

**REGULAR MEETING
ASHEBORO CITY COUNCIL
THURSDAY, AUGUST 4, 2005
7:00 PM**

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

David Jarrell) – Mayor Presiding

Talmadge Baker)
Linda Carter)
Keith Crisco)
Nancy Hunter) – Council Members Present
John McGlohon)
Archie Priest)
David Smith)

John N. Ogburn, III, City Manager
Carol J. Cole, CMC, City Clerk
Dumont Bunker, P. E., City Engineer
Debbie Juberg, Finance Director
Reynolds Neely, Planning Director
Lynn Priest, CD Director
Wendell Holland, Zoning Administrator
Trevor Nuttall, Planner
S. A. Vuncannon, Police Captain
Holly Hartman, Legal Assistant
Jeff Sugg, City Attorney

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

1. Pledge of Allegiance and Invocation.

Mayor Jarrell asked everyone to stand and repeat the Pledge of Allegiance. Reverend Mark Key, Senior Pastor of Central United Methodist Church, gave the invocation.

2. Appearance and Recognition of Guests and Citizens.

Mayor Jarrell welcomed everyone in attendance.

3. Consent Agenda.

Mayor Jarrell entertained a motion to defer the consent agenda item to approve the Findings of Fact, Conclusions of Law, and Order in the matter of SUP-05-04.

Upon motion by Mr. Crisco and seconded by Mr. Priest, council voted unanimously to defer said item.

Upon motion by Mr. Priest and seconded by Mr. Baker, council voted unanimously to approve the remainder of the consent agenda items as follows:

- Minutes of the July 14, 2005 regular council meeting as presented
- Findings of Fact, Conclusions of Law, and Order in the Matter of CUP-05-12

IN THE MATTER OF THE APPLICATION OF BARNEY TROGDON FOR A
CONDITIONAL USE PERMIT ALLOWING OUTSIDE CUSTOMER SEATING FOR AN
EXISTING EATING ESTABLISHMENT

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

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during the Council's regularly scheduled meeting on July 14, 2005. Having considered all competent evidence and argument, the Council, on the basis of competent, material, and substantial evidence, does hereby make the following:

FINDINGS OF FACT

1. Mr. Barney Trogdon (hereinafter referred to as the "Applicant") has properly filed an application with the City of Asheboro Planning Department for a Conditional Use Permit that would allow outside customer seating for an existing eating establishment located at 841 Cross Street.

2. This existing eating establishment is located upon a twelve thousand three hundred seventy-six (12,376) square foot lot that is more specifically identified by Randolph County Parcel Identification Number 7761258757.

3. This lot at 841 Cross Street (hereinafter referred to as the "Zoning Lot" is currently subject to an active Conditional Use Permit that was issued under file number CUP-04-01.

4. The existing permit allows a walk-up/carry-out restaurant, which is currently known as Mr. T's Diner, to exist upon the Zoning Lot, but this permit does not allow customer seating.

5. The Applicant is seeking the issuance of a new Conditional Use Permit that will allow outside seating for a maximum of twenty-five (25) patrons of the restaurant.

6. The Applicant specifically proposes to provide a total of six (6) picnic tables with seating for four (4) persons at each table.

7. The Zoning Lot is located in an area that is designated on the Growth Strategy Map as "Primary Growth," and the said area is identified on the Proposed Land Development Plan Map as "Neighborhood Residential."

8. The Zoning Lot is located in a CU-B2 zoning district.

9. The land uses immediately surrounding the Zoning Lot are single-family residential to the north and south, undeveloped land and residential use to the east, and undeveloped land to the west.

10. The Zoning Lot is located within the city limits, and all city services are available to the lot.

11. Cross Street is a local street with a thirty (30) foot right-of-way, and Loach Street is a local street with a fifty (50) foot right-of-way.

12. The area consists of primarily residential uses, with undeveloped commercial land to the east.

13. The existing restaurant has not had a detectable negative impact on the surrounding community or property owners.

14. A Conditional Use Permit has been issued under file number CUP-05-13 authorizing the location of a parking lot for the restaurant upon a lot that is located on the opposite side of Cross Street from the Zoning Lot.

15. The creation of off-street parking for patrons rather than utilizing on-street parking enhances the safety of the business' operations.

16. City staff members in the planning department have reviewed the Applicant's site plan and found the plan to be in compliance with the Asheboro Zoning Ordinance.

17. With the exception of the addition of outside seating for a maximum of twenty-five patrons, the facts surrounding this application for a Conditional Use Permit are the same as the ones relied upon by the Council to issue the existing Conditional Use Permit under file number CUP-04-01.

18. The existing Conditional Use Permit imposed a condition that limited daily business hours on the Zoning Lot to the range of 6:00 o'clock a.m. to 11:00 o'clock p.m.

19. No opposition to the Applicant's request for a Conditional Use Permit was expressed during the hearing of this matter.

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

CONCLUSIONS

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

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

3. The proposed use will not substantially injure the value of adjoining or abutting property.

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

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

ORDER

Mr. Barney Trogdon is hereby issued a Conditional Use Permit that allows the Applicant to construct, operate, and maintain upon the Zoning Lot an eating establishment with outside seating for a maximum of twenty-five (25) patrons so long as the approved land use is conducted in strict compliance with the approved site plan and the provisions of the Asheboro Zoning Ordinance and so long as the Applicant, and his heirs, successors, and assigns, remain in strict compliance with the following conditions:

1. All applicable conditions of the previous permit shall remain in effect, specifically including without limitation the condition that any use or business established on the Zoning Lot shall be permitted to conduct operations only during the hours of 6:00 o'clock a.m. to 11:00 o'clock p.m. each day of the week.

2. The Applicant shall erect and maintain on the Zoning Lot appropriate signage prohibiting loitering on the premises after business hours.

Adopted in regular session by the Asheboro City Council on this the 4th day of August, 2005.

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

ATTEST:

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

- Findings of Fact, Conclusions of Law, and Order in the Matter of CUP-05-13

Case No. CUP-05-13
City Council
City of Asheboro

IN THE MATTER OF THE APPLICATION OF BARNEY TROGDON FOR A
CONDITIONAL USE PERMIT ALLOWING A PARKING LOT

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

THIS MATTER came before the Asheboro City Council (hereinafter referred to as the "Council") for hearing during the Council's regularly scheduled meeting on July 14, 2005. Having considered all competent evidence and argument, the Council, on the basis of competent, material, and substantial evidence, does hereby make the following:

FINDINGS OF FACT

1. Mr. Barney Trogdon (hereinafter referred to as the "Applicant") has properly submitted an application to have his property that is located on the east side of Cross Street and south of 840 Cross Street rezoned from a high density residential RA6 zoning district to a Conditional Use B2 zoning district.

2. In addition to requesting that the Council legislatively rezone the above-referenced property, the Applicant has also requested that the Council conduct a quasi-judicial proceeding for the purpose of issuing a Conditional Use Permit for a parking lot.

3. The parcel of land for which a Conditional Use Permit is sought is more specifically identified by Randolph County Parcel Identification Number 7761259683.

4. This parcel of land (hereinafter referred to as the "Zoning Lot") is approximately eighteen thousand nine hundred (18,900) square feet in size.

