

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, ASHEBORO CITY HALL
THURSDAY, MARCH 9, 2023
7:00 P.M.**

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

David H. Smith) – Mayor Presiding

Clark R. Bell)
Edward J. Burks)
Kelly L. Heath)
William N. McCaskill) – Council Members Present
Walker B. Moffitt)
Jane H. Redding)
Charles A. Swiers)

John N. Ogburn, III, City Manager
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal
Charles J. Garner, Code Enforcement Officer
N. Byron Hill, Police Captain
Michael L. Leonard, PE, City Engineer
Trevor L. Nuttall, Community Development Director
Deborah P. Reaves, Finance Director
Jonathan M. Sermon, Recreation Services Director
Jeffrey C. Sugg, City Attorney

1. Call to Order

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

2. Moment of Silent Prayer and Pledge of Allegiance

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

3. Appearance and Recognition of Guests and Citizens

Mayor Smith welcomed everyone in attendance.

4. Public Comment Period

Mayor Smith opened the floor for public comments, and none were offered.

Mayor Smith then closed the public comment period.

5. Consent Agenda

Council Member Burks moved, and Council Member Heath seconded the motion, to approve/adopt the following consent agenda items. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

(a) City Council Meeting Minutes for January 20, 2023

The meeting minutes for the city council's special meeting on January 20, 2023, were approved and have been filed in the city clerk's office. An electronic copy of the approved document has been posted on the city's website.

(b) City Council Meeting Minutes for February 9, 2023

The meeting minutes for the city council's regular meeting on February 9, 2023, were approved and have been filed in the city clerk's office. An electronic copy of the approved document has been posted on the city's website.

(c) Asheboro ABC Board Minutes for January 3, 2023

The council acknowledged the receipt of the Asheboro ABC Board's approved meeting minutes for January 3, 2023. This document has been filed in the city clerk's office and distributed to the city's elected officials.

(d) A Resolution Expressing the Council's Concurrence with Revisions to the City of Asheboro Employee Policies and Procedures Manual

RESOLUTION NUMBER 7 RES 3-23

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

A RESOLUTION EXPRESSING CONCURRENCE WITH REVISIONS TO THE EMPLOYEE POLICIES AND PROCEDURES MANUAL

WHEREAS, the City of Asheboro Employee Policies and Procedures Manual (formerly known as the City of Asheboro Personnel Policies and Procedures Manual and sometimes referenced in this Resolution as the Manual), which was originally promulgated by the city manager and approved by resolution of the Asheboro City Council on March 4, 2004, has to be updated on a regular basis; and

WHEREAS, the city manager periodically receives recommendations from the human resources director and other members of the city management team to update the Manual by eliminating areas of ambiguity and integrating best practices in the field of municipal administration; and

WHEREAS, in response to recommendations received subsequent to July 1, 2022, which was the effective date of the last revision to the Manual, the city manager approved the updating of certain provisions in the city's substance abuse prevention policy; and

WHEREAS, the revised policies and procedures are specified in EXHIBIT 1, which is attached to this Resolution and is hereby incorporated into this instrument by reference as if copied fully herein; and

WHEREAS, the Asheboro City Council has concluded that the city manager's actions to update the Manual as stated herein are supportive of the governing board's goal to create a positive work environment for municipal employees and thereby facilitate excellence in the provision of municipal services to the citizens of Asheboro.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheboro that the governing board hereby concurs with the city manager's decision to incorporate, with an effective date of March 15, 2023, the revisions to the City of Asheboro Employee Policies and Procedures Manual found in EXHIBIT 1; and

BE IT FURTHER RESOLVED by the City Council of the City of Asheboro that all articles, sections, and provisions contained within the Manual that are not clearly and unmistakably referenced by this instrument and the attached exhibit are unaffected by this Resolution and remain, without alteration, in full force and effect.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on March 9, 2023.

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

ATTEST:

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

EXHIBIT 1

ARTICLE I: UNIFIED HUMAN RESOURCES SYSTEM

Section 8. Substance Abuse Prevention Policy

8.01 The following rules represent the City of Asheboro's policy concerning the prevention of substance abuse. These rules will be enforced uniformly for all employees. The purposes of the policy are as follows:

- (A) The establishment and maintenance of a safe and healthy working environment for all employees;
- (B) Compliance with United States and North Carolina Department of Transportation regulations pertaining to holders of a Commercial Driver's License (CDL);
- (C) The establishment and maintenance of a drug-free workplace for the City of Asheboro;
- (D) The establishment and maintenance of a positive, good government reputation for the City of Asheboro and its employees within the community so as to foster confidence in the ability of the municipal corporation to safely and effectively deliver public services;
- (E) The reduction and prevention of accidental injuries, absenteeism, tardiness, and other work-related problems that negatively impact the city's employees and the public that it serves; and
- (F) The creation and facilitation of an opportunity for rehabilitative assistance to be made available for employees who seek such help.

