrial uses, and North Asheboro Park. The Land Development Plan (LDP) proposed land use map proposes industrial use on the southern portion of the property and an employment center on the northern portion of the property. The LDP describes employment centers as *mixed-use, medium to large scale employment centers along major transportation corridors and at key intersections and interchanges to serve the community and region.*

The Zoning Ordinance states that the I2 District is intended to *produce areas for intensive manufacturing, warehousing, processing and assembly uses, controlled by performance standards to limit the effect of such uses on adjacent districts.* Examples of uses permitted in the I2 district include warehousing and manufacturing. Such uses require a Type D buffer/screen when adjoining single-family residential uses. The Type D buffer is a minimum of 30 feet wide while the Type D screen (consisting of opaque vegetation, fences, etc.) is a minimum of 15 feet wide.

The Planning Board concurred with the following Community Development Division staff's analysis and recommended approval of the requested rezoning:

"The Land Development Plan recommends industrial use for the majority of the property (south of W. Central Avenue) and an Employment Center for the portion of the property north of West Central Avenue. The industrial designation is consistent with the I2 district. The LDP description and intent of the Employment Center includes development along major transportation corridors and at key interchanges, and encourages appropriately located industrial development. These factors, coupled with the property's location along a primarily industrial corridor, with rail access and within relative proximity to I-73/I-74 makes the I2 zoning district a suitable zoning designation.

The Applicant, Mr. Gary Richardson of Green Light Holdings, presented comments in support of the request.

Mr. Franke Beach had questions and concerns regarding the amount of buffering between adjoining properties and any future development as well as concerns about vehicular traffic that would be traveling along Sewell Drive if the above-referenced property is rezoned.

Ms. Beverly Garner echoed the concerns regarding the potential for heavy traffic on Sewell Drive if the above-referenced property is rezoned to the General Industrial zoning district.

Mr. Kenneth Hicks was concerned about what may be developed, specifically including hazardous materials, on the property if it is rezoned.

There being no further comments, Mayor Smith transitioned to the deliberative phase of the public hearing.

In response to the speakers' concerns, information about the provisions of the Asheboro Zoning Ordinance that address these concerns was provided. If and when a plan of development is submitted, the Council Members requested, and staff agreed, to explore the possibility of closing a segment of roadway in order to alleviate potential traffic concerns.

Upon motion by Mr. Bell and seconded by Mr. Moffitt, Council voted unanimously to adopt the recommendation/analysis of the Community Development Division staff and the Planning Board and approved the requested rezoning as well as adopting the following consistency statement that was initially proposed in the staff report:

After considering the above factors (the excerpt from the staff report that is quoted above), the zoning map amendment will allow a reasonable use of the property and ensure consistency with the Land Development Plan.

(b) Zoning Case No. RZ-14-06: A legislative hearing on the application filed by Carol Burrow (Agent for Richard S. Stockner) to rezone property located at 609 and 617 N.C. Highway 42 North from R10 and R7.5 (Medium-Density Residential) to O&I (Office and Institutional).

Mayor Smith opened the public hearing on the following request.

The requested rezoning pertains to approximately 1.66 acres of land. The property of Ms. Iris B. Stockner is located 617 N.C. Highway 42 North and is more specifically identified by Randolph County Parcel Identification Numbers 7761321382 and 7761322224. The property of Richard S. Stockner and Robin S. Stockner is located at 609 N.C. Highway 42 North and is more specifically identified by Randolph County Parcel Identification Number 7761322047.

