

**REGULAR MEETING  
ASHEBORO CITY COUNCIL  
THURSDAY, DECEMBER 8, 2005  
7:00 P.M.**

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

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

John N. Ogburn, III, City Manager  
Dumont Bunker, P.E., City Engineer  
John Evans, Code Enforcement Officer  
Holly J. Hartman, Legal Assistant, Deputy City Clerk  
Wendell Holland, Zoning Administrator  
Foster Hughes, Director of Parks and Recreation  
Deborah P. Juberg, Finance Director  
Reynolds Neely, Planning Director  
Trevor Nuttall, Planner  
O. Lynn Priest, Community Development Director  
Michael Rhoney, Director of Water Resources  
Jim Smith, Fire Chief  
Jeffrey C. Sugg, City Attorney  
Ricky Wilson, Police Captain

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

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

Mayor Jarrell asked everyone to stand and repeat the Pledge of Allegiance. Reverend Mike Holder, Senior Minister of First United Methodist Church, gave the invocation.

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

Mayor Jarrell welcomed everyone in attendance.

**3. Consent Agenda.**

Upon motion by Mr. Baker and seconded by Ms. Carter, Council voted unanimously to defer until the next regular meeting the following consent agenda items:

- Findings of Fact, Conclusions of Law, and Order in the Matter of SUP-05-06.
- Findings of Fact, Conclusions of Law, and Order in the Matter of SUP-05-07.

After the deferral of the above-listed items, the sole remaining item on this consent agenda, which were the minutes of the November 2, 2005, November 10, 2005, and November 28, 2005 regular and special council meetings were approved as presented.

**OLD BUSINESS**

**4. Subdivisions.**

**SUB-05-03: Townhomes on Springwood Sketch Design Approval.**

Mr. Neely presented the sketch design. E & C Investments, LLC requested the approval of a sketch design for the Townhomes on Springwood subdivision located at the terminus of

Springwood Road. This subdivision contains approximately 6.75 acres of land, consisting of twenty-two (22) lots.

All departments have reviewed the sketch design. Both Planning Department Staff and Planning Board recommended approval provided that pending minor checklist items are completed.

Upon motion by Mr. Smith and seconded by Mr. Baker, Council accepted the recommendation of the Planning Board and approved the sketch design.

(The aforementioned sketch design is on file in the Planning Department.)

**SWEARING IN CEREMONIES OF CITY COUNCIL MEMBERS**

**5. Oath of Office for Mayor.**

David H. Jarrell was sworn in as Mayor of the City of Asheboro.

**6. Oath of Office for City Council.**

Linda H. Carter, Walker B. Moffitt, and David H. Smith were sworn in as members of the City Council for the City of Asheboro.

**7. Presentation of a Resolution Honoring Council Member John McGlohon.**

Mayor Jarrell read and presented the following resolution to Mr. McGlohon for his many years of diligent service to the City of Asheboro as an employee and a member of the City Council.

72 RES 12-05

**RESOLUTION**

**WHEREAS**, the City Council of Asheboro, North Carolina hereby desires to express commendation and appreciation for the untiring and valuable service rendered to the City by

**Mr. John A. McGlohon**

as a member of the City Council and that the City Clerk is hereby authorized and instructed to spread a copy of this resolution upon the city records and to transmit a copy thereof to Mr. McGlohon, and

**WHEREAS**, Mr. McGlohon has served as a member of the City Council for sixteen years, giving generously of his time and efforts, unselfishly in all deliberations in a dignified, faithful, and businesslike manner, now,

**THEREFORE BE IT RESOLVED**, by the City Council, City Staff, and the Citizens of Asheboro extend to Mr. McGlohon its humble expression of esteem for him in serving the City faithfully and well, and its best wishes for good health, success, and prosperity for many years to come.

Adopted this the eighth day of December, 2005.

ATTEST:

s/ Carol J. Cole

Carol J. Cole  
City Clerk

s/ John N. Ogburn

John N. Ogburn, III  
City Manager

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

s/ Talmadge Baker  
Talmadge Baker

s/ Linda Carter  
Linda Carter

s/ Keith Crisco  
Keith Criso

s/ Nancy Hunter  
Nancy Hunter

s/ Mack Priest  
Mack Priest

s/ David Smith  
David Smith

s/ Walker Moffitt  
Walker Moffitt

Mayor Jarrell presented Mr. McGlohon with the first gold key to the City of Asheboro, and recognized his wife, Ms. Jane McGlohon with a piece of pottery. On behalf of the City of Asheboro and employees, Mr. Ogburn thanked Mr. McGlohon for his sixty (60) years of service to the City. Mr. McGlohon thanked the citizens of the community, the City Council, and the City Staff for allowing him to serve them.

**8. Election of Mayor Pro Tempore.**

Upon motion by Mr. Baker and seconded by Ms. Carter, Council voted unanimously to elect Mr. Smith as Mayor Pro Tempore.

**9. Appointment of Council Committees.**

Mayor Jarrell presented members of the Council Committees as follows:

- Public Works Committee  
David Smith, Chairman  
Mack Priest,  
Nancy Hunter  
Walker Moffitt
- Finance Committee  
David Jarrell, Chairman  
Linda Carter  
Talmadge Baker  
Keith Crisco
- Parks & Recreation Committee  
Talmadge Baker, Chairman  
Walker Moffitt  
Nancy Hunter  
Keith Crisco
- Community Appearance Committee  
Linda Carter, Chairman  
Mack Priest  
David Smith  
David Jarrell

Upon motion by Mr. Smith and seconded by Ms. Carter, Council voted unanimously to approve the appointment of the Council committees.

**10. Appointment of Delegate and Vice Delegate to the Piedmont Triad Council of Governments.**

Upon motion by Mr. Smith and seconded by Mr. Baker, Council voted unanimously to appoint the Mayor and Mayor Pro Tempore as Delegate and Vice Delegate to the Piedmont Triad Council of Governments.

**11. Setting of Dates for 2006 Council Meetings.**

Upon motion by Mr. Baker and seconded by Ms. Carter, Council voted unanimously to direct the City Attorney to draft an ordinance setting the specific dates for the Council's regular meetings in 2006. Said ordinance will be presented for approval in regular session on January 5, 2006.

**NEW BUSINESS**

**12. Consent Agenda.**

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

- Ordinance Establishing a 20 MPH Speed Limit Within Woodland Acres Subdivision.