8.02 Employees with substance abuse problems are encouraged to seek help from counselors and other medical professionals and, where appropriate, in treatment facilities. Participation in a treatment or rehabilitation program for substance abuse will not be grounds for dismissal provided the employee voluntarily enters such a program prior to identification as a substance abuser by means of the implementation of one of the regulations/testing procedures established by this policy.

8.03 For the purpose of interpreting and implementing the substance abuse prevention policy, the following bold and italicized words or terms shall be defined and implemented as specified in this subsection.

- (A) An ***alcohol test*** means a test for the presence of alcohol in the body. This presence must be determined by the use of a breath alcohol test or other device approved by the United States Department of Transportation. Alcohol testing

shall be conducted in compliance with 49 CFR Part 40 (Part 40). By way of illustration and not limitation, such compliance shall include strict adherence to Part 40 as to how alcohol testing is conducted, who is authorized to participate in the alcohol testing program, and what employees must do before they may return-to-duty following an alcohol violation.

- (B) A **drug test** means a test for the presence of drugs listed in the drug testing panel established by the United States Department of Transportation. Drug testing shall be conducted in compliance with Part 40. By way of illustration and not limitation, such compliance shall include strict adherence to Part 40 as to how drug testing is conducted, who is authorized to participate in the drug testing program, and what employees must do before they may return-to-duty following a drug violation.
- (C) A **negative drug test** means a drug test that does not show the presence of drugs and/or drug metabolite(s) at a level specified to be a positive test.
- (D) A **positive drug test** means a drug test that does indicate the presence of a drug and/or drug metabolite(s) in the urine or blood at the level specified to be positive by the Substance Abuse and Mental Health Services Administration (SAMHSA). All positive test results will be confirmed using a different technology than the first test, such as the Gas Chromatography Mass Spectrometry (GC-MS) process.
- (E) A **negative alcohol test** means an alcohol test that indicates a breath alcohol concentration of less than 0.02.
- (F) A **positive alcohol test** means an alcohol test that indicates a breath alcohol concentration of 0.04 or greater.
- (G) The term **refusal to submit** means an occurrence when an employee does any one of the following:
 - (1) Fails to provide an adequate amount of urine for a drug test without a valid medical explanation after he/she has received notice of the test;
 - (2) Fails to provide an adequate amount of breath for an alcohol test without a valid medical explanation after he/she has received notice of the test; or
 - (3) Engages in conduct that clearly indicates he/she is failing to follow through with the testing process or engages in conduct that interferes with the ability to obtain an adequate specimen.
- (H) With the exception of fire department employees who operate emergency equipment and are therefore exempt from the CDL requirement, the term **employees required to have a CDL** means employees who perform one or more of the following functions:
 - (1) Drivers of commercial motor vehicles with a gross vehicle weight rating of 26,001 pounds or more;
 - (2) Drivers of commercial motor vehicles with a gross combination weight rating of 26,001 pounds or more, including a towed vehicle with a gross vehicle weight rating of 10,000 pounds or more;
 - (3) Drivers of motor vehicles designed to transport 16 or more passengers, including the driver; and
 - (4) Drivers of motor vehicles of any size transporting hazardous materials in amounts that require placarding.

(I) Based on definitions utilized by the United States Department of Transportation, and with the explicit notation that the following definition is not meant to serve as an exhaustive or exclusive listing of safety-sensitive functions because other job activities/requirements may also be considered safety-sensitive, the term *safety-sensitive function* shall be deemed to include the following activities:

- (1) Driving a commercial motor vehicle;
- (2) Inspecting, servicing, or conditioning any commercial motor vehicle;
- (3) All time at a city facility or other public property waiting to operate a commercial motor vehicle;
- (4) Performing all or other functions in or upon any commercial motor vehicle except resting in a sleeper berth;
- (5) Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading of a commercial motor vehicle, attending a commercial motor vehicle being loaded or unloaded, or remaining in readiness to operate the commercial motor vehicle;
- (6) All time spent performing the driver requirements associated with an accident involving a commercial motor vehicle; and
- (7) Repairing, obtaining assistance, or remaining in attendance with a disabled commercial motor vehicle.