Mr. Nuttall presented the Community Development Division staff's analysis of the request to rezone the above described property from R7.5 and R10 (Medium-Density Residential) to O&I (Office and Institutional). The staff's analysis is as follows:

- a. The property is inside the city limits. All city services are available.
- b. N.C. Highway 42 North is a state-maintained major thoroughfare.
- c. According to the Zoning Ordinance (Art. 200, Sec. 210): *The Office and Institutional district is intended to produce moderate intensity office and institutional development to serve adjacent residential areas and to provide a transition from residential to commercial uses. Land designed [sic] O&I shall normally be located with access to a major or minor thoroughfare with access to local residential streets discouraged.*
- d. The west side of N.C. Highway 42 consists primarily of residential uses in this area except for two churches. On the east side of N.C. Highway 42 is Triangle Park, a 4-acre office and commercial complex.
- e. The existing R7.5 and R10 residential districts permit single or two-family dwellings.
- f. The O&I district permits non-residential structures with FAR of up to 30 percent. If this rezoning is approved, all non-residential uses permitted by right would be allowed, with a gross floor area of up to approximately 21,692 square feet. Examples of uses permitted by right include offices, churches, schools, and some services uses (such as laundry facilities, beauty/barber shops, and banks). Heavier commercial uses, such as retail, restaurants, sales of motor vehicles, etc. are not permitted in the O&I district.
- g. The request to rezone the property to OA6 (Office-Apartment) was denied in June 2014. Although the zoning ordinance requires a one year waiting period to file an identical request, there is no waiting period for the applicant to file a different request, such as to the O&I district.

The Planning Board concurred with the following Community Development Division staff's analysis and recommended approval of the requested rezoning:

“The staff analysis for this case is similar to RZ-14-04 (the previously rejected request for OA6 zoning) with one exception. During Council’s review of that case, there appeared to be general consensus that the Land Development Plan’s recommendation that this area of N.C. Highway 42 develop consistent with Neighborhood Residential uses was out of date due to changing land use patterns and traffic volumes since the Plan’s adoption in 2000.

During the public hearing for RZ-14-04, multi-family residential use permitted by the OA6 district was identified as a greater concern than non-residential uses in reference to traffic and driveway access. Multi-family development is not permitted in the O&I district, eliminating this possibility.

While staff still has concerns about the impact single, non-residential driveways will have on growing traffic congestion along N.C. Highway 42 and recognizing that an O&I designation will render continued residential use of the existing structures legal non-conforming, the subject properties are directly across the street from a 4.5 acre office park and one property removed from an existing CU-OA6 zoning district. Furthermore, other Land Development Plan goals and policies are supportive of the O&I application.”

There being no further comments and no opposition from the public, Mayor Smith transition to the deliberative phase of the public hearing.

Upon motion by Mr. Moffitt and seconded by Mr. Baker, Council voted unanimously to adopt the recommendation/analysis of the Community Development Division staff and the Planning Board and approved the requested rezoning as well as adopting the following consistency statement that was initially proposed in the staff report:

After considering the above factors (the excerpt from the staff report that is quoted above), the placement of the above-identified property into the requested O&I zoning district will allow a reasonable use of the property and ensure consistency with the Land Development Plan.

(c) A combined quasi-judicial hearing concerning an application for authorization to develop a residential planned unit development located at the terminus of Springwood Road (The application was filed by Larry McKenzie individually and on behalf of Mc-Mc Properties, LLC).

Mayor Smith opened the combined public hearing on the application for a Special Use Permit (later converted to a Conditional Use Permit application under file no. CUP-14-09) and a sketch design approval that is needed in order for the developer, Larry McKenzie of Mc-Mc Properties, LLC, to proceed with the development of a Residential Planned Unit Development on approximately 6.75 acres of land located at the end of Springwood Road. This property is more specifically identified by Randolph County Parcel Identification Number 7750423717.

Mr. Nuttall was sworn in and presented the Community Development Division staff’s analysis of the Special Use Permit (file no. SUP-14-01) and sketch design approval (file no. SUB-14-01) sought by the developer for this project referred to as the Townhomes on Springwood Planned Unit Development.

The proposed use is a residential planned unit development consisting of 24 townhome units in 12 buildings with two (2) dwelling units per structure, which equates to approximately 3.6 dwelling units per acre. The maximum gross floor area of a residential development in the CU-RA6 district equals approximately 64,686 square feet. The applicant is proposing a development of 35,580 square feet.