48 ORD 12-05

**ORDINANCE LOWERING THE SPEED LIMIT WITHIN THE WOODLAND ACRES SUBDIVISION TO TWENTY (20) MILES PER HOUR**

**WHEREAS**, Section 160A-296 of the North Carolina General Statutes provides that a city shall have general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits; and

**WHEREAS**, Section 20-141(b) of the North Carolina General Statutes provides as follows:

Except as otherwise provided in this Chapter, it shall be unlawful to operate a vehicle in excess of the following speeds:

- (1) Thirty-five miles per hour inside municipal corporate limits for all vehicles.
- (2) Fifty-five miles per hour outside municipal corporate limits for all vehicles except school buses and school activity buses; and

**WHEREAS**, Section 20-141(e) of the North Carolina General Statutes provides as follows:

Local authorities, in their respective jurisdictions, may authorize by ordinance higher speeds or lower speeds than those set out in subsection (b) upon all streets which are not part of the State highway system; but no speed so fixed shall authorize a speed in excess of 55 miles per hour. Speed limits set pursuant to this subsection shall be effective when appropriate signs giving notice thereof are erected upon the part of the streets affected; and

**WHEREAS**, Section 72.02 of the Code of Asheboro provides that speed restrictions established by the city council by means of the adoption of an appropriate ordinance are to be recorded in Schedule 16; and

**WHEREAS**, Woodland Circle, Brentwood Court, Willow Creek Court, and Bay Leaf Court are public streets of the Woodland Acres Subdivision that are located within the corporate limits of the City of Asheboro, and said streets are not part of the state highway system; and

**WHEREAS**, based on the information contained within a petition presented by Mr. Michael Allen and signed by a significant number of residents of the Woodland Acres Subdivision, the city council has concluded that the maximum speed authorized within the Woodland Acres Subdivision should be set at twenty (20) miles per hour in an effort to enhance the safety of the streets within the subdivision for children and pedestrians.

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

**Section 1.** The maximum speed authorized on Woodland Circle, Brentwood Court, Willow Creek Court, and Bay Leaf Court is hereby restricted to twenty (20) miles per hour for all vehicles.

**Section 2.** The city manager, in consultation with the city police department, shall cause the appropriate signage to be erected on Woodland Circle, Brentwood Court, Willow Creek Court, and Bay Leaf Court in order to provide notice of the twenty (20) mile per hour speed limit established in Section 1 of this ordinance.

**Section 3.** The city clerk shall amend Schedule 16 of Section 72.02 of the Code of Asheboro to reflect the imposition of the above-stated speed restriction.

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

**Section 5.** This ordinance shall become effective upon adoption.

Adopted in regular session on this the 8th day of December, 2005.

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

ATTEST:

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

- Change Order #1 on the W. L. Brown, Jr. Water Treatment Plant and Lake Lucas pump station generator project (Cooper Electrical Construction Company) increasing the contract amount by \$4,821.00 to \$1,229,821.00 for replacement of the existing deteriorated service pole.
- Amendment #3 to the engineering services agreement between the City of Asheboro and the Wooten Company on the sewer pump stations #2 and #6 project increasing the

engineering fee by \$5,000.00 to \$268,644.00 for additional administrative costs due to the extended construction period.

- Contract to extend the audit due date.

**14. Public hearings on zoning matters.**

Mayor Jarrell opened the public hearing on the following request:

- (a) RZ-05-34: Rezone from R10 and R40 to CU-B1/East side of Gold Hill Road at East Allred Street (district only). The property of Bible Truth Baptist Church (Jeffrey B. Harmon) is located along the east side of Gold Hill Road at the intersection of east Allred Street and contains approximately 23.4 acres of land. Randolph County Parcel Identification Number 7762847222 more specifically describes the property.

Mr. Neely presented the staff analysis of the request by the Applicant, Bible Truth Baptist Church (Jeffrey B. Harmon) to rezone the above-described property from R40 low-density residential and R10 medium-density residential to CU-B1 neighborhood business (district only). The Planning Department Staff and the Planning Department recommended approval of the request as follows:

“The Land Development Plan recommends this area develop with a mixture of compatible of uses, including office, limited commercial, institutional and high density residential. The requested district complies with the plan, as it would allow several neighborhood business uses, including medical offices, churches, convenience retail sales after Council’s review and approval of a conditional use permit.

The conditional use district allows staff and the Council the opportunity to review permit requests for conformance with the Zoning Ordinance and the Land Development Plan, and it is important that future development plans incorporate the goals and policies of the Village Center concept. After considering neighboring land uses and noting the intent of the LDP, staff recommends approval of the request.”

Mr. Tony Hurley was present to answer questions on behalf of the Applicant.

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

Upon motion by Mr. Baker and seconded by Ms. Carter, Council unanimously adopted the recommendation of the Planning Board and approved the requested rezoning.

Mayor Jarrell opened the public hearing on the following request:

- (b) RZ-05-35: Rezone from R40 to B2 / 2135 U.S. HWY 64 East. The property of William and Margie Dorsett is located at 2135 United States Highway 64 East and contains approximately 1.7 acres of land. Randolph County Parcel Identification Number 7771042606 more specifically describes the property.

Mr. Neely presented the staff analysis of the request by the Applicants, William and Margie Dorsett to rezone from R40 low-density residential to B2 General Business Commercial. The Planning Department Staff and the Planning Board recommend approval of the request as follows:

“The request is consistent with many of the LDP maps, goals, policies, Considering the commercial zoning and land uses to the east and south of this property, staff supports the request.”

Mr. William Dorsett, the Applicant, was present to answer questions regarding the request.

Upon motion by Mr. Moffitt and seconded by Ms. Carter, Council unanimously adopted the recommendation of the Planning Board and approved the requested rezoning.

Mayor Jarrell opened the public hearing on the following request:

- (c) RZ-05-36: Technical Amendments / Articles 200, 200A, 600, and 1100. Part 1: Amend Section 200A of the Asheboro Zoning Ordinance to permit handicapped parking to be located within the thirty foot front yard setback. **Part 2:** Amend the Asheboro Zoning Ordinance to establish and define regulations for Large Scale Integrated Commercial Developments.

At the request of the Planning Director and upon motion by Mr. Smith, Council voted unanimously to defer Part 2 of this request until the next regular meeting.

Mr. Neely reported on the request of the Applicant, Cornelius (Neal) Griffin, III to amend Section 200A5.2E of the Asheboro Zoning Ordinance to permit handicapped parking to be located within the thirty (30) foot front yard setback in the Center City Planning Area Tier 3. The Planning Department Staff and the Planning Board recommended approval of a modified version of this request in that the request is reasonable and of value for the city's disabled population. The modified request recognizes that the intent of the parking setback regulations can be maintained if the Ordinance permits only the required amount of handicapped parking to be located in the setback as established by the ADA and building code.