5. The Zoning Lot is located in an area designated on the Growth Strategy Map as "Primary Growth," and the said area is identified on the Proposed Land Development Plan Map as "Neighborhood Residential."

6. The Zoning Lot is currently undeveloped.

7. The land use to the north is single-family residential, while the land uses to the south and east are undeveloped residential. The land use to the west is commercial (the Applicant's restaurant which is known as Mr. T's Diner).

8. The Applicant proposes to use the Zoning Lot for a parking lot that could serve the customers of his restaurant, Mr. T's Diner.

9. The Zoning Lot is located within the city limits, and all city services are available.

10. Cross Street is a local street with a thirty (30) foot right-of-way. Loach Street is a local street with a fifty (50) foot right-of-way.

11. Mr. T's Diner is located across the street (Cross Street) and is within five hundred (500) feet of the restaurant.

12. The area around the Zoning Lot consists of primarily residential uses, with the Applicant's restaurant to the west, and undeveloped commercial land to the south.

13. Prior to addressing the question of the issuance of the requested Conditional Use Permit, the Council, consistent with the recommendation of the Planning Board, rezoned the Zoning Lot from an RA6 High Density Residential zoning district to a Conditional Use B2 zoning district.

14. The city's zoning ordinance does permit a parking lot to be located across the street from the business it serves so long as the distance between the parking area and the business is not greater than five hundred (500) feet and so long as pedestrians do not have to cross a major or minor thoroughfare in order to access the parking lot.

18. City staff members in the planning department have reviewed the Applicant's site plan and found the proposals on the site plan to be in compliance with the specifications and requirements of the Asheboro Zoning Ordinance.

19. The Applicant has operated his restaurant since the fall of 2004, and the improvements he has made to the surrounding real property have been positive for the area.

20. The utilization of the Zoning Lot for a parking lot to serve the existing restaurant will further the improvements the Applicant is making to the real property in the area.

21. The utilization of off-street parking rather than on-street parking for customers of the existing restaurant enhances the safety of the Applicant's business operations.

22. No opposition to the Applicant's request for a Conditional Use Permit was expressed during the hearing of this matter.

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

CONCLUSIONS OF LAW

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

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

3. The proposed use will not substantially injure the value of adjoining or abutting property.

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

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

ORDER

Mr. Barney Trogdon is hereby issued a Conditional Use Permit that allows the Applicant to construct, operate, and maintain a parking lot on the Zoning Lot so long as the approved land use is conducted in strict compliance with the approved site plan and the provisions of the Asheboro Zoning Ordinance and so long as the Applicant, and his heirs, successors, and assigns, remain in strict compliance with the following conditions:

1. If the restaurant served by this parking lot is to be open during low light hours, directional and shielded lighting shall be installed as required by the Asheboro Zoning Ordinance.

2. In order to limit the potential for conflict with surrounding land uses, no commercial accessory uses, temporary or otherwise, including by way of illustration and not limitation outside temporary retail sales, shall be permitted upon the Zoning Lot.

Adopted by the Asheboro City Council in regular session on this the 4th day of August, 2005.

ATTEST:

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

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

- Closing the downtown streets for Fall Festival XXXIII to be held October 7-9, 2005
- Closing Church Street, Sunset Avenue, Fayetteville Street and Lanier Avenue for the Tractor Parade to be held October 15, 2005
- Final Change Order #4 on the Wastewater Pump Stations #2 and #6 Project (Section 2 – Terry's Plumbing & Utilities, Inc.) decreasing the construction contract amount by \$44,619.32 to \$1,074,448.68 for adjustment of quantities as built
- Resolution authorizing the city manager to enter into a Grant Agreement between the NC Department of Transportation and the City of Asheboro for the city to receive a Federal VISION 100 grant in the amount of \$150,000 for a new T-hangar taxi lane with access road at the Asheboro Municipal Airport

41 RES 8-05

Resolution

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

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

NOW, THEREFORE, BE AND IT IS RESOLVED THAT THE City Manager of the Sponsor be and he hereby is authorized and empowered to enter into a Grant Agreement or any mutually agreed upon modification thereof.

This the 4th day of August, 2005.

S/ Carol J. Cole
City Clerk
City of Asheboro

OLD BUSINESS:

4. **Resolution Authorizing the Execution of a Hangar Lease Agreement Between the City of Asheboro and the Randolph Composite Squadron – Civil Air Patrol (C. A. P.) for a term of Ten (10) Years at One Dollar (\$1.00) Per Year Annual Rent.**

Mr. Bunker recommended that this item be deferred.

Upon motion by Mr. McGlohon and seconded by Mrs. Carter, council voted unanimously to defer said item.

5. **Ordinance Establishing Uniform 25 MPH Speed Limits Within School Zones.**

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

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

**ORDINANCE ESTABLISHING UNIFORM TWENTY-FIVE (25) MILES PER HOUR
SPEED LIMITS WITHIN SCHOOL ZONES**

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 20-141(f) of the North Carolina General Statutes provides as follows:

Whenever local authorities within their respective jurisdictions determine upon the basis of an engineering and traffic investigation that a higher maximum speed than those set forth in subsection (b) is reasonable and safe, or that any speed hereinbefore set forth is greater than is reasonable and safe, under the conditions found to exist upon any part of a street within the corporate limits of a municipality and which street is a part of the State highway system (except those highways designated as part of the interstate highway system or other controlled-access highway), said local authorities shall determine and declare a safe and reasonable speed limit. A speed limit set pursuant to this subsection may not exceed 55 miles per hour. Limits set pursuant to this subsection shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit; and

WHEREAS, speed restrictions established by the city council by means of the adoption of an appropriate ordinance are to be recorded in Schedule 16 of Chapter 72 of the Code of Asheboro; and

WHEREAS, upon the basis of engineering and traffic investigations conducted in conjunction with the North Carolina Department of Transportation and the Asheboro City School System, the Asheboro City Council has previously determined and declared that a speed limit of twenty-five (25) miles per hour is safe and reasonable in school zones during certain times of the school day; and

WHEREAS, the need currently exists to adopt a uniform speed restriction ordinance that can apply the aforementioned twenty-five (25) miles per hour speed limit to school zones in a manner that is cognizant of the fact that the schools within the city school system do not utilize a uniform schedule for the instructional day.

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

Section 1. Subject to the day and time limitations specified in Section 2 of this ordinance, the maximum speed authorized upon the specified portions of streets enumerated in Section 3 of this ordinance is twenty-five (25) miles per hour.

Section 2. The speed restriction imposed by Section 1 of this ordinance shall be in effect only on school days and for durations of thirty (30) minutes before and after the school day begins and thirty (30) minutes before and after the school day ends.

Section 3. The speed restriction imposed by Section 1 of this ordinance shall be applicable to the following portions of streets:

A. Asheboro High School and South Asheboro Middle School

Along South Park Street (North Carolina Secondary Road 1451) from West Dixie Drive (United States Highway 64) to a point located approximately three hundred thirty (330) feet north of the intersection of the centerline of West Taft Avenue with South Park Street.