In order to address concerns that were identified during the process of preparing a staff analysis, the Community Development Division staff recommended to the City Council the attachment of the following conditions to any Special Use Permit that may issued for the proposed development:

- a. All permits from the North Carolina Department of Environment and Natural Resources shall be obtained as required.
- b. Significant existing vegetation (as indicated on the site plan) shall be preserved where possible. Clearing and grading shall be permitted where necessary for the installation of infrastructure and required

- improvements, and building of any structure(s) associated with the Special Use Permit.
- c. Fire hydrant location(s) shall be coordinated with the Fire Department.
 - d. A declaration of restrictive covenants prohibiting recreational vehicle (including boat) parking as required by the subdivision ordinance shall be submitted and recorded with the final plat.
 - e. All roads, driveways, parking areas, storm sewer systems, and other improvements shall be maintained by the homeowners' association.
 - f. The site plan depicts a concrete pad within the public right-of-way of Springwood Road in front of the proposed community mailbox, which is located outside of the public right-of-way. The concrete pad within the public right-of-way shall, at a minimum, provide an area that is adequate for one (1) drop off space for a motor vehicle including maneuvering area located outside of the area depicted on the site plan as "existing pavement" on the public right-of-way of Springwood Road. Such drop off area shall be designed in accordance with commonly accepted traffic engineering practices. Construction of this area shall be the responsibility of the developer and is subject to approval of the City of Asheboro Public Works Division and/or Engineering Department. Alternatively, should the developer choose to construct the community mailbox and any associated vehicular areas in a location completely on private property, this shall not be considered a modification of the Special Use Permit, subject to Section 606 of the Asheboro Zoning Ordinance.
 - g. A clerical error was identified on the combined subdivision sketch design plat and Special Use Permit site plan dated July 22, 2014. The error pertains to the labeling of the dimension of the 25' setback and vegetative buffer adjacent to the U.S. Highway 220 Bypass I-73/I-74. The revised plat/site plan shall be submitted to staff members of the Asheboro Community Development Division for staff review and inclusion in the file without further review by the City Council.
 - h. Prior to the issuance of a Zoning Compliance Permit for the proposed land use, the owner(s) of the Zoning Lot shall properly execute, and deliver to the Zoning Administrator for recordation in the office of the Randolph County Register of Deeds a Memorandum of Land Use Restrictions prepared by the City Attorney for the purpose of placing notice of the conditions attached to this Special Use Permit in the chain of title for the Zoning Lot.

The average lot size of the 24 lots within the proposed subdivision is two thousand one hundred twenty-five (2,125) square feet. A Special Use Permit and sketch design for a similar Planned Unit Development (consisting of 22 lots) was approved in 2005. Since no activity has occurred and modifications (including an increase in the number of lots) have occurred, a new sketch design review is required.

An intermittent stream is located on the property. FIRM maps do not identify any floodplain, and no stream buffer is required since the property is not in a city-designated watershed. The city has a 40 foot easement on the property, and no structures or plantings should be located within the easement. Additionally, the property's only access is Springwood Road.

The written analysis prepared by city staff as part of the sketch design review process commented on the following:

- i. Staff is verifying that street names are acceptable with Emergency Services.
- ii. Engineering Department will need to approve concrete pad adjacent to the community mailbox, since the concrete pad is inside the public right-of-way.
- iii. Staff notes that the first unit on the right upon entering the complex is very close to the city's sewer easement. Staff would recommend providing the maximum distance practical from this unit to the easement since a 10 inch force main is located within the easement.
- iv. Homeowners' association (HOA) documents will need to be recorded with the final plat.
- v. HOA documents will need to be recorded prohibiting parking of recreational vehicles. The plat indicates these vehicles will be prohibited from the development.
- vi. There is a labeling error indicating a 20' instead of the required 25' buffer along U.S. Highway 220/I-73/I-74. The error is solely in reference to the labeling. The plat shows the correct buffer dimension.
- vii. Fire Prevention Bureau: Since the proposal is for less than 30 units, the fire code does not require secondary point of access.