The Planning Department Staff and the Planning Board recommended that Section 200A5.2E a of the Asheboro Zoning Ordinance be amended to provide as follows:

“(e) Parking – Within the Commercial and Employment Area (Tier 3) no parking shall be located within the thirty (30) foot front yard setback, except that:

1. When due to specific property constraints (i.e. steep slopes, inadequate lot size, etc.) handicapped parking cannot be provided outside of the thirty (30) foot front yard setback, such parking can be located within the setback area, provided that:

- a. The number of handicapped parking spaces provided does not exceed the number prescribed by the building code; and
- b. All other relevant requirements of the Zoning Ordinance, including but not limited to landscaping and buffering, are satisfied.”

Mr. Cornelius (Neal) Griffin, the Applicant, was present to answer questions.

Mr. Bill Fraley, a neighboring property owner presented comments and concerns in opposition to the requested amendment to Section 200A5.2E of the Asheboro Zoning Ordinance.

Upon motion by Mr. Smith and seconded by Ms. Hunter, Council voted unanimously to adopt the recommendation of the Planning Board and amended Section 200A5.2E of the Asheboro Zoning Ordinance as stated above.

Mayor Jarrell opened the public on the following request:

- (d) RZ-05-37: Rezone from OA6 to B2 / 1001, 1003, 1011 Sunset Avenue. The property of Cornelius (Neal) Griffin, III is located at 1001, 1003, 1011 Sunset Avenue and contains approximately 20,914 square feet of land. Randolph Identification Numbers 7751328973, 7751328923, 7751327925 more specifically describe the property.

Mr. Neely presented the site plan and request of the Applicant, Cornelius (Neal) Griffin, III to rezone the above-described property from OA6 Office and Apartment to B2 General Business Commercial. The Planning Department Staff and Planning Board recommended denial of the request.

The Applicant, Mr. Cornelius (Neal) Griffin, presented comments and exhibits supporting his request for rezoning.

Mr. Jim Riddle, Mr. Owen Lee, Ms. Patricia Patillo, and Mr. David Atkins presented comments supporting Mr. Griffin's request.

Mr. Bill Fraley, Ms. Betty Zorn, Mr. John Schmidt, and Ms. Barbara Fraley presented comments and concerns in opposition to the requested rezoning.

After substantive discussion and upon motion by Ms. Hunter and seconded by Ms. Carter, Council voted unanimously to approve the requested rezoning in order to stabilize the area in which the property is located.

Additionally, Mr. Baker requested that the Planning Department Staff review and possibly revise the list of permitted uses in a B2 zoning district.

Mayor Jarrell opened the public hearing on the following request.

- (e) RZ-CUP-05-38: Rezone from RA6 to CU-OA6 / 211 Worth Street. The property of Abraham Investments is located at 211 Worth Street and contains approximately 18,000

square feet of land. Randolph County Parcel Identification Number 7751921855 (a portion) more specifically describes the property.

Upon request of the Applicant and certain potentially aggrieved parties, Mr. Neely recommended that this item be deferred until the January 5, 2006 regular council meeting.

Upon motion by Ms. Hunter and seconded by Ms. Carter, Council voted unanimously to defer said item. Mr. Baker opposed.

**15. Public Comment Period.**

Mayor Jarrell congratulated and welcomed newly elected City Council Member, Walker Moffitt along with re-elected City Council Members, Linda Carter, Archie Priest, and David Smith.

Mr. Smith and Mr. Moffitt requested that the Planning Department Staff research and review permitted uses in a B2 zoning district. Mr. Cornelius (Neal) Griffin, Applicant requesting rezoning, supported the request to research and review said uses.

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

**16. Resolution authorizing Mayor Jarrell and the city clerk to execute an option and lease agreement between the City of Asheboro and Clearwire Telecommunications Services, LLC for placement of electronic communications equipment at the City of Asheboro water tower located at 252 South Church Street.**

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

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

73 RES 12-05

**RESOLUTION APPROVING AN OPTION AND LEASE AGREEMENT BETWEEN THE CITY OF ASHEBORO AND CLEARWIRE, LLC**

**WHEREAS**, the City of Asheboro (hereinafter referred to as the "City") owns two (2) parcels of land on South Church Street that are identified by Randolph County Parcel Identification Numbers 7751710819 and 7751619869, said real property is more particularly described in Deed Book 210, Page 133 and Deed Book 208, Page 376, Randolph County Registry; and

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

**WHEREAS**, Clearwire, LLC, a Nevada limited liability company, (hereinafter referred to as "Clearwire") has expressed its desire to the City to lease a portion of the Water Tower Premises for use in furtherance of Clearwire's business of providing wireless internet service; and

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

**WHEREAS**, public notice was given on November 25, 2005 by the City Council of the City of Asheboro, in accordance with Section 160A-272 of the North Carolina General Statutes, that said council intended to consider a resolution authorizing the lease of the requested space to Clearwire during the council's regularly scheduled meeting on December 8, 2005; and

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

**WHEREAS**, a proposed option and lease agreement between the City and Clearwire has been submitted by the city's professional staff with a favorable recommendation to the city council as "EXHIBIT 1", said proposed option and lease agreement is hereby incorporated into this resolution by reference as if copied fully herein.

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

**Section 1.** The proposed option and lease agreement with Clearwire, which is attached to this resolution as "EXHIBIT 1", is hereby approved.

**Section 2.** Upon confirmation by the city attorney that Clearwire has been issued a Certificate of Authority by the Office of the North Carolina Secretary of State, the Mayor and City Clerk of

the City of Asheboro are authorized and directed to execute any and all documents and instruments necessary to carry into full force and effect an option and lease agreement substantively similar in all material aspects to the proposed option and lease agreement incorporated into this resolution by reference.

Adopted in regular session on this the 8<sup>th</sup> day of December, 2005.

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

ATTEST:

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

(Exhibit 1 that is referred to in this resolution is attached to the original resolution on file in the city clerk's office.)

**17. Petition received from Pharr, Shuping, Kearns, Terry York Builders, Inc. and Randolph County Farm Bureau, Inc. requesting contiguous annexation of 12.3 acres along East Salisbury Street.**

Mayor Jarrell opened the public hearing on the contiguous annexation of 12.3 acres of land along East Salisbury Street.