B. North Asheboro Middle School and Balfour Elementary School

Along North Asheboro School Road (North Carolina Secondary Road 1723) from a point located approximately fifteen hundred (1,500) feet south of the intersection of North Asheboro School Road with Spero Road (North Carolina Secondary Road 1504) and extending south to the terminus of North Asheboro School Road.

C. Lindley Park Elementary School

Along Cliff Road from a point located approximately one hundred sixty (160) feet southeast of the intersection of the centerline of South High Street with Cliff Road to a point located approximately three hundred eight (308) feet northwest of the intersection of the centerline of South Randolph Avenue with Cliff Road.

D. Donna L. Loflin Elementary School

Along South Park Street (North Carolina Secondary Road 1451) from the intersection of the centerline of Lanier Avenue with South Park Street to a point located approximately one hundred sixty-nine (169) feet south of the intersection of the centerline of Sunset Avenue with South Park Street.

E. Charles W. McCrary Elementary School

Along Ross Street from a point located approximately eighty (80) feet north of the intersection of the centerline of West Ward Street with the western right-of-way line of Ross Street to the intersection of Ross Street with West Presnell Street (North Carolina Secondary Road 2344).

Along West Presnell Street (North Carolina Secondary Road 2344) from a point located approximately one hundred (100) feet east of the intersection of the centerline of Hamlin Street with West Presnell Street to a point located approximately nine hundred eighty-five (985) feet east of the intersection of the centerline of Amity Road with West Presnell Street.

F. Guy B. Teachey Elementary School

Along Newbern Avenue (North Carolina Secondary Road 2922) from a point located approximately ninety-seven (97) feet west of the intersection of the centerline of Northampton Drive (North Carolina Secondary Road 2947) with Newbern Avenue to a point located approximately one thousand twenty (1,020) feet east of the intersection of the centerline of Northampton Drive with Newbern Avenue.

Section 4. The city manager, in consultation with the city police department, shall cause the appropriate signage to be erected in order to provide notice of the speed restrictions imposed by this ordinance.

Section 5. The city clerk shall amend Schedule 16 of Chapter 72 of the Code of Asheboro to reflect the imposition of the above-stated speed restrictions.

Section 6. All ordinances and clauses of ordinances in conflict with this ordinance are hereby repealed.

Section 7. The speed restrictions imposed by this ordinance shall become effective upon streets that are not part of the State highway system when appropriate signs giving notice of the speed restrictions are erected upon the parts of the streets impacted by this ordinance. The speed restrictions imposed by this ordinance shall become effective upon streets that are part of the State highway system when the Department of Transportation has passed concurring ordinances and signs are posted giving notice of the authorized speed limit.

Adopted in regular session on this the 4th day of August, 2005.

ATTEST: S/ David H. Jarrell

David H. Jarrell, Mayor

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

6. Resolution Setting a New Date for the Public Hearing on the Question of Annexing 1.175 Acres Along the South Side of Sherwood Road.

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

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

42 RES 8-05

**RESOLUTION SETTING A REVISED DATE FOR A PUBLIC HEARING ON
THE QUESTION OF ANNEXATION PURSUANT TO SECTION 160A-58.2
OF THE NORTH CAROLINA GENERAL STATUTES
(1.175 Acres of Land Located along the South Side of Sherwood Road)**

WHEREAS, a petition requesting annexation of the non-contiguous area described herein has been received; and

WHEREAS, the city council has, by resolution, directed the city clerk to investigate the sufficiency thereof; and

WHEREAS, certification by the city clerk as to the sufficiency of said petition has been made; and

WHEREAS, by means of adopting Resolution Number 34 RES 7-05, the city council previously called for a public hearing to be held on August 4, 2005 on the question of annexing the non-contiguous area described herein; and

WHEREAS, due to the abbreviated amount of time between the regularly scheduled meetings of the city council in July and August 2005, city staff was unable to publish proper public notice of the previously called public hearing.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro, North Carolina, on this the 4th day of August, 2005, as follows:

Section 1. A public hearing on the question of annexation of the non-contiguous area described herein will be held at the City of Asheboro Municipal Building, which is located at 146 North Church Street in Asheboro, North Carolina, at 7:00 o'clock p.m. on the 8th day of September, 2005.

Section 2. The area proposed for annexation is described on the attached sheet, which is identified as Exhibit 1 and incorporated 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/ Carol J. Cole
Carol J. Cole, CMC, 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.)

7. **Resolution Setting a New Date for the Public Hearing on the Question of Annexing 14.7471 Acres Along the South Side of NC Highway 49 South.**

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

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

43 RES 8-05

RESOLUTION SETTING A REVISED DATE FOR A PUBLIC HEARING ON THE QUESTION OF ANNEXATION PURSUANT TO SECTION 160A-31 OF THE NORTH CAROLINA GENERAL STATUTES (14.7471 Acres of Land along the South Side of North Carolina Highway 49 South)

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

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

WHEREAS, certification by the city clerk as to the sufficiency of said petition has been made; and

WHEREAS, by means of adopting Resolution Number 36 RES 7-05, the city council previously called for a public hearing to be held on August 4, 2005 on the question of annexing the contiguous area described herein; and

WHEREAS, due to the abbreviated amount of time between the regularly scheduled meetings of the city council in July and August 2005, city staff was unable to publish proper public notice of the previously called public hearing.

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 Asheboro, North Carolina, at 7:00 o'clock p.m. on the 8th day of September, 2005.

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

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

Adopted by the Asheboro City Council in regular session on this the 4th day of August, 2005.

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

S/ Carol J. Cole
Carol J. Cole, CMC, 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.)

8. Petition Received From Allene Woodle Requesting Contiguous Annexation of 1.28 Acres Located at 1314 Martin Luther King, Jr. Drive.

Mr. Bunker presented and recommended adoption, by reference, of a resolution directing the city clerk to investigate said annexation petition.

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

44 RES 8-05

RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE AN ANNEXATION PETITION RECEIVED PURSUANT TO SECTION 160A-31 OF THE NORTH CAROLINA GENERAL STATUTES (1.28 Acres of Land Located at 1314 Martin Luther King, Jr. Drive)

WHEREAS, a petition requesting the annexation of an area described in said petition as approximately 1.28 acres of land located at 1314 Martin Luther King, Jr. Drive 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 4th day of August, 2005.

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

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

After the city clerk certified as to the sufficiency of said annexation petition, Mr. Bunker presented and recommended adoption, by reference, of a resolution fixing the date of a public hearing on the question of annexation.

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

45 RES 8-05

**RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF
ANNEXATION PURSUANT TO SECTION 160A-31 OF THE
NORTH CAROLINA GENERAL STATUTES
(1.28 Acres of Land Located at 1314 Martin Luther King, Jr. Drive)**

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

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

WHEREAS, certification by the 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 Asheboro, at 7:00 o'clock p.m. on the 8th day of September, 2005.

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.

Adopted by the Asheboro City Council in regular session on this the 4th day of August, 2005.

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

ATTEST:

S/ Carol J. Cole
Carol J. Cole, CMC, 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.)

9. Offer of \$7,000 From Tomas Uribe Cortes for Surplus City-Owned Property Located at the Southeast Corner of the Intersection of Glovinia Street and Brewer Street.