- viii. Fire Dept. Hydrant locations will need to be reviewed with preliminary plat.

With these comments, city staff and the Planning Board recommended approval of the sketch design plat.

The Applicant, Mr. Larry McKenzie of Mc-Mc Properties, LLC, was placed under oath and testified in support of his request for a Special Use Permit and sketch design approval.

Mr. Charles Howe and Mr. Don Morrison, both residents of Springwood Road expressed general concerns with the additional traffic on Springwood Road during the construction phase of the project.

There being no further comments, Mayor Smith transitioned to the deliberative phase of the public hearing.

(i) Special Use Permit/Conditional Use Permit Authorizing a Residential Planned Unit Development:

Upon motion by Mr. Moffitt and seconded by Mr. Bell, Council voted unanimously to approve the requested Special Use Permit. Council Members Baker, Bell, Burks, Carter, Moffitt, and Swiers voted in favor of the motion. This approval is based on the four standard tests being met.

The formal findings of fact, conclusions of law, and order for this Special Use Permit will be entered by the Council in regular session on September 11, 2014. The adopted order includes the previously listed conditions.

(ii) Subdivision Sketch Design Case:

With regard to the subdivision sketch design review, upon motion by Mr. Bell and seconded by Mr. Swiers, Council Members voted unanimously to approve, with the above-stated comments, the sketch design plat for the Townhomes on Springwood. Council Members Baker, Bell, Burks, Carter, Moffitt, and Swiers voted in favor of the motion.

(d) Recognition of Ed Brown's recent honor as the North Carolina Association of Zoning Officials' 2014 Zoning Official of the Year.

Mr. Nuttall reported to the Council Members that Code Enforcement Officer Ed Brown received the 2014 Zoning Official of the Year award from the North Carolina Association of Zoning Officials.

6. Public comment period.

Mayor Smith opened the floor for comments from the public.

Mr. Ralph Ward, a resident of the Asheboro Mill Lofts Apartments, commented that he enjoyed watching, from his apartment, the parking and movement of the railroad freight cars and hoped that this sight would continue into the future.

Mr. Hal Hodgin had questions about the new fee that has been added to the utility customers' bill for trash collection and recycling. Mr. Ogburn referred to the budget process as a guide for the policy decisions that had to be made.

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

7. Resolutions that are needed for projects to be undertaken by the Water Resources Division:

(a) A resolution enabling the city to apply for state loan assistance (a no interest loan spread over 20 years) to fund the Water Treatment Plant Filter Replacement Project.

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

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

**DRINKING WATER STATE REVOLVING FUND
RESOLUTION BY GOVERNING BODY OF APPLICANT**

- WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of drinking water treatment works, and
- WHEREAS, The City of Asheboro has need for and intends to construct a drinking water treatment works project described as Water Treatment Plant Filters Replacement, and
- WHEREAS, The City of Asheboro intends to request state loan assistance for the project,

NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF ASHEBORO:

That City of Asheboro the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Asheboro to make scheduled repayment of the loan, to withhold from the City of Asheboro any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That John N. Ogburn III, City Manager, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a (loan or grant) to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 7th day of August at City Hall in Asheboro, North Carolina.

/s/David H. Smith

(Signature of Chief Executive Officer)

David Smith, Mayor

(Name and Title)

(b) A resolution enabling the city to apply for a state technical assistance grant to fund a wastewater collection system study project.

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

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

27 RES 8-14

**DENR TECHNICAL ASSISTANCE GRANT (TAG)
RESOLUTION BY GOVERNING BODY OF APPLICANT**

- WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants

to aid eligible units of government in financing the cost of a study wastewater collection system, and

WHEREAS, The City of Asheboro has need for and intends to study a wastewater collection system project described as Penwood Branch Partial Sewer Evaluation & PER, and

WHEREAS, The City of Asheboro intends to request state grant assistance for the project,

NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF ASHEBORO:

That City of Asheboro, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State Technical Assistance Grant (TAG) award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Asheboro to make scheduled repayment of the loan, to withhold from the City of Asheboro any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That John N. Ogburn, III, City Manager, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a grant to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 7th of August, 2014 at City Hall in Asheboro, North Carolina.