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

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

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

**Ordinance Number 49 ORD 12-05**  
**ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEBORO, NORTH CAROLINA**  
**(12.3 Acres of Land Located Along East Salisbury Street)**

**WHEREAS**, pursuant to Section 160A-31 of the North Carolina General Statutes, a petition signed by the owners of all of the real property located within the area hereinafter described was heretofore presented to the city council, by which petition a request was made that said area be annexed to the City of Asheboro; and

**WHEREAS**, the City Council of the City of Asheboro has by resolution directed the city clerk to investigate the sufficiency of the petition, and the city clerk has certified the sufficiency of said petition; and

**WHEREAS**, the city council did publish notice to the public on the 25<sup>th</sup> day of November, 2005 in *The Courier Tribune*, a newspaper having general circulation in the City of Asheboro, setting forth that a public hearing would be held at 7:00 o'clock p.m. on the 8<sup>th</sup> day of December, 2005 at the City of Asheboro Municipal Building to consider the adoption of an ordinance annexing said area to the City of Asheboro; and

**WHEREAS**, the said public hearing was in fact held on the 8<sup>th</sup> day of December 2005; and

**WHEREAS**, the 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:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at an existing iron pipe located on the northern margin of the 60-foot right-of-way for East Salisbury Street (North Carolina Secondary Road 2237) at the southwest corner of the Pharr property described in Deed Book 1267, Page 396, Randolph County Public Registry, said existing iron pipe is located by means of the North Carolina Coordinate System at the coordinates of North 712,281.923 feet and East 1,764,205.371 feet (NAD 27); thence from said Beginning point along the existing corporate limits of the City of Asheboro the following courses and distances: North 02 degrees 53 minutes 36 seconds East 178.61 feet to an existing iron pipe; thence South 88 degrees 55 minutes 36 seconds West 19.86 feet to a computed point; thence North 01 degree 29 minutes 09 seconds East 226.28 feet to an existing iron pipe; thence continuing along the existing corporate limits of the City of Asheboro and the Thetford Group A Investors LLC property described in Deed Book 1931, Page 617, Randolph County Public Registry the following course and distance: South 84 degrees 43 minutes 00 seconds East 270.70 feet to an existing iron pipe; thence along the McArthur property described in Deed Book 1925, Page 2192, Randolph County Public Registry the following courses and distances: South 83 degrees 31 minutes 51 seconds East 340.02 feet to a computed point; thence South 03 degrees 22 minutes 08 seconds West 101.86 feet to an existing iron pipe; thence South 82 degrees 34 minutes 43 seconds East 193.69 feet to an existing iron pipe; thence South 00 degrees 09 minutes 13 seconds East 125.06 feet along the Cox property described in Deed Book 1140, Page 317, Randolph County Public Registry to an existing iron pipe; thence South 00 degrees 05 minutes 00 seconds East 100.03 feet along the Leonard property described in Deed Book 1831, Page 41, Randolph County Public Registry to an existing iron pipe; thence along the McDonald property described in Deed Book 1084, Page 246, Randolph County Public Registry the following courses and distances: South 86 degrees 03 minutes 19 seconds West 25.24 feet to an existing iron pipe; thence South 06 degrees 06 minutes 57 seconds West 128.21 feet to a computed point; thence South 79 degrees 02 minutes 20 seconds East 118.28 feet to an existing iron pipe; thence North 00 degrees 07 minutes 42 seconds West 153.45 feet to an existing iron pipe; thence South 89 degrees 38 minutes 52 seconds East 124.98 feet along the Leonard property described in Deed Book 1831, Page 41, Randolph County Public Registry to a computed point; thence South 00 degrees 06 minutes 02 seconds East 175.00 feet along the western margin of the 30-foot right-of-way for Patton Avenue to a computed point; thence South 51 degrees 20 minutes 34 seconds East 38.47 feet across the right-of-way for Patton Avenue to a computed point located on the northern margin of the right-of-way for East Salisbury Street; thence along the northern margin of the right-of-way for East Salisbury Street the following courses and distances: South 84 degrees 05 minutes 25 seconds East 175.00 feet to a computed point; thence South 85 degrees 34 minutes 04 seconds East 100.00 feet to a computed point; thence South 87 degrees 39 minutes 41 seconds East 125.00 feet to a computed point; thence South 89 degrees 43 minutes 43 seconds East 125.00 feet to a computed point; thence North 88 degrees 21 minutes 59 seconds East 173.76 feet to computed point located in the centerline of Martin Luther King, Jr. Drive (North Carolina Secondary Road 2189) and on the existing corporate limits line of the City of Asheboro; thence continuing along the existing corporate limits line for the City of Asheboro South 58 degrees 23 minutes 46 seconds East 54.02 feet to a computed point; thence South 04 degrees 40 minutes 05 seconds East 30.39 feet to a computed point on the southern margin of the right-of-way for East Salisbury Street; thence along the existing corporate limits line of the City of Asheboro and the southern margin of the right-of-way for East Salisbury Street the following courses and distances: South 85 degrees 19 minutes 55 seconds West 72.15 feet to an existing iron pipe located by means of the North Carolina Coordinate System at the coordinates of North 711,982.100 feet and East 1,765,900.561 feet (NAD 27); thence North 88 degrees 35 minutes 08 seconds West 449.14 feet to a computed point; thence continuing along the southern margin of the right-of-way for East Salisbury Street North 84 degrees 47 minutes 41 seconds West 266.50 feet to a computed point on the western margin of the 30-foot right-of-way for Patton Avenue (North Carolina Secondary Road 2192); thence South 06 degrees 46 minutes 27 seconds West 217.63 feet to a computed point; thence along the Kearns property described in Deed Book 389, Page 461, Randolph County Public Registry the following courses and distances: North 78 degrees 56 minutes 29 seconds West 152.35 feet to an existing iron pipe; thence North 81 degrees 41 minutes 29 seconds West 39.68 feet to a computed point; thence North 78 degrees 56 minutes 29 seconds West 158.00 feet to existing iron pipe located by means of the North Carolina Coordinate System at the coordinates of North 711,866.513 feet and East 1,764,816.646 feet (NAD 27); thence North 08 degrees 19 minutes 30 seconds East 219.80 feet along the Phillips property described in Deed Book 320, Page 202, Randolph County Public Registry to an existing iron pipe; thence along the southern

margin of the right-of-way for East Salisbury Street the following courses and distances: North 78 degrees 23 minutes 19 seconds West 271.05 feet to a computed point located at the intersection of the eastern margin of the right-of-way for Callicut Street with the southern margin of the right-of-way for East Salisbury Street; thence North 77 degrees 54 minutes 43 seconds West 388.71 feet to a computed point; thence North 02 degrees 19 minutes 09 seconds East 62.02 feet across the right-of-way for East Salisbury Street to the point and place of the BEGINNING, and containing 12.300 acres of land, more or less, to be annexed.