Mr. Sugg reported that Mr. Cortes' offer of \$7,000 for the aforementioned property was advertised, and no upset bids were received. However, after the advertisement for upset bids, Mr. Cortes informed representatives of the city that he is an undocumented immigrant. Federal law prohibits the city from entering into a contract for the sale of city-owned real property with an undocumented immigrant. Mr. Sugg presented and recommended adoption of a resolution rejecting Mr. Cortes' offer to purchase the city-owned parcel of land located at the southeast corner of the intersection of Glovinia Street and Brewer Street.

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

46 RES 8-05

**RESOLUTION REJECTING AN OFFER TO PURCHASE A CITY-OWNED PARCEL
OF LAND LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION
OF BREWER STREET AND GLOVINIA STREET**

WHEREAS, a written offer of seven thousand dollars (\$7,000.00) has been submitted by Mr. Tomas Uribe Cortés for the purchase of a city-owned parcel of land that contains approximately 0.12 of an acre of land and is depicted on a plat of survey recorded in the office of the Randolph County Register of Deeds in Plat Book 98 at Page 84; and

WHEREAS, this offer to purchase was advertised for upset bids in accordance with the provisions of Section 160A-269 of the North Carolina General Statutes; and

WHEREAS, no upset bids were received; and

WHEREAS, subsequent to the advertisement for upset bids, Mr. Tomas Uribe Cortés informed representatives of the city that he is an undocumented immigrant; and

WHEREAS, pursuant to Section 1621 of Title 8 of the United States Code, the City of Asheboro is prohibited under federal law from entering into a contract for the sale of city-owned real property with an undocumented immigrant; and

WHEREAS, pursuant to Section 160A-269 of the North Carolina General Statutes, the city council may at any time reject any and all offers.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the offer submitted by Mr. Tomas Uribe Cortés to purchase the above-described parcel of land is hereby rejected, and the city clerk is hereby directed to refund to the offeror his bid deposit of three hundred fifty dollars (\$350.00); and

BE IT FURTHER RESOLVED that, unless and until the city council directs otherwise, city staff shall take no further formal action to dispose of the above-described surplus real property.

Adopted in regular session on this the 4th day of August, 2005.

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

ATTEST:

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

NEW BUSINESS:

10. Public Hearings on Zoning Matters.

Mayor Jarrell opened the public hearing on the following request:

- (a) From R7.5 Medium Density to OA6 Office & Apartment High Density (RZ-05-16):
The property of Mark and Rhonda Trollinger located at 138 East Presnell Street, totaling 20,479 sq. ft. and further identified by Randolph County Property ID Number 7751955831.

Mr. Neely described the aforementioned property and stated that the property is within the city limits, and all city services are available. The area consists of a mix of land uses, with a single-family neighborhood, nursing home, retail and warehousing uses all within a few hundred feet of this property. Both East Presnell and Greensboro Streets are major thoroughfares. The OA6 district is intended to produce moderate intensity office and residential development to serve adjacent residential areas and to provide a transition from residential to commercial uses. Approval of the request would permit both office and multi-family uses. The area along Presnell Street is seeking non-residential development pressure, as the property at the southeast intersection of East Presnell and Greensboro Streets is requested to be rezoned (RZ-05-18). The LDP recognizes the industrial uses to the north and commercial uses to the west. This area, just outside the Center City Planning Area, is recommended to remain a medium density residential neighborhood.

The planning board recommended approval. Although the LDP Proposed Land Use Map identifies this area as Neighborhood Residential, the property is located at the intersection of two major thoroughfares and south of existing industrially zoned property, decreasing the potential for long-term single-family residential use. The district, intended to provide transition from commercial to residential areas, is appropriate for the location.

Mr. Mark Thompson, representing Mr. Trollinger, was present to answer questions.

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

Upon motion by Mr. Baker and seconded by Mr. Priest, council unanimously ordained to accept the recommendation from the planning board for approval.

Mayor Jarrell opened the public hearing on the following request:

- (b) From CU-R10 Medium Density Residential to B2 General Business Commercial (RZ-05-17): The properties of Neighbors Grove Wesleyan Church located at 1928, 1934, and 1936 North Fayetteville Streets and 108 Simpson Street, totaling approximately 10.95 acres and further identified by Randolph County Parcel ID Numbers 7762191066 and 7762181635.

Mr. Neely described the aforementioned properties, which are located within the city limits, and all city services are available. North Fayetteville Street is a major thoroughfare, and Simpson Street and Sharon Avenue are local streets. The Neighbors Grove Wesleyan Church owns the property. The larger parcel (# 7762191066) is used for church related activities. A single-family residence is on the smaller tract of land (108 Simpson Street, # 7762181635). A small portion of this property is zoned B2. A mixture of land uses surround the properties. While the properties are currently utilized for a church and residence, approval of the request would allow all uses permitted in the B2 district.

The planning board recommended the approval of rezoning 108 Simpson Street (PIN 7762181636) and a portion of PIN 7762191066 from the centerline of North Fayetteville Street, following the property boundaries east for a distance of 600 feet (to approximately 100 feet east of the centerline of Pleasant Street). The church is in agreement with the planning board's recommendation.

The treasurer of Neighbors Grove Wesleyan Church was present to answer questions.

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

Upon motion by Mr. Smith and seconded by Mr. Priest, council unanimously ordained to accept the recommendation from the planning board.

Mayor Jarrell opened the public hearing on the following request:

- (c) From RA6 High Density Residential to OA6 Office/Apartment High Density (RZ-05-18): The property of E. C. and Ruby Powell located at 230 East Presnell Street, consisting of approximately 7.62 acres and further identified by Randolph County PIN 7761051511.

Mr. Neely described the aforementioned property and stated that a nursing home facility is on the property. The nursing home is currently legal nonconforming. (A nursing home use is not permitted by the current ordinance.) The property was developed in the 1970's

and has street frontage on East Presnell, Greensboro, and Brewer Streets. The property is within the city limits and all services are available. East Presnell and Greensboro Streets are major thoroughfares. Brewer Street is a local street. Surrounding land uses are primarily residential, with some light industrial uses to the north and limited office and institutional uses to the south and west. Industrial zoning is north of the property and office zoning is to the south. Zoning to the east is single-family residential, and to the west is single-family residential and commercial along North Fayetteville Street. Approval of the request would permit both office and high-density residential uses. The area along Presnell Street is seeing non-residential development pressure, as the property at the southwest intersection of East Presnell and Greensboro Streets is requested to be rezoned (RZ-05-16). The LDP recognizes the industrial uses to the north and commercial uses to the west. This area, just outside the Center City Planning Area, is recommended to remain a medium density residential neighborhood.

The planning board recommended approval of the request. The rezoning will bring the legal nonconforming use into conformance with the zoning ordinance and allow the creation of a new building lot.

Mr. Martin Kearns, representing the applicants, was present to answer questions.

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

Upon motion by Mr. Baker and seconded by Mr. Priest, council unanimously ordained to accept the recommendation from the planning board for approval.