/s/David H. Smith

(Signature of Chief Executive Officer)

David Smith, Mayor

(Name and Title)

(c) A resolution authorizing the selection of Sturgill Engineering, PA to provide electrical engineering services at the Wastewater Treatment Plant.

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

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

RESOLUTION NUMBER 28 RES 8-14

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

EXEMPTION OF THE NITRIFICATION PUMP STATION AND TRICKLING FILTERS EQUIPMENT UPGRADE PROJECT FROM G.S. 143-64.31

WHEREAS, Section 143-64.31 of the North Carolina General Statutes requires the initial solicitation and evaluation of firms to perform architectural, engineering, surveying, construction management-at-risk services, and design-build services (collectively "design services") to be based on qualifications and without regard to fee; and

WHEREAS, the City of Asheboro proposes to enter into a contract for electrical engineering services in order to procure design services needed at the city's wastewater treatment plant for the Nitrification Pump Station and Trickling Filters Equipment Upgrade Project; and

WHEREAS, Section 143-64.32 of the North Carolina General Statutes authorizes units of local government to exempt contracts for design services from the statutorily prescribed qualification-based selection requirements if the estimated fee is less than \$50,000; and

WHEREAS, Sturgill Engineering, PA has previously provided high quality electrical engineering services for the city's water resources division; and

WHEREAS, the estimated fee for design services for the above-referenced project is less than \$50,000;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that, effective upon the adoption of this Resolution, the above-described project is exempted from the qualification-based selection process prescribed in Chapter 143, Article 3D of the North Carolina General Statutes; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro, North Carolina that the city manager is hereby authorized to execute, in accordance with the city's standard contracting procedures, all documents necessary to procure from Sturgill Engineering, PA the electrical engineering services needed to undertake the Nitrification Pump Station and Trickling Filters Equipment Upgrade Project.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting that was held on the 7th day of August, 2014.

/s/David H. Smith
David H. Smith, Mayor
City of Asheboro, North Carolina

ATTEST:

/s/Holly H. Doerr
Holly H. Doerr, CMC, NCCMC, City Clerk
City of Asheboro, North Carolina

8. A resolution expressing the Council's concurrence with an amendment to the City of Asheboro Personnel Policies and Procedures Manual that is designed to improve the city's ability to recruit experienced personnel.

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

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

RESOLUTION NUMBER _____ **29 RES 8-14**

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

CONCURRENCE WITH AMENDMENTS TO THE CITY OF ASHEBORO PERSONNEL POLICIES AND PROCEDURES MANUAL

WHEREAS, the City of Asheboro Personnel Policies and Procedures Manual (hereinafter referred to as the "Manual") was originally promulgated by the city manager and approved by resolution of the Asheboro City Council on March 4, 2004; and

WHEREAS, the city manager has concluded that the city's ability to recruit qualified job candidates with experience in local and/or state government would be enhanced by updating, effective October 1, 2014, the sick leave transfer policy that is found in Article V, Section 15 of the Manual; and

WHEREAS, the Asheboro City Council has concluded that the city manager's decision to revise the Manual is consistent with the City Council's adopted mission statement "to provide the citizens of Asheboro with excellence in leadership, fiscal management, and municipal services and to create meaningful and appropriate opportunities for citizen participation to improve the quality of life for all;"

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

9. A resolution authorizing the entry of the city into a contract to purchase land previously used for the Asheboro Hosiery Mills.