8.04 The substance abuse prevention policy is applicable to all of the types/categories of city employees listed in this subsection.

- (A) All full-time, part-time, temporary, and seasonal employees.
- (B) All employees required as part of their job duties to obtain and maintain a CDL.
- (C) All applicants for employment with the City of Asheboro.

8.05 Under the city's substance abuse prevention policy, the drug and alcohol testing practices described in this subsection will be implemented in a manner that conforms to all applicable federal and state laws and administrative regulations.

(A) Pre-Employment Testing

Drug testing shall be conducted prior to employment. This testing must be conducted on external applicants as well as current employees transferring into jobs that require a CDL. The test results must indicate a negative drug test in order to enter into employment with the city or to transfer to a job that requires a CDL.

(B) Post-Accident Testing

A drug test and/or an alcohol test may be used by the city as a tool, in appropriate circumstances, to evaluate the root causes of incidents that result in work-related injuries or illnesses requiring medical treatment other than first aid for city employees or others. When evaluating whether to utilize post-accident testing of one or more employees, the central inquiry will be whether a reasonable basis exists to believe that drug or alcohol use by one or more employees could have contributed to the injury or illness. The highest ranking supervisor of the employee(s) involved in an incident that results in injury or illness, in consultation with the city's safety manager or any other designee of the human resources director, must evaluate the totality of the evidence, including whether the hazardousness of the work being performed creates a heightened concern as to whether drug or alcohol use was involved, and decide

whether a reasonable basis exists to order drug and/or alcohol testing because of the potential role these substances could have played in the work-related illness or injury. If a reasonable basis is found to exist for testing one or more employees, then the drug and/or alcohol test(s) indicated by the facts surrounding the work-related injury or illness shall be conducted as soon as practicable.

(C) Post-Accident Testing for Employees Required to Have a CDL

For employees required to have a CDL, post-accident testing for drugs and alcohol must be conducted on any surviving driver who was performing safety-sensitive functions with respect to the vehicle if:

- (1) The accident involved a fatality; or
- (2) The driver received a citation under state or local law for a moving traffic violation arising from the accident and either the vehicle is towed from the scene or someone is medically evacuated from the scene.

Testing for drugs and alcohol in employees required to have a CDL is to occur, if at all practicable, within 2 hours of the accident. If the employee is unable to be tested within 2 hours, the reasons for the delay must be documented. If an alcohol test required by this division of subsection 8.05 is not administered within 8 hours of the accident, attempts to conduct the alcohol test shall cease and the reason for the inability to conduct the test shall be documented. If a drug test required by this division of subsection 8.05 is not administered within 32 hours of the accident, attempts to conduct the drug test shall cease and the reason for the inability to conduct the drug test shall be documented.

(D) Random Testing

This type of testing must be conducted on a random, unannounced basis throughout the year on all employees required to have a CDL. Random testing for drugs and alcohol in all employees required to have a CDL shall be conducted in a manner and at a rate that is fully compliant with all of the applicable federal and state laws and administrative regulations.

(E) For Cause Testing

This type of testing can occur in two types of situations that are described as follows:

- (1) This testing, whether the testing consists of a drug test and/or an alcohol test will depend on the facts of each case, is required of any employee who has been arrested or has had his/her driver's license suspended for any alcohol or drug related charge prior to the employee's return to work. Such an employee must notify his/her supervisor prior to returning to work after the arrest and/or suspension has occurred. An employee's failure to report this information to a supervisor in a timely manner serves as a stand-alone basis for dismissing the employee from his/her position of employment with the city.
- (2) In appropriate circumstances and in consultation with the human resources department, specifically including the safety manager or any other official designated by the human resources director, a supervisor may order "for cause" testing of an employee as a tool to determine why actions are occurring that have the potential to be injurious to the employee himself or herself, other city employees, or third parties. The final decision as to whether "for cause" testing is to be ordered will be based on a case-by-case evaluation of the totality of the evidence to

determine whether observations of the employee and his/her actions during the relevant time period lead to a reasonable suspicion that impairment due to drug and/or alcohol use is creating the potential for injury. An additional factor to be weighed as part of the decision making process is whether the degree of hazardousness of the work being performed and the potential for harmful consequences heightens the city's interest in quickly determining whether drug or alcohol use is impairing the ability of an employee to safely perform his/her duties. If the responsible city officials conclude that a reasonable suspicion exists to believe that alcohol or drug use by one or more employees is creating an unsafe situation, then the drug and/or alcohol test indicated by the observable facts shall be conducted as soon as practicable.