Mayor Jarrell opened the public hearing on the following request:

- (d) From B2 Commercial to CU-OA6 Conditional Use Office & Apartment High Density (RZ/CUP/SUP-05-20): The property of Summers Run LLC, located on the west side of North Fayetteville Street approximately 500 feet north of the intersection of North Fayetteville Street and Greenvale Road, totaling approximately 4.79 acres and further identified by Randolph County PIN 7763035377.

Mr. Neely was sworn in and presented the site plan. He stated that the property is within the city limits and all city services are available. North Fayetteville Street is a major thoroughfare. The Conditional Use rezoning is for expansion of the Summers Run apartment complex with 50 units and a rental office. A Special Use Permit is requested seeking approval of a Floor Area Ratio up to 22%. Surrounding land uses are high-density residential. A new apartment complex is under construction just east of the property. The floodplain of Hasketts Creek is located on the northwest corner of this property. The LDP "Proposed Land Use Map" shows a future greenway following the floodplain. The plan recommends "dedication of open space and greenway easements as part of the land development process." The city has secured a greenway easement for the Madison Heights Apartment complex to the east of this site. Continuation of this easement is possible with the granting of an easement along the northern and western boundaries of this property.

The planning board recommended approval of the rezoning, as the request is supported by the policies, goals, and maps of the Land Development Plan.

Mr. Neely stated some suggested conditions for council's consideration if it finds in favor of the request.

Mr. Jon Megerian, attorney representing the applicant, was sworn in and stated that the current zoning will allow most retail businesses. A Conditional Use zoning will be more restrictive. Mr. Megerian addressed the four standard tests as follows: (1) The use will not materially endanger the public health or safety, as there will be no hazardous materials nor excessive noise. (2) The use meets all required conditions and specifications of the Asheboro Zoning Ordinance, as per the site plan submitted. (3) The use will not substantially injure the value of adjoining or abutting property. The use will be the same; more apartments will be constructed which will be well maintained and well engineered. Mr. Megerian showed photos of what is located in the area now and photos of what is proposed. He feels the use will enhance the property. (4) The use will be in harmony with the area, as the LDP calls for high density residential in a primary growth area. The applicant will also comply with any conditions that council establishes.

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

Upon motion by Mr. McGlohon and seconded by Mr. Priest, council unanimously ordained to accept the recommendation from the planning board for approval of the rezoning.

Upon motion by Mr. Baker and seconded by Mr. Crisco, council voted unanimously to approve the Conditional Use Permit for multi-family development with a Special Use Permit to allow a Floor Area Ratio up to 22%. This motion includes the conditions stated by Mr. Neely and is based on the four standard tests being met per testimony by Mr. Megerian.

The conditions will be further detailed in the city attorney's Findings of Fact, Conclusions of Law and Order granting the Conditional Use Permit and Special Use Permit to be approved by council at its September meeting.

11. Public Hearing on Special Use Permit.

Upon motion by Mr. Priest and seconded by Mrs. Carter, council voted unanimously to defer the following request until the September meeting.

- (a) Special Use Permit Modification to Approve a Site Master Plan (Addition of a Corporate Office, Maintenance Facility, and Truck Washing Facility) (SUP-05-05):
The property of P & R Development located at 2501-2505 North Fayetteville Street, consisting of 8.39 acres. The applicant is Garco, Inc.

12. Subdivisions.

- (a) Preliminary Plat Approval for Carowood Subdivision

Mr. Neely presented the preliminary plats for Carowood Subdivision (One meets the subdivision ordinance and one does not.) This subdivision is located between Oakwood Acres Road and Mack Road and contains 8.31 acres, consisting of 10 lots. Carowood is located outside the corporate limits and is not on city water or sewer. According to the developer, the lots have been evaluated by a soil scientist and are suitable for septic systems. The lots will be served by the Seagrove-Ulah Water District. The proposed development is bisected by a stream.

The developers, Samuel and Janet Hunt, are requesting two variances. State regulations prevent a 6-inch hydrant being connected to a 4-inch line. They would like a variance on this matter and a hydrant to be installed near the cul-de-sac of Carowood Drive and to be supplied by a 6-inch waterline from Mack Road. The Asheboro Fire Department does not object to the variance request to move the hydrant location from the entrance of the subdivision to the location on the plat (between Lot No. 7 and Lot No. 8).

Mr. & Mrs. Hunt are also requesting a variance on the curb and gutter requirement. The subdivision is rural in character with many large trees bordering the perimeter. They feel that water could be absorbed and ditched away more efficiently without curb and gutter.

Mr. Jerry King, representing Mr. & Mrs. Hunt, further explained the reasons for the variance request for curb and gutter.

The planning board recommended that the variance request for curb and gutter be denied due to a lack of evidence. The board recommended approval of the hydrant relocation request and approval of the subdivision plat with curb and gutter.

After some discussion, Mr. Smith moved and Mr. Priest seconded that council accept the planning board's recommendations on the variances. The motion carried unanimously.

Upon motion by Mr. Smith and seconded by Mr. Crisco, council voted unanimously to approve the preliminary plat with the curb and gutter.

13. Resolution Recommending Appointment of Mr. D. Luther Hollingsworth and Mr. Chris Corsbie as Extraterritorial Members of the Asheboro City Planning Board.

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

**Resolution Recommending the Appointment of
Mr. D. Luther Hollingsworth and Mr. Chris Corsbie as
Extraterritorial Members of the Asheboro City Planning Board**

WHEREAS, pursuant to the Asheboro City Code 34.52 and G. S. 160A-362, appointment of extraterritorial members to the Planning Board requires approval of the Randolph County Board of County Commissioners; and

WHEREAS, the Planning Board has two (2) vacancies; and

WHEREAS, the Planning Department has received requests to serve from two qualified citizens of the extraterritorial area,

NOW, THEREFORE BE IT RESOLVED that the Asheboro City Council respectfully requests that the Randolph County Board of County Commissioners appoint Mr. D. Luther Hollingsworth to fill the position vacated by Mr. Phil Skeen and Mr. Chris Corsbie to fill the position vacated by Mr. John Wicker, as Planning Board Members.

Adopted this the 4th day of August, 2005.

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

ATTEST:

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

14. Public Comment Period.

Mayor Jarrell asked if anyone present had any comments they wished to make. There were none.

15. Public Hearing for "Bond Order Authorizing the Issuance of \$10,000,000 Refunding Bonds of the City of Asheboro."

Ms. Juberg reported that notice of the public hearing for the "Bond Order Authorizing the Issuance of \$10,000,000 Refunding Bonds of the City of Asheboro" has been advertised as provided for by law. Said "Bond Order" was introduced at the regular city council meeting held on July 14, 2005.

Mayor Jarrell opened the public hearing.

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

16. Resolution Authorizing Issuance of Bonds.

RESOLUTION AUTHORIZING ISSUANCE OF BONDS

John McGlohon moved adoption of the following resolution, the motion was seconded by Keith Crisco, and the resolution was read by title:

WHEREAS, the bond order hereinafter described has taken effect, and it is desirable to make provision for the issuance of bonds authorized thereby;

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

1. Pursuant to and in accordance with the refunding bond order adopted by the City Council on August 4, 2005, the Issuer shall issue its bonds in the aggregate principal amount of \$10,000,000, subject to adjustment as hereinafter provided.