This description is in accordance with a plat of survey entitled "ANNEXATION PLAT PREPARED FOR CITY OF ASHEBORO EAST SALISBURY STREET AREA" that was drawn under the supervision of Glenn lee Brown, Professional Land Surveyor with Registration No. L-3663. Said plat of survey was dated September 28, 2005 and was identified as Job No. G05093AX.

**Section 2.** Upon and after December 8, 2005, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Asheboro and shall be entitled to the same privileges and benefits as other parts of the City of Asheboro. Said territory shall be subject to municipal taxes according to Section 160A-58.10 of the North Carolina General Statutes.

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

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

**Section 5.** This ordinance shall be in full force and effect from the 8<sup>th</sup> day of December 2005.

Adopted in regular session on this the 8<sup>th</sup> day of December, 2005.

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

ATTEST:

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

Approved as to form:

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

**18. Petition received from Roger C. Chriscoe requesting non-contiguous annexation of 0.82 acres at 3707 U.S. Highway 220 Business South.**

Mayor Jarrell opened the public hearing on the non-contiguous annexation of 0.82 of an acre of land located at 3707 U.S. Highway 220 Business South.

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

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

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

**Ordinance Number 50 ORD 12-05**  
**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEBORO, NORTH CAROLINA**  
**(0.82 of an Acre of Land Located at 3707 U.S. Highway 220 Business South)**

**WHEREAS**, pursuant to Section 160A-58.1 of the North Carolina General Statutes, a petition signed by the owner of all of the real property located within the area hereinafter described was heretofore presented to the City Council of the City of Asheboro, by which petition a request was made that said area be annexed to the City of Asheboro; and

**WHEREAS**, the city council has by resolution directed the city clerk to investigate the sufficiency of the petition; and

**WHEREAS**, the city clerk has certified the sufficiency of the petition, and a public hearing on the question of this annexation was held in the Council Chamber of the City of Asheboro Municipal Building, which is located at 146 North Church Street in the City of Asheboro, North Carolina, at 7:00 o'clock p.m. on the 8<sup>th</sup> day of December, 2005 after due notice by publication was given on November 25, 2005 in *The Courier Tribune*, a newspaper having general circulation in the City of Asheboro; and

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

- a. The nearest point on the proposed satellite corporate limits is not more than three (3) miles from the corporate limits of the City of Asheboro;
- b. No point on the proposed satellite corporate limits is closer to another municipality than to the City of Asheboro;
- c. The area described is so situated that the City of Asheboro will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;
- d. Under the city council's interpretation of the above-referenced statutorily prescribed standards, no subdivision, as defined in Section 160A-376 of the North Carolina General Statutes, will be fragmented by this proposed annexation; and
- e. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, does not exceed twenty percent (20%) of the area within the primary corporate limits of the City of Asheboro; and

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

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

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

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

**Annexation Tract 1:**

Cedar Grove Township, Randolph County, North Carolina:

BEGINNING at an existing iron pipe set in the eastern margin of the 100-foot right-of-way for U.S. Highway 220 Business South at the southwest corner of the Roger C. Chriscoe property described in Deed Book 1757, Page 380, Randolph County Public Registry, said existing iron pipe is located North 09 degrees 49 minutes 34 seconds East 224.32 feet from an existing iron rod control corner that is located by means of the North Carolina Coordinate System at the coordinates of North 693,759.126 feet and East 1,755,707.603 feet (NAD 83); thence from said Beginning point along the eastern margin of the right-of-way for U.S. Highway 220 Business South the following courses and distances: North 09 degrees 49 minutes 34 seconds East 50.00 feet to a point not set; thence North 17 degrees 57 minutes 02 seconds East 70.76 feet to a point not set; thence South 80 degrees 27 minutes 08 seconds East 140.00 feet along the southern margin of the 60-foot right-of-way for Crestview Church Road (North Carolina Secondary Road 2820) to an existing iron pipe; thence along the existing satellite corporate limits line for the City of Asheboro and the Roger C. Chriscoe property described in Deed Book 1366, Page 778, Randolph County Public Registry the following courses and distances: South 09 degrees 49 minutes 34 seconds West 126.00 feet to an existing iron pipe; thence North 78 degrees 09 minutes 40 seconds West 150.09 feet to the point and place of the BEGINNING and containing 0.42 of an acre of land, more or less, for annexation.

The above-listed description is in accordance with a plat of survey entitled "Annexation Plat Prepared For City of Asheboro Property of Roger C. Chriscoe." The said plat of survey is dated November 8, 2005 and is identified as Job No. R05010. This plat of survey was drawn under the supervision of Philip M. Henley, Professional Land Surveyor with Registration No. L-1494.

**Annexation Tract 2:**

Cedar Grove Township, Randolph County, North Carolina:

BEGINNING at an existing iron rod control corner set in the eastern margin of the 100-foot right-of-way for U.S. Highway 220 Business South and located by means of the North Carolina Coordinate System at the coordinates of North 693,759.126 feet and East 1,755,707.603 feet (NAD 83); thence from said Beginning point along the eastern margin of the right-of-way for U.S. Highway 220 Business South the following courses and distances: North 09 degrees 49 minutes 34 seconds East 16.78 feet to a right-of-way monument; thence North 09 degrees 49 minutes 34 seconds East 13.89 feet to an existing iron pipe; thence South 84 degrees 31 minutes 19 seconds East 381.73 feet along the existing satellite corporate limits for the City of Asheboro to an existing iron pipe; thence South 09 degrees 57 minutes 44 seconds West 60.07 feet along the Beulah Beane property described in Deed Book 651, Page 444, Randolph County Public Registry to an existing iron pipe; thence North 80 degrees 06 minutes 17 seconds West 380.49 feet along the Larry D. and Elizabeth N. Nixon property described in Deed Book 1504, Page 1257, Randolph County Public Registry to the point and place of the BEGINNING and containing 0.40 of an acre of land, more or less, for annexation.