(F) Return-to-Duty Testing

In cases where an employee is seeking to return to work after a positive drug test and/or a positive alcohol test, return-to-duty testing focused on the same type of testing that previously produced a positive test result must be successfully completed by the employee before approval can be granted for the employee to return to work. More specifically, an employee who has had a positive drug test and/or a positive alcohol test will not be allowed to return to work until he or she has been evaluated by a substance abuse professional and has tested negative on the designated return-to-duty test.

(G) Follow-Up Testing

After an employee has successfully completed the above-described return-to-duty testing, the employee will be subject to follow-up testing during the 12-calendar month time period immediately following the date of the employee's return to duty. During the said 12-month time period, a minimum of 6 follow-up tests will be administered without advance notice of the date and time when testing will occur. Due to regulatory concerns pertaining to measuring impairment at a relevant point in time, a follow-up drug test may be administered any time the employee is at work, but a follow-up alcohol test will only be administered immediately before, during, or immediately after the performance of a safety-sensitive function. The type of test to be administered will depend on which type of positive test result necessitated the return-to-duty testing and the subsequent follow-up testing. No sentence or clause within this division of subsection 8.05 shall be construed or interpreted in any manner that precludes the administration of a drug or alcohol test that would otherwise be authorized by a separate division of subsection 8.05.

8.06 The following list of prohibitions, inclusive of the corresponding consequences for acting in contravention of the stated prohibitions, is hereby adopted as a component of the city's substance abuse prevention policy.

- (A) No employee shall report for duty or remain on duty while having alcohol and/or drug concentrations in his or her system in amounts that would constitute a positive test for either substance. An employee who produces a confirmed positive test result will be removed from duty without regular pay; provided, however, such an employee may use accrued leave time while relieved of his or her duties so long as such leave is used in a manner that is compliant with all other sections of the City of Asheboro Employee Policies and Procedures Manual. The employee must immediately schedule an evaluation with a substance abuse professional and must cooperate with any and all recommendations made by the substance abuse professional. Refusal to cooperate with the substance abuse professional will subject the employee to

dismissal from his or her employment with the city. The employee must have a negative test result before he or she will be allowed to return to duty.

- (B) The City of Asheboro expressly prohibits the possession, use, sale, distribution, dispensation, manufacture, purchase, or storage of controlled substances (i.e. illegal drugs) and related paraphernalia as well as alcoholic beverages by city employees while at the workplace or while performing work duties. By way of illustration and not limitation, no employee shall be on-duty while in the possession of one or more alcoholic beverages and/or controlled substances. Any action taken in violation of this prohibition will subject the offending employee to dismissal from his or her employment with the city. Notwithstanding the foregoing prohibition, the following actions by city employees will not be deemed to be a violation of a workplace rule:
- (1) The possession and use of medication(s) in strict compliance with prescriptions and instructions, include work limitations, issued by a properly licensed health care provider;
 - (2) The inadvertent discovery and subsequent securing of abandoned controlled substances and associated paraphernalia as well as alcoholic beverages during the course of performing an employee's job duties so long as such abandoned items are immediately surrendered to a law enforcement officer or destroyed in a manner consistent with instructions received from the Asheboro Police Department; and
 - (3) The interaction of sworn law enforcement officers with controlled substances and paraphernalia as well as alcoholic beverages so long as such interaction is conducted in furtherance of assigned job duties and is conducted in a manner that is compliant with all applicable laws, ordinances, administrative regulations, and agency policies and procedures.
- (C) No employee who is required to take a post-accident alcohol test shall use alcohol until the earlier of either of the following events: 8 hours following the accident, or until he or she fully completes the required post-accident alcohol test. A violation of this requirement will subject the non-compliant employee to dismissal from his or her employment with the city.
- (D) A refusal by an employee to submit to and fully cooperate with an alcohol test and/or drug test required by this policy shall be deemed to be a direct and intentional act of insubordination that will result in the termination of the non-compliant employee's employment with the city.
- (E) Except when the use is pursuant to the instructions of a properly licensed health care professional who has informed the employee that the prescribed use of the controlled substance will not adversely affect the employee's ability to safely perform assigned work duties, employees are prohibited from reporting for duty or remaining on duty while the employee is subject to the effects of any controlled substance.
- (F) A second occurrence of a positive drug test and/or alcohol test will result in the dismissal of an individual from his or her employment with the city.
- (G) An employee who has a confirmed breath alcohol test result of 0.02 – 0.039 will not be allowed to continue to perform any safety-sensitive functions. In furtherance of this prohibition, such an employee will be relieved of his or her job duties for 24 hours subsequent to the confirmed test result. During this 24-hour period, the employee will not be paid by the city; provided, however, the employee may use accrued leave time while relieved of his or her duties so long as such leave is used in a manner that is compliant with all other sections