2. The bonds to be issued pursuant to the bond order described in the preceding paragraph shall be designated "General Obligation Refunding Bonds, Series 2005" (the "Bonds"). The Bonds shall be dated September 1, 2005, and shall bear interest from their date at a rate or rates that shall be determined upon the public sale of the Bonds, and interest shall be payable on December 1, 2005, and semi-annually thereafter on June 1 and December 1. The Bonds shall mature annually on June 1, as follows, subject to adjustment as hereinafter described:

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
2006	\$340,000.00	2011	\$1,035,000.00
2007	1,120,000.00	2012	1,015,000.00
2008	1,100,000.00	2013	1,000,000.00
2009	1,075,000.00	2014	875,000.00
2010	1,060,000.00	2015	70,000.00

Each Bond shall bear interest from the interest payment date next preceding the date on which it is authenticated unless it is (a) authenticated on an interest payment date, in which event it shall bear interest from that interest payment date, or (b) authenticated prior to the first interest payment date, in which event it shall bear interest from its date; provided, however, that if at the time of authentication interest is in default, such Bond shall bear interest from the date to which interest has been paid.

The principal of and the interest on the Bonds shall be payable in any coin or currency of the United States of America that is legal tender for the payment of public and private debts on the respective dates of payment thereof. Debt service will be payable to the owners of Bonds shown on the records of the hereinafter designated Bond Registrar of the Issuer on the record date, which shall be the fifteenth day of the calendar month (whether or not a business day) next preceding a debt service payment date.

The Bonds shall be deemed to refund each of the issues of bonds being refunded within the respective periods of usefulness of the capital projects financed by each of the issues of bonds being refunded.

3. The Bonds will be issued in fully registered form by means of a book entry system with no physical distribution of bond certificates made to the public. One bond certificate for each maturity will be issued to and registered in the name of The Depository Trust Company, New York, New York ("DTC") or its nominee and immobilized in its custody. The book entry system will evidence beneficial ownership of the Bonds in the principal amounts of \$5,000 or integral multiples thereof, with transfers of beneficial ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC. Interest on the Bonds will be payable at the times stated in the preceding paragraph, and principal of the Bonds will be paid annually on June 1, as set forth in the above maturity schedule, in clearinghouse funds to DTC or its nominee as registered owner of the Bonds. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC; transfer of principal and interest payments to beneficial owners by participants of DTC will be the responsibility of those participants and other nominees of beneficial owners. The Issuer will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through participants.

In the event that (a) DTC determines not to continue to act as securities depository for the Bonds, or (b) the Issuer determines that continuation of the book entry system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the Issuer will discontinue the book entry system with DTC in a manner consistent with DTC's rules and procedures. If the Issuer fails to arrange for another qualified securities depository to replace DTC, the Issuer will authenticate and deliver replacement Bonds in the form of fully registered certificates in denominations of \$5,000 or integral multiples thereof.

4. The Bonds shall bear the manual or facsimile signatures of the Mayor and the City Clerk of the Issuer, and the official seal or a facsimile of the official seal of the Issuer shall be impressed or imprinted, as the case may be, on the Bonds.

The certificate of the Local Government Commission of North Carolina to be endorsed on all Bonds shall bear the manual or facsimile signature of the Secretary of that Commission or of a representative designated by that Secretary, and the certificate of authentication of the Bond Registrar to be endorsed on all Bonds shall be executed as provided below.

In case any officer of the Issuer or the Local Government Commission of North Carolina whose manual or facsimile signature appears on any Bonds shall cease to be that officer before the delivery of those Bonds, that manual or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until delivery, and any Bond may bear the manual or facsimile signatures of such persons as at the actual time of the execution of the Bond shall be the proper officers to sign the Bond although at the date of the Bond those persons may not have been such officers.

No Bond shall be valid or become obligatory for any purpose or be entitled to any benefit or security under this resolution until it has been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed thereon.

5. The Bonds and the endorsements thereon shall be in substantially the following form:

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to issuer or its agent for registration of transfer, exchange, or payment and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

NO. R- \$ _____

United States of America
State of North Carolina

CITY OF ASHEBORO

GENERAL OBLIGATION REFUNDING BOND, SERIES 2005

INTEREST RATE	MATURITY DATE	DATE OF BOND	CUSIP
		September 1, 2005	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL SUM: _____ DOLLARS

The City of Asheboro (the "City"), a city of the State of North Carolina, acknowledges itself indebted and for value received hereby promises to pay to the registered owner named above, on the date specified above, upon surrender hereof, at the office of the Finance Director of the City, 146 North Church Street, Asheboro, North Carolina 27204-1106 (the "Bond Registrar"), the principal sum shown above and to pay to the registered owner hereof, by check mailed to the registered owner at its address as it appears on the bond registration books of the City, interest on that principal sum from the date of this bond or from the June 1 or December 1 next preceding the date of authentication to which interest shall have been paid, unless the date of authentication is a June 1 or December 1 to which interest shall have been paid, in which case from that date, interest to the maturity hereof being payable on December 1, 2005, and semi-annually thereafter

on June 1 or December 1 of each year, at the rate per annum specified above, until payment of the principal sum. The interest so payable on any interest payment date will be paid to the person in whose name this bond is registered at the close of business on the record date for that interest, which shall be the fifteenth day of the calendar month (whether or not a business day) next preceding that interest payment date. Both the principal of and the interest on this bond shall be paid in any coin or currency of the United States of America that is legal tender for the payment of public and private debts on the respective dates of payment thereof.

This bond is issued in accordance with the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, and pursuant to The Local Government Finance Act of the State of North Carolina, as amended, a bond order adopted by the City Council of the City on August 4, 2005 (the "Bond Order") and a resolution adopted by that Council (the "Resolution") to provide funds, together with any other funds that may be provided, to advance refund all or a portion of the City's outstanding General Obligation Sanitary Sewer Bonds, Series 1995 dated as of November 1, 1995, outstanding General Obligation Library Bonds, Series 1995 dated as of November 1, 1995 and outstanding General Obligation Sanitary Sewer Bonds, Series 1996 dated as of June 1, 1996.

The bonds will be issued in fully registered form by means of a book entry system with no physical distribution of bond certificates made to the public. One bond certificate for each maturity will be issued to and registered in the name of DTC or its nominee and immobilized in its custody. The book entry system will evidence beneficial ownership of the bonds in principal amounts of \$5,000 or integral multiples thereof, with transfers of beneficial ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC; transfer of principal and interest payments to beneficial owners by participants of DTC will be the responsibility of participants and other nominees of beneficial owners. The City will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through participants.

The Bond Registrar shall keep at its office the books of the City for the registration of transfer of bonds. The transfer of this bond may be registered only upon those books and as otherwise provided in the Resolution upon the surrender hereof to the Bond Registrar together with an assignment duly executed by the registered owner hereof or his attorney or legal representative in form satisfactory to the Bond Registrar. Upon any registration of transfer, the Bond Registrar shall deliver in exchange for this bond a new bond or bonds, registered in the name of the transferee, in authorized denominations, in an aggregate principal amount equal to the unredeemed principal amount of this bond, of the same maturity and bearing interest at the same rate.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of North Carolina to exist, be performed or happen precedent to or in the issuance of this bond, exist, have been performed and have happened, and that the amount of this bond, together with all other indebtedness of the City, is within every debt and other limit prescribed by said Constitution or statutes. The faith and credit of the City are hereby pledged to the punctual payment of the principal of and interest on this bond in accordance with its terms.

This bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Bond Order or the Resolution until this bond shall have been endorsed by the authorized representative of the Local Government Commission of North Carolina and authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed hereon.

IN WITNESS WHEREOF, the City has caused this bond [to be manually signed by] [to bear the facsimile signatures of] the Mayor and the City Clerk and [a facsimile of] its official seal to be [imprinted] [impressed] hereon, and this bond to be dated September 1, 2005.

Mayor

(SEAL)

City Clerk

Minutes

Page 21

August 4, 2005

CERTIFICATE OF LOCAL GOVERNMENT COMMISSION

The issuance of the within bond has been approved under the provisions of The Local Government Bond Act of North Carolina.

Secretary,
Local Government Commission

CERTIFICATE OF AUTHENTICATION

This bond is one of the Bonds of the issue designated herein and issued under the provisions of the within-mentioned Bond Order and Resolution.

CITY OF ASHEBORO
FINANCE DIRECTOR, as Bond Registrar

By: _____
Authorized Signature

Date of Authentication: September 27, 2005

Minutes

Page 22

August 4, 2005

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____
the within Bond and irrevocably appoints _____
attorney-in-fact, to transfer the within Bond on the books kept for registration thereof, with full
power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment
must correspond with the name as it
appears upon the face of the within Bond in
every particular, without any alteration
whatsoever.

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by an institution which is a participant in the
Securities Transfer Agent Medallion Program (STAMP) or similar program.

6. Bonds, upon surrender thereof at the office of the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in form satisfactory to the Bond Registrar, may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of any denomination or denominations authorized by this resolution, and bearing interest at the same rate.

The transfer of any Bond may be registered only on the registration books of the Issuer upon the surrender thereof to the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in form satisfactory to the Bond Registrar. Upon any registration of transfer, the Bond Registrar shall authenticate and deliver in exchange for the Bond a new Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this resolution, in an aggregate principal amount equal to the unredeemed principal amount of the Bond so surrendered, of the same maturity, and bearing interest at the same rate.

In all cases in which Bonds shall be exchanged or the transfer of Bonds shall be registered hereunder, the Bond Registrar shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this resolution. All Bonds surrendered in any exchange or registration of transfer shall forthwith be cancelled by the Bond Registrar. The Issuer or the Bond Registrar may make a charge for shipping and out-of-pocket costs for every exchange or registration of transfer of Bonds sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to the exchange or registration of transfer, but no other charge shall be made for exchanging or registering the transfer of Bonds under this resolution.

As to any Bond, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of any Bond and the interest on any Bond shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon that Bond and interest thereon, to the extent of the sum or sums so paid.

The Issuer shall appoint such registrars, transfer agents, depositaries or other agents and make such other arrangements as may be necessary for the registration, registration of transfer and exchange of Bonds within a reasonable time according to commercial standards then applicable and for the timely payment of principal and interest with respect to the Bonds. The Finance Director of the Issuer is hereby appointed the registrar, transfer agent and paying agent for the Bonds (collectively, the "Bond Registrar"), subject to the right of the governing body of the Issuer to appoint another Bond Registrar, and as such shall keep at his office as Finance Director, 146 North Church Street, Asheboro, North Carolina 27204-1106, the books of the Issuer for the registration, registration of transfer, exchange and payment of the Bonds as provided in this resolution.

7. The Issuer hereby reserves the right to increase or decrease the principal amount of any maturity of the Bonds to be sold as described in the Notice of Sale relating to the Bonds.

8. The actions of the Finance Director of the Issuer and others in applying to the Local Government Commission of North Carolina to advertise and sell the Bonds and the action of the Local Government Commission of North Carolina in asking for sealed and electronic bids for the Bonds by publishing notices and printing and distributing the Preliminary Official Statement and the Official Statement relating to the Bonds are hereby ratified and approved. That Preliminary Official Statement is hereby approved, and the Mayor, the City Manager and the Finance Director of the Issuer are each hereby authorized to approve changes in the Preliminary Official Statement, to approve the Official Statement, and to execute the Official Statement for and on behalf of the Issuer. The Preliminary Official Statement is deemed to be a final official statement within the meaning of Rule 15c2-12 of the Securities and Exchange Commission, except for the omission of certain pricing and other information to be specified in the Official Statement.

9. The Mayor and the City Clerk and the Finance Director of the Issuer are hereby authorized and directed to cause the Bonds to be prepared and, when they shall have been duly sold by the Local Government Commission, to execute the Bonds and have the Bonds endorsed and authenticated as provided herein and to deliver the Bonds to the

purchaser or purchasers to whom they may be sold by the Local Government Commission.

10. The Issuer covenants to comply with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), to the extent required to preserve the exclusion from gross income of interest on the Bonds for federal income tax purposes.

11. The Mayor and the City Clerk, the Finance Director and other officers of the Issuer are hereby authorized and directed to execute and deliver for and on behalf of the Issuer any and all financing statements, certificates, documents or other papers and to perform any and all acts they may deem necessary or appropriate in order to carry out the intent of this resolution and the matters herein authorized.

12. The Issuer hereby authorizes the officers of the Issuer designated therein to execute and deliver an Escrow Deposit Agreement in such form as may be approved by them, their execution thereof constituting conclusive evidence of such approval.

13. The Issuer represents that it reasonably expects that it and all entities subordinate to the Issuer and all entities that issue obligations on behalf of the Issuer will not issue in the aggregate more than \$10,000,000 of tax-exempt obligations (not counting private activity bonds except for qualified 501(c)(3) bonds) during the current calendar year, and the Issuer designates the Bonds for purposes of Section 265(b)(3) of the Code.

14. The Issuer hereby undertakes, for the benefit of the beneficial owners of the Bonds, to provide:

(a) by not later than seven months from the end of each fiscal year of the Issuer, to each nationally recognized municipal securities information repository ("NRMSIR") and to the state information depository for the State of North Carolina ("SID"), if any, audited financial statements of the Issuer for such fiscal year, if available, prepared in accordance with Section 159-34 of the General Statutes of North Carolina, as it may be amended from time to time, or any successor statute, or, if such audited financial statements of the Issuer are not available by seven months from the end of such fiscal year, unaudited financial statements of the Issuer for such fiscal year to be replaced subsequently by audited financial statements of the Issuer to be delivered within 15 days after such audited financial statements become available for distribution.