The above-listed description is in accordance with a plat of survey entitled "Annexation Plat Prepared For City of Asheboro Property of Roger C. Chriscoe." The said plat of survey is dated November 8, 2005 and is identified as Job No. R05010. This plat of survey was drawn under the supervision of Philip M. Henley, Professional Land Surveyor with Registration No. L-1494.

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

**Section 3.** The Mayor of the City of Asheboro shall cause to be recorded in the Office of the Register of Deeds of Randolph County, and in the Office of the Secretary of State in 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 from the 8<sup>th</sup> day of December, 2005.

Adopted in regular session on this the 8<sup>th</sup> day of December, 2005.

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

ATTEST:

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

Approved as to form:

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

**19. Petition received from Morton and Sewell Land Company, LLC requesting contiguous annexation of 65.8416 acres at 385 Gold Hill Road.**

Mayor Jarrell opened the public hearing on the contiguous annexation of 65.8416 acres of land located at 385 Gold Hill Road.

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

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

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

Ordinance Number 51 ORD 12-05  
**ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEBORO, NORTH  
CAROLINA**  
**(65.8416 Acres of Land Located at 385 Gold Hill Road)**

**WHEREAS**, pursuant to Section 160A-31 of the North Carolina General Statutes, a petition signed by the owners of all of the real property located within the area hereinafter described was heretofore presented to the City Council of the City of Asheboro, by which petition a request was made that said area be annexed to the City of Asheboro; and

**WHEREAS**, the city council has by resolution directed the city clerk to investigate the sufficiency of the petition, and the city clerk has certified the sufficiency of said petition; and

**WHEREAS**, the city council did publish notice to the public on the 25<sup>th</sup> day of November, 2005 in *The Courier Tribune*, a newspaper having general circulation in the City of Asheboro, setting forth that a public hearing would be held at 7:00 o'clock p.m. on the 8<sup>th</sup> day of December, 2005 in the Council Chamber of the City of Asheboro Municipal Building to consider the adoption of an ordinance annexing said area to the City of Asheboro; and

**WHEREAS**, the said public hearing was in fact held on the 8<sup>th</sup> day of December, 2005; and

**WHEREAS**, the 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:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a concrete monument set at the intersection of the northern margin of the right-of-way for East Presnell Street (North Carolina Secondary Road 2345) with the western margin of the right-of-way for Gold Hill Road (North Carolina Secondary Road 2183), said concrete monument is located by means of the North Carolina Coordinate System at the coordinates of North 716,448.78 feet and East 1,765,226.32 feet (NAD 27); thence from said Beginning point along the northern margin of the right-of-way for East Presnell Street the following courses and distances: North 54 degrees 02 minutes 03 seconds West 246.41 feet to a concrete monument; thence North 65 degrees 50 minutes 56 seconds West 297.49 feet to a concrete monument; thence North 72 degrees 28 minutes 04 seconds West 215.79 feet to a concrete monument; thence South 60 degrees 08 minutes 52 seconds West 222.23 feet to a concrete monument; thence South 82 degrees 16 minutes 23 seconds West 302.51 feet to a new iron pin or pipe; thence along the existing corporate limits line of the City of Asheboro and the City of Asheboro property described in Deed Book 1190, Page 967, Randolph County Public Registry the following courses and distances: North 03 degrees 10 minutes 28 seconds East 674.62 feet to an existing axle; thence North 05 degrees 31 minutes 16 seconds East 1192.21 feet to an existing iron pin or pipe; thence along the Lucille W. Lambeth property described in Deed Book 1527, Page 958, Randolph County Public Registry the following courses and distances: North 22 degrees 48 minutes 18 seconds East 148.37 feet to a point not set in Penwood Branch; thence North 43 degrees 55 minutes 13 seconds East 78.99 feet to a point not set in Penwood Branch; thence North 79 degrees 40 minutes 56 seconds East 60.00 feet to a point not set in Penwood Branch; thence North 26 degrees 56 minutes 53 seconds East 114.15 feet to a point not set in Penwood Branch; thence North 84 degrees 15 minutes 40 seconds East 20.00 feet to a new iron pin or pipe; thence North 84 degrees 15 minutes 40 seconds East 442.31 feet to an existing iron pin or pipe; thence along the Phillip Boling property described in the Randolph County Clerk of Superior Court's Estate File No. 97E-86 and in Deed Book 315, Page 467, Randolph County Public Registry the following courses and distances: South 63 degrees 59 minutes 59 seconds East 385.11 feet to an existing iron pin or pipe; thence South 15 degrees 53 minutes 06 seconds West 707.55 feet to an existing iron pin or pipe; thence North 88 degrees 36 minutes 37 seconds East 405.06 feet to an existing iron pin or pipe; thence along the English Asheboro Congregation of Jehovah's Witnesses property described in Deed Book 1441, Page 1372, Randolph County Public Registry the following courses and distances: South 00 degrees 31 minutes 17 seconds East 427.12 feet to an existing iron pin or pipe; thence South 87 degrees 25 minutes 43 seconds East 599.17 feet to an existing iron pin or pipe; thence along the western margin of the right-of-way for Gold Hill Road the following courses and distances: South 27 degrees 47 minutes 38 seconds West 531.98 feet to a concrete monument; thence South 44 degrees 44 minutes

39 seconds West 103.79 feet to a concrete monument; thence South 35 degrees 50 minutes 56 seconds West 234.21 feet to a concrete monument; thence South 45 degrees 11 minutes 18 seconds West 518.08 feet to the point and place of the BEGINNING, and containing 65.8416 acres, more or less, to be annexed.

This description is in accordance with a plat of survey entitled "Annexation Plat Prepared For The City Of Asheboro Property Owned By Morton And Sewell Land Co., LLC" and drawn under the supervision of Steven D. Brown, Registered Land Surveyor with Registration No. L-1435. The said plat of survey was originally dated May 10, 1998, but the plat has revision dates of 5/20/98, 10/5/98, 10/3/00, and 11/7/05. The assigned job number is 98020Wells.

**Section 2.** Upon and after December 8, 2005, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Asheboro and shall be entitled to the same privileges and benefits as other parts of the City of Asheboro. Said territory shall be subject to municipal taxes according to Section 160A-58.10 of the North Carolina General Statutes.

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

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

**Section 5.** This ordinance shall be in full force and effect from the 8<sup>th</sup> day of December, 2005.

Adopted in regular session on this the 8<sup>th</sup> day of December 2005.

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

ATTEST:

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

Approved as to form:

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

**20. Continuation of public hearing on the question of granting a franchise to Morton and Sewell Land Company, LLC for a construction and demolition debris landfill located at 385 Gold Hill Road.**

Mayor Jarrell opened the public hearing.