of the City of Asheboro Employee Policies and Procedures Manual. The occurrence of this confirmed breath alcohol test result will be documented, and the employee will be counseled about the importance of reporting to work without the presence of alcohol in his or her system. Such an employee will be subject to a return-to-duty alcohol test prior to returning to a job position that requires the performance of a safety-sensitive function.

- (H) ~~No applicant will be offered employment~~ Consistent with the contingencies listed in conditional offers of employment extended to applicants for city employment, an applicant will not be permitted to enter employment with the city if a confirmed positive pre-employment drug test result is produced during the hiring process for a particular job.

8.07 This subsection lists supplemental provisions/requirements that are hereby incorporated into the city's substance abuse prevention policy.

- (A) The Omnibus Transportation Employee Testing Act of 1991 (final rules implemented February 15, 1994) requires, in part, that any commercial motor vehicle operator who is subject to the CDL requirements in the State of North Carolina shall be tested for alcohol and controlled substances.
- (B) Compliance with the Department of Health and Human Services mandatory guidelines for controlled substances testing shall be maintained by only using a laboratory certified by the Substance Abuse and Mental Health Services Administration.
- (C) Federally mandated alcohol testing must be conducted by a Breath Alcohol Technician (BAT) trained to a level of proficiency that is demonstrated by successful completion of a generally recognized and accepted course of instruction. Alcohol testing shall be conducted using an Evidential Breath Testing (EBT) device.
- (D) Consistent with the federal Drug-Free Workplace Act, if an employee is convicted of a violation of a criminal drug statute and the violation occurred while the employee was at work, the employee must notify his or her department head of the conviction within 5 days after the conviction. An employee's failure to comply with this requirement will subject the employee to dismissal from his or her employment with the city.
- (E) All drug test results shall be reviewed and interpreted by a Medical Review Officer (MRO). The MRO must be a licensed physician with specific training in substance abuse. If the laboratory reports a positive test result, the MRO or the MRO's designee will contact the employee, typically by telephone, and discuss the results with the employee. The MRO will then attempt to determine if there is a verifiable medical explanation for the employee to have the detected drug in his or her system. If there is none, the test result is to be reported as positive. If there is a verifiable medical explanation for the use of the drug, the result is to be reported as negative.
- (F) In situations where the laboratory reports a negative dilute drug test result, the three immediately following procedures shall be applicable.
- (1) If the test was performed in order to comply with United States Department of Transportation (DOT) regulations, and the MRO directs that a second collection take place under direct observation (*i.e.*, because the creatinine concentration of the specimen was equal to or greater than 2 mg/dL, but less than or equal to 5 mg/dL), then immediate compliance with the instructions shall occur. Failure of the

employee or applicant to submit for this recollection is classified by the DOT as a refusal to test.

- (2) If the test was not performed in order to comply with a DOT regulatory program, and the MRO directs that a second collection take place (*i.e.*, because the creatinine concentration of the specimen was equal to or greater than 2 mg/dL, but less than or equal to 5 mg/dL), then immediate compliance with the instructions shall occur. Direct observation is not to be utilized in this circumstance. Failure of the employee or applicant to submit for this recollection shall be deemed to be a refusal to test.
- (3) Otherwise, if the creatinine concentration of the negative dilute specimen was greater than 5 mg/dL, then the city will accept the negative test result for the employee or applicant as is.