(b) by not later than seven months from the end of each fiscal year of the Issuer, to each NRMSIR, and to the SID, if any, (i) the financial and statistical data as of a date not earlier than the end of the preceding fiscal year for the type of information included under heading "The City - Debt Information and - Tax Information" in the Official Statement relating to the Bonds (excluding any information on overlapping or underlying units) and (ii) the combined budget of the Issuer for the current fiscal year, to the extent such items are not included in the audited financial statements referred to in (a) above;

(c) in a timely manner, to each NRMSIR or to the Municipal Securities Rulemaking Board ("MSRB"), and to the SID, if any, notice of any of the following events with respect to the Bonds, if material:

- (1) principal and interest payment delinquencies;
- (2) non-payment related default;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on any credit enhancements reflecting financial difficulties;
- (5) substitution of any credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions or events affecting the tax-exempt status of the Bonds;

- (7) modification to the rights of the beneficial owners of the Bonds;
- (8) bond calls;
- (9) defeasances;
- (10) release, substitution or sale of any property securing repayment of the Bonds;
- (11) rating changes; and

(d) in a timely manner, to each NRMSIR or to the MSRB, and to the SID, if any, notice of a failure of the Issuer to provide required annual financial information described in (a) or (b) above on or before the date specified.

To the extent permitted by the U.S. Securities and Exchange Commission, the obligation to file any of the above documents with NRMSIRs and SIDs may be discharged by transmitting those documents electronically to www.DisclosureUSA.org.

If the Issuer fails to comply with the undertaking described above, any beneficial owner of the Bonds may take action to protect and enforce the rights of all beneficial owners with respect to such undertaking, including an action for specific performance; provided, however, that failure to comply with such undertaking shall not be an event of default and shall not result in any acceleration of payment of the Bonds. All actions shall be instituted, had and maintained in the manner provided in this paragraph for the benefit of all beneficial owners of the Bonds.

The Issuer reserves the right to modify from time to time the information to be provided to the extent necessary or appropriate in the judgment of the Issuer, provided that:

(a) any such modification may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identify, nature, or status of the Issuer;

(b) the information to be provided, as modified, would have complied with the requirements of Rule 15c2-12 issued under the Securities Exchange Act of 1934 ("Rule 15c2-12") as of the date of the Official Statement relating to the Bonds, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances; and

(c) any such modification does not materially impair the interest of the beneficial owners, as determined either by parties unaffiliated with the Issuer (such as bond counsel), or by the approving vote of the registered owners of a majority in principal amount of the Bonds pursuant to the terms of this bond resolution, as it may be amended from time to time, at the time of the amendment.

Any annual financial information containing modified operating data or financial information shall explain, in narrative form, the reasons for the modification and the impact of the change in the type of operating data or financial information being provided.

The provisions of this Section shall terminate upon payment, or provision having been made for payment in a manner consistent with Rule 15c2-12, in full of the principal of and interest on all of the Bonds.

15. The investment banking firm of Ferris, Baker Watts, Inc. is hereby authorized to serve as financial advisor to the Issuer (the "Financial Advisor") in connection with sale and issuance of the Bonds. The Financial Advisor and its affiliates are hereby expressly authorized to bid for the purchase of the Bonds.

The motion was adopted by the following vote:

AYES: 7

NAYS: none

17. Resolution Authorizing the Filing of an Application Contract for Traffic Safety Funding in Accordance With Procedures Established by the North Carolina Governor's Highway Safety Program.

Police Captain S. A. Vuncannon requested that he be authorized to file an application to receive federal funding for an additional traffic officer, an equipped patrol vehicle for the officer, and a software package for reconstructing traffic accidents. The grant is renewable for four (4) years, and the traffic officer will be funded at 100% for the first year. The amount of the federal funding for the first year is \$72,507, and the city will have to contribute \$10,449.

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

49 RES 8-05

NORTH CAROLINA GOVERNOR'S HIGHWAY SAFETY PROGRAM

LOCAL GOVERNMENTAL RESOLUTION

FORM GHSP-02-A

WHEREAS, the City of Asheboro (herein called the "Agency") has completed an application contract for traffic safety funding; and that City Council (herein called the "Governing Body") has thoroughly considered the problem identified and has reviewed the project as described in the contract;

THEREFORE, NOW BE IT RESOLVED BY THE CITY COUNCIL IN OPEN MEETING ASSEMBLED IN THE CITY OF ASHEBORO, NORTH CAROLINA, THIS 4th DAY OF AUGUST, 2005, AS FOLLOWS:

1. That the project referenced above is in the best interest of the Governing Body and the general public; and
2. That S. A. Vuncannon, Police Captain, is authorized to file, on behalf of the Governing Body, an application contract in the form prescribed by the Governor's Highway Safety Program for federal funding in the amount of \$72,507 to be made to the Governing Body to assist in defraying the cost of the project described in the contract application; and
3. That the Governing Body has formally appropriated the cash contribution of \$10,449 as required by the project contract; and
4. That the Project Director designated in the application contract shall furnish or make arrangement for other appropriate persons to furnish such information, data, documents and reports as required by the contract, if approved, or as may be required by the Governor's Highway Safety Program; and
5. That certified copies of this resolution be included as part of the contract referenced above; and
6. That this resolution shall take effect immediately upon its adoption.

DONE AND ORDERED in open meeting by S/ David H. Jarrell, Mayor.

ATTESTED BY S/ Carol J. Cole

DATE: August 4, 2005

18. Resolution Authorizing the Mayor to Execute a Licensing Agreement With the North Carolina Administrative Office of the Courts (AOC) That Will Enable the Asheboro Police Department to Access Data in the AOC Information Systems.

Captain S. A. Vuncannon presented and recommended adoption, by reference, of the aforementioned resolution.

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

**RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A
LICENSING AGREEMENT WITH THE NORTH CAROLINA
ADMINISTRATIVE OFFICE OF THE COURTS**

WHEREAS, during its regularly scheduled meeting on August 4, 2005, the City Council of the City of Asheboro was informed by Asheboro Police Captain S.A. Vuncannon, Jr. of the proposed enrollment of the Asheboro Police Department in the eCitation project; and

WHEREAS, the city council has concluded that participation in this project furthers the council's mission of providing the citizens of Asheboro with excellence in leadership, fiscal management, and municipal services; and

WHEREAS, in order for the police department to successfully enroll in the eCitation project, the city must enter into a licensing agreement with the North Carolina Administrative Office of the Courts (hereinafter referred to as "AOC"); and

WHEREAS, a copy of the proposed licensing agreement with AOC has been attached to this resolution as EXHIBIT A and is hereby incorporated into this resolution by reference as if copied fully herein; and

WHEREAS, the city council has concluded that the terms and conditions of the proposed licensing agreement are acceptable.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the entry of the City of Asheboro into the proposed licensing agreement with AOC is hereby approved; and

BE IT FURTHER RESOLVED that the Mayor of the City of Asheboro is hereby authorized and directed to execute on behalf of the City of Asheboro the proposed licensing agreement with AOC.

Adopted in regular session on this the 4th day of August, 2005.

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

ATTEST:

S/ Carol J. Cole
Carol J. Cole, CMC, 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.)

19. Motion to Go Into Closed Session.

Mayor Jarrell entertained a motion to go into closed session in order to discuss matters relating to the location or expansion of industries or other businesses in the City of Asheboro pursuant to Section 143-318.11(a)(4) of the North Carolina General Statutes.

Upon motion by Mr. Crisco and seconded by Mrs. Carter, council voted unanimously to go into closed session.

There was no formal action taken in closed session.

20. Finance and Public Safety & Public Works Matters.

No official meetings were held.

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

Carol J. Cole, CMC, City Clerk

David H. Jarrell, Mayor