Mr. Sugg presented that the aforementioned property is located inside the corporate limits of the City of Asheboro and is eligible for the granting of a franchise by the city. Additionally, pursuant to regulations of the North Carolina Department of Environment and Natural Resources, the City's Planning Director has determined that Morton and Sewell Land Company, LLC is currently in compliance with the city's zoning and subdivision ordinances.

Mr. Al Morton, a representative of Morton and Sewell Land Company, LLC, was present to answer questions.

Mr. Sugg presented and recommended adoption, by reference, of the resolution Approving the Continued Operation of the Construction and Demolition Debris Landfill Operated by Morton and Sewell Land Company, LLC at 385 Gold Hill Road.

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

74 RES 12-05

**RESOLUTION APPROVING THE CONTINUED OPERATION OF THE CONSTRUCTION AND DEMOLITION DEBRIS LANDFILL OPERATED BY MORTON AND SEWELL LAND COMPANY, LLC AT 385 GOLD HILL ROAD**

**WHEREAS**, Morton and Sewell Land Company, LLC operates a construction and demolition debris landfill known as Gold Hill Road Landscape Supply and Landfill at 385 Gold Hill Road; and

**WHEREAS**, Morton and Sewell Land Company, LLC is beginning the process of renewing the required permit from the North Carolina Department of Environment and Natural Resources for a construction and demolition debris landfill; and

**WHEREAS**, on the basis of Section 130A-294 of the North Carolina General Statutes and pursuant to Title 15A, Subchapter 13B, Section .0504(1)(e) of the North Carolina Administrative Code, Morton and Sewell Land Company, LLC must obtain approval from the governing board of the City of Asheboro for the landfill to continue to receive the proper permit from the North Carolina Department of Environment and Natural Resources; and

**WHEREAS**, the Planning Director for the City of Asheboro has given written notice to the city council, by means of a memorandum that is attached hereto as Exhibit A and is hereby incorporated into this resolution by reference as if copied fully herein, that Gold Hill Road Landscape Supply and Landfill is in full compliance with the Asheboro Zoning Ordinance; and

**WHEREAS**, the city council has received no negative public comment or input from city staff members pertaining to Gold Hill Road Landscape Supply and Landfill.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro that approval is hereby granted to Morton and Sewell Land Company, LLC for the continued operation of a construction and demolition debris landfill at Gold Hill Road Landscape Supply and Landfill, 385 Gold Hill Road, Asheboro, North Carolina.

Adopted in regular session on this the 8<sup>th</sup> day of December, 2005.

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

ATTEST:

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

(Exhibit A that is referred to in this resolution is attached to the original resolution on file in the city clerk's office.)

Upon motion by Ms. Carter and seconded by Mr. Moffitt, Council voted unanimously to approve the first reading on an ordinance granting a franchise to Morton and Sewell Land Company, LLC for the operation of a construction and demolition landfill.

52 ORD 12-05

**AN ORDINANCE GRANTING A CONSTRUCTION AND DEMOLITION DEBRIS LANDFILL  
FRANCHISE TO MORTON AND SEWELL  
LAND COMPANY, LLC**

**WHEREAS**, Morton and Sewell Land Company, LLC currently owns and operates a construction and demolition debris landfill (hereinafter referred to as the "Landfill") located at 385 Gold Hill Road, Asheboro, North Carolina (Gold Hill Road Landscape Supply and Landfill); and

**WHEREAS**, the real property upon which the above-referenced landfill is located was voluntarily annexed into the corporate limits of the City of Asheboro (hereinafter referred to as the "City") prior to the consideration of this franchise ordinance by the City Council of the City of Asheboro during a regular session of the council that was held on December 8, 2005; and

**WHEREAS**, Morton and Sewell Land Company, LLC has properly submitted the requisite franchise application and fee for a franchise from the City of Asheboro for a construction and demolition debris landfill; and

**WHEREAS**, no negative comments were received during a properly noticed public hearing that was held by the city council on November 10 and December 8, 2005 on the question of granting the requested franchise to Morton and Sewell Land Company, LLC.

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

**Section 1.** Pursuant to and in accordance with Sections 130A-294, 160A-76, 160A-174, and 160A-319 of the North Carolina General Statutes, Morton and Sewell Land Company, LLC (hereinafter referred to as the "Company") is hereby granted a franchise to operate a construction and demolition debris landfill located at 385 Gold Hill Road, Asheboro, North Carolina.

**Section 2.** The Landfill shall be operated as Gold Hill Road Landscape Supply and Landfill under the direction of Alfred H. Morton of 2280 Stutts Road, Asheboro, North Carolina. The hours of

operation shall be Monday through Friday from 7:00 a.m. until 5:00 p.m. and Saturday from 8:00 a.m. until 12:00 p.m.

**Section 3.** The landfill shall actually utilize nine (9) acres of space. Approximately one hundred twenty-five (125) cubic yards of waste will be deposited into the Landfill per day each year, and the Landfill will have an estimated life of ten (10) or more years.

**Section 4.** Operation of the Landfill shall be contingent upon the Company obtaining and maintaining a permit from the North Carolina Department of Environment and Natural Resources, which will be inspecting said landfill on a regular basis. Before a permit is issued, monitoring wells shall be installed to insure that ground water will not be contaminated in the area. A plan shall be created to identify ground water users, land use, and zoning information within a one-fourth (1/4) and two (2) mile radius of the landfill.

**Section 5.** The Company shall purchase a one million dollar (\$1,000,000.00) environmental liability insurance policy and a one million dollar (\$1,000,000.00) general liability insurance policy, along with automobile and workers' compensation insurance policies that comply with the pertinent provisions of the North Carolina General Statutes. The City shall be named as an additional insured by these policies.

**Section 6.** The population to be served by the Landfill shall be primarily commercial contractors who specialize in construction and demolition activities. The main waste stream shall primarily come from the City of Asheboro, Randolph County, and from counties contiguous to Randolph County.

**Section 7.** The waste accepted by the construction and demolition debris landfill shall be composed of waste or debris resulting from roofing, construction, remodeling, repair, or demolition operations on pavement, buildings, or other structures. The Company shall monitor the wastes offered to the landfill and shall reject any loads of floor tiles, siding, and roofing shingles that are likely to contain significant levels of asbestos. The Company shall also reject other unacceptable waste including without limitation friable asbestos, organic/household waste, waste that has been in contact with petroleum, solvents, or chemicals, waste containing PCB's, and waste that has been in contact with pesticides or herbicides.