(G) ~~An employee who does not pass a drug and/or alcohol test and is terminated, or an applicant who does not pass the pre-employment drug test, will not be considered for re-employment for a 2-year period following the date of the failed test and then will be considered only when he or she provides documentation suitable to management that he or she has successfully completed an alcohol and/or drug rehabilitation program and passes a pre-employment drug and/or alcohol test. In the event an employee does not pass a drug and/or alcohol test and is terminated, or an applicant does not pass the pre-employment testing mandated by this policy, such an individual will be ineligible for re-employment by the city during a 1-year waiting period. The commencement date for the 1-year waiting period begins on the calendar day that immediately follows the date of the written notification, as applicable, of the employee's dismissal from city employment or of the withdrawal of the applicant's conditional offer of employment. After the expiration of the 1-year waiting period, if a conditional offer of employment is extended as part of a subsequent hiring process, the individual must successfully complete the pre-employment testing specified in the most recent conditional offer of employment.~~

(H) On January 6, 2020, the United States Department of Transportation's Federal Motor Carrier Safety Administration Drug and Alcohol Clearinghouse (the Clearinghouse) became operational. As an employer regulated by the Federal Motor Carrier Safety Administration, the city is a registered user of the Clearinghouse with certain reporting obligations. CDL holders and applicants for jobs requiring a CDL are hereby notified that the following information will be reported to the Clearinghouse:

- (1) A verified positive, adulterated, or substituted drug test result;
- (2) An alcohol confirmation test with a concentration of 0.04 or higher;
- (3) A refusal to submit to a drug or alcohol test;
- (4) An employer's report of actual knowledge, as defined in 49 CFR § 382.107;
- (5) On-duty alcohol use pursuant to 49 CFR § 382.205;
- (6) Pre-duty alcohol use pursuant to 49 CFR § 382.207;
- (7) Alcohol use following an accident pursuant to 49 CFR § 382.209;
- (8) Drug use pursuant to 49 CFR § 382.213;
- (9) A substance abuse professional's report of successful completion of the return-to-duty process;

- (10) A negative return-to-duty test; and
- (11) An employer's report of completion of follow-up testing.

(I) Any questions regarding this policy should be directed to the city's human resources director at (336) 629-2037.

(e) Acknowledgement of the Receipt of a Report Detailing Major Subdivisions Administratively Approved since February 9, 2023

No major subdivisions have been administratively approved during the relevant time period.

(f) Scheduling and Advertising a Legislative Hearing for April 6, 2023, on a Zoning Map Amendment Application

At the request of the community development division, the council approved the above-described scheduling of an advertised legislative hearing on the question of an application to rezone property located on United States Highway 64 East (Randolph County Parcel Identification Number 7771152373), between 2307 United States Highway 64 East and 2333 United States Highway 64 East, from R40 Low-Density Residential to B2 General Commercial.

(g) Reappointment of Members of the Asheboro Redevelopment Commission

- (i) Reappointment of Ross Holt to a 5-year term of office (April 1, 2023, to April 1, 2028) on the Asheboro Redevelopment Commission
- (ii) Reappointment of Ryan Terry to a 5-year term of office (April 1, 2023, to April 1, 2028) on the Asheboro Redevelopment Commission

6. Land Use Cases

(a) Legislative Hearing (Case No. RZ-23-01): An application to rezone property at 853 E. Salisbury Street (Randolph County Parcel Identification Nos. 7761229556, 7761229618, 7761229996, and 7761227703) from OA6 to OA6 (CZ) zoning to allow a development with multiple family dwellings with a floor area ratio of up to 22 percent.

Mayor Smith opened the legislative hearing on this zoning map amendment application and first recognized Community Development Division Director Trevor Nuttall in order to receive the planning staff's analysis of the application. The application pertains to approximately 5.4 acres of land that is owned by Davidson Builders and Properties, Inc. The application was filed by Community Housing Partners (the Applicant). The above-described property at 853 E. Salisbury Street (the Zoning Lot) is owned by Davidson Builders & Properties, LLC, which provided the necessary signature of an authorized representative in order to allow this zoning map amendment application to properly move forward.

The Zoning Lot is currently zoned OA6 (Office-Apartment). The Applicant is seeking to place the Zoning Lot into an OA6 conditional zoning district that will allow a development with multiple family dwellings and a floor area ratio of up to 22 percent.

Mr. Nuttall initially confirmed that the notice of this hearing had been mailed, advertised, and posted in compliance with the requirements prescribed by the North Carolina General Statutes. Mr. Nuttall then utilized a slide show to provide the following information.