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

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

RESOLUTION NUMBER 30 RES 8-14

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

AUTHORIZATION TO ENTER INTO AN AGREEMENT TO PURCHASE THE ASHEBORO HOSIERY MILLS PROPERTY

WHEREAS, in furtherance of the city's on-going efforts to foster the vitality of downtown Asheboro, informal discussions have been conducted about the possibility of the city purchasing the land at 133 South Church Street that was previously used for the Asheboro Hosiery Mills; and

WHEREAS, these informal discussions have progressed to the point that city staff members have presented for the City Council's consideration the potential acquisition of approximately 1 acre of Asheboro Hosiery Mills real property in downtown Asheboro at a purchase price of \$125,000; and

WHEREAS, the 1 acre, more or less, of Asheboro Hosiery Mills property available for purchase by the city at a price of \$125,000 is shown on a preliminary plat of survey that is attached to this Resolution as EXHIBIT 1 and is incorporated into this Resolution by reference as if copied fully herein (this real property will be hereinafter referred to as the "Asheboro Hosiery Mills Property"); and

WHEREAS, if the City Council authorizes the acquisition of the said real property, the contemplated closing date for the land transaction is September 30, 2014; and

WHEREAS, after considering the benefits that can be achieved for the city by continuing to improve the downtown area, the City Council has decided to authorize the contemplated land transaction;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina that, effective upon adoption of this Resolution, the purchase of the Asheboro Hosiery Mills Property at a purchase price of \$125,000 is hereby approved; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro, North Carolina that the closing date for this land transaction shall be on or before September 30, 2014; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro, North Carolina that the above-stated terms and conditions for the purchase of the said property, along with the other standard terms and conditions utilized by the city for land transactions, shall be placed in a written contractual agreement that conforms with all of the legal requirements and standards imposed upon the city when it undertakes a land purchase transaction; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro, North Carolina that the Mayor and/or the City Manager, along with any other necessary city officials, are hereby authorized to execute and deliver any and all legal instruments necessary to successfully acquire the Asheboro Hosiery Mills Property in fee simple and in accordance with the other terms and conditions prescribed by this Resolution.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting that was held on the 7th day of August, 2014.

/s/David H. Smith
David H. Smith, Mayor
City of Asheboro, North Carolina

ATTEST:

/s/Holly H. Doerr
Holly H. Doerr, CMC, NCCMC, City Clerk
City of Asheboro, North Carolina

[The plat of survey identified as EXHIBIT 1 in the preceding resolution is on file in the City Clerk's office.]

10. Upcoming events that were announced by Mayor Smith:

- **The Southeast Regional American Legion Baseball Tournament at McCrary Park, August 7 – 11, 2014.**
- **The Annual Employee Appreciation Luncheon on Wednesday, August 27, 2014 from 11:00 a.m. until 1:00 p.m. at the Public Works Conference Room.**
- **Labor Day Holiday Schedule Changes:**
 - **Redevelopment Commission meeting on Monday, September 8, 2014 at 9:00 a.m.**
 - **Planning Board meeting on Monday, September 8, 2014 at 7:00 p.m.**
 - **Regular City Council meeting on Thursday, September 11, 2014 at 7:00 p.m.**
- **The NCLM Annual Conference, October 12 – 14, 2014 in Greensboro, NC.**

11. Closed session.

Mayor Smith entertained a motion to go into closed session pursuant to the statutory provisions found in Section 143-318.11(a)(4) of the North Carolina General Statutes in order to discuss matters relating to the location or expansion of industries or other businesses in the area served by the City of Asheboro, including agreement on a tentative list of economic development incentives that may be offered by the city in negotiations.

Upon motion by Mr. Bell and seconded by Mr. Swiers, Council voted unanimously to go into closed session for the above-stated reason and pursuant to the above-cited statutory authority. Council Members Baker, Bell, Burks, Carter, Moffitt, and Swiers voted in favor of the motion.

A separate general account of the closed session held pursuant to Section 143-318.11(a)(4) of the North Carolina General Statutes has been prepared and filed in the City Clerk's office.

12. Return to open session.

After returning to open session, there were no action items to be discussed.

There being no further business, the meeting was adjourned at 9:15 p.m.

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

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