**Section 8.** The fee schedule for the Landfill is attached to this ordinance as Exhibit A and is hereby incorporated into this ordinance by reference as if copied fully herein. The Company shall submit any proposed fee changes to the City for approval within sixty (60) days prior to the proposed effective date of the fee changes.

**Section 9.** The franchise granted by this ordinance shall have a term of five (5) years.

**Section 10.** The Company agrees to operate the landfill in accordance with all applicable laws and regulations and shall comply with any permit(s) issued by the State of North Carolina.

**Section 11.** The Company shall require anyone using the landfill to comply with Section 20-116(g) of the North Carolina General Statutes.

**Section 12.** This ordinance shall be effective upon its second passage at a regular meeting of the City Council of the City of Asheboro.

Adopted after first reading in regular session on the 8<sup>th</sup> day of December, 2005.

Adopted after second reading in regular session on the 5<sup>th</sup> day of January, 2006.

**[Signature blocks are located on the next page.]**

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

ATTEST:

\_\_\_\_\_  
Holly J. Hartman, Deputy City Clerk

(Exhibit A that is referred to in this ordinance is attached to the original ordinance on file in the city clerk's office.)

**21. Petition received from Clarence M. Seabolt requesting contiguous annexation of 0.4378 of an acre of land along the west side of North McCrary Street.**

Mr. Bunker presented and recommended adoption, by reference, of a resolution directing the city clerk to investigate a petition requesting contiguous annexation of 0.4378 of an acre of land located along the west side of North McCrary Street.

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

75 RES 12-05

**RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE AN ANNEXATION PETITION RECEIVED PURSUANT TO SECTION 160A-31 OF THE NORTH CAROLINA GENERAL STATUTES (0.4378 of an Acre of Land Located Along the West Side of North McCrary Street)**

**WHEREAS**, a petition requesting the annexation of an area described in said petition as approximately 0.4378 of an acre of land located along the west side of North McCrary Street has been received by the City Council of the City of Asheboro, North Carolina; 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**, the city council deems it advisable to proceed in response to this request for annexation.

**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.

Adopted in regular session on this the 8<sup>th</sup> day of December 2005.

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

ATTEST:

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

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

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

76 RES 12-05

**RESOLUTION FIXING DATE OF PUBLIC HEARING ON THE QUESTION OF ANNEXATION PURSUANT TO SECTION 160A-31 OF THE NORTH CAROLINA GENERAL STATUTES (0.4378 of an Acre of Land Located Along the West Side of North McCrary Street)**

**WHEREAS**, a petition requesting annexation of the area described therein has been received; 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 petition; and

**WHEREAS**, certification by the deputy city clerk as to the sufficiency of said petition has been made.

**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 annexation of 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 in the City of Asheboro, North Carolina, at 7:00 o'clock p.m. on the 5<sup>th</sup> day of January, 2006.

**Section 2.** The area proposed for annexation is described on the attached sheet that is identified as Exhibit 1 and is hereby incorporated into this resolution by reference as if copied fully herein.

**Section 3.** Notice of said 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 said public hearing.

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

ATTEST:

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

(Exhibit 1 that is referred to in this resolution is attached to the original resolution on file in the city clerk's office.)

**21. Resolution declaring certain city-owned real property designated as Lot #4 (0.63 acre) of East Pritchard Street Cul-De-Sac Subdivision to be surplus property and authorizing the disposal of said property.**

Mr. Sugg reported that the aforementioned property is currently encumbered by an uncanceled Deed of Trust and requested that this item be deferred until the January 5, 2006 regular council meeting in order to allow adequate time for the procurement of the necessary Release Deed from the lender.

Upon motion by Mr. Smith and seconded by Ms. Carter, Council voted unanimously to defer said item.

**22. Resolution to authorize the purchase of the Sunset Theatre property located at 232, 234, and 236 Sunset Avenue.**

Consistent with the recommendation from the Finance Committee, Mr. Ogburn presented a resolution authorizing the city to execute an offer to purchase and contract for the acquisition of the Sunset Theatre.

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

77 RES 12-05

**RESOLUTION DIRECTING THE MAYOR TO MAKE AN OFFER ON BEHALF OF THE CITY OF ASHEBORO TO PURCHASE AND CONTRACT FOR THE "SUNSET THEATRE"**

**WHEREAS**, the building commonly known as the "Sunset Theatre" is currently owned by George Washington Carver College, Inc., a North Carolina non-profit corporation, said property is more specifically identified by Randolph County Parcel Identification Number 7751724892; and

**WHEREAS**, the City Council of the City of Asheboro has concluded that, if possible, this real property should be acquired as a community asset and put to public use and benefit.

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

**Section 1.** On behalf of the City of Asheboro, the mayor is directed to offer to purchase and contract for the acquisition of the above-described real property for a purchase price of two hundred forty-four thousand eight hundred forty and no/100 dollars (\$244,840.00).

**Section 2.** The mayor shall comply with Section 1 of this resolution by making the necessary offer to purchase and contract in a form substantially similar to the offer to purchase and contract attached to this resolution as Exhibit 1, said exhibit is hereby incorporated by reference as if copied fully herein.

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

ATTEST:

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

**23. Report by Water Resources Director on shortage of Fluosilicic Acid (Fluoride).**

Mr. Rhoney presented that due to high demand in other states for Fluosilicic Acid (Fluoride), the chemical is currently unavailable for utilization by the City's Water Treatment Plant. Mr. Rhoney will have continuous contact with the city's supplier in order to resolve this issue.

**24. Report by Parks and Recreation Director on Federal Building acquisition.**

Mr. Hughes presented that the application for the acquisition of the Federal Building was approved in March, however, said property is currently unavailable for occupancy by the City's Parks and Recreation Department due to the needs of existing tenants. Consequently, the city's acquisition of the property is on hold indefinitely, however, based on this presentation, the Council members expressed a clear consensus of opinion that city staff should continue the process of acquiring the real property from the federal government regardless of any anticipated delay.

**25. No City Council Committee reports.**

**26. Upcoming Events.**

- Strategic Planning Steering Committee – December 14, 2005, 7:00 p.m. at The Exchange.
- Christmas on Sunset – December 9, 2005, 6:00 p.m.

There being no further business, the meeting was adjourned at 10:08 p.m.

Holly J. Hartman, Deputy City Clerk

David H. Jarrell, Mayor