1. The property is inside the city limits.

2. The 2014 Comprehensive Transportation Plan identifies this segment of East Salisbury Street/NC Hwy 42 (a state-maintained major thoroughfare) as overcapacity. The 2021 volumes indicated an average annual daily vehicles/day count of 14,500; 2021 capacity was 11,600 vehicles.
3. In order to relieve congestion on NC Hwy 42 North, the NCDOT Transportation Improvement Program is funding road improvements (Project No. U-5743) extending between the East Salisbury Street intersection and US Hwy 64 (East Dixie Drive). Proposed improvements include the addition of a center turn lane, sidewalks, curbing, and guttering.
4. The plan shows a development consisting of two three-story buildings clad primarily in brick and vinyl siding. One building contains 23 units and community room while the second building contains 24 units. The units are described as one or two bedrooms. There also is a recreation area with a playground, sports court, and a picnic/grill area. The plan shows the extension of the sidewalk being constructed with U-5743 across the property's frontage as part of the developer's improvements.
5. The conditional zoning process allows an applicant to propose a project-specific zoning district that establishes approval conditions and site development requirements. The project-specific zoning district is allowed to diverge from the zoning ordinance's predetermined land use requirements. The following deviation from the city's predetermined land use regulations is noted: No separate designated and screened area for recreational vehicles is provided (at least 3,384 square feet of such area typically would be required). However, the plan does include 17 more parking spaces than the code would otherwise require for the project. City planning staff has proposed a zoning condition that would prohibit the parking or storage of recreation vehicles.
6. The Conditional Zoning is proposed due to a floor area ratio that exceeds 17 percent, which is the maximum that is permitted by right. Multi-family residential developments with a floor area ratio of more than 17 percent may apply for either a Special Use Permit or Conditional Zoning district.
7. The existing OA6 zoning district allows residential (single-family, two-family, multiple-family), office and institutional uses, and limited commercial uses. The OA6 zoning district is described by the zoning ordinance as "intended to produce moderate intensity office and residential development to serve adjacent residential areas and to provide a transition from residential to commercial uses. Land designated OA6 shall normally be located with access to a minor thoroughfare or higher classification street with access to local residential streets discouraged."
8. The Land Development Plan's "Urban Residential" designation for the property is described as providing for "medium to high density single- and multi-family residential uses" and its intent is to "accommodate existing and encourage new medium-high density residential uses in and around Activity Centers, and around Employment Centers." The Urban Residential description also includes design elements such as building placement close to the street, interconnectivity between neighborhoods, sidewalks, street trees, and recreational amenities such as pocket parks to create a sense of place.

Mr. Nuttall noted that, when evaluating a rezoning application, careful consideration must be given to each goal and policy as outlined in the Land Development Plan.

Proposed Land Use Map Designation: Urban Residential

Small Area Plan: Central

Growth Strategy Map Designation: Primary Growth

LDP Goals/Policies Supporting the Request:

Checklist Item 1: Rezoning is compliant with the Proposed Land Use Map.

Checklist Item 3: The property on which the rezoning district is proposed fits the description of the Zoning Ordinance. (*Article 200, Section 210, Schedule of Statements of Intent*)

Checklist Item 5: The proposed rezoning is compliant with the objectives of the Growth Strategy Map.

Checklist Items 12 and 13: 12.) Property is located outside of watershed. 13.) The property is located outside of Special Hazard Flood Area.

LDP Goals/Policies Which Do Not Support the Request:

Checklist Item 6: Existing infrastructure is adequate to support the desired zone (*water, sewer, roads, schools, etc.*) [The issue with this checklist item is the existing roadway in the absence of the proposed roadway and pedestrian improvements.]

Checklist Item 14: Rezoning is located on steep slopes of greater than 20%

As part of its analysis, the city planning staff also offered suggested conditions believed to be necessary to ensure Land Development Plan consistency and general conformity with city codes.

Suggested Conditions from Planning Staff

- (A) The use approved shall be a development with multiple-family dwellings, consisting of a total of 47 dwelling units with a floor area ratio of up to 22 percent.
- (B) All parties involved in this request, including the owner and the owner's heirs, successors, and assigns, agree to the conditions and approved site plan.
- (C) The site plan depicts notes concerning a required "Type A" screen and/or buffer. This notation shall be interpreted to provide only for illustrative purposes when comparing the plan with typical requirements for required buffering and/or screening. Subject to Section 4.05(C) of the zoning ordinance, the landscaping details depicted on the site plan shall control over any reference to "Type A" screening/buffering requirements.
- (D) Placement of fencing within screening yards shown on the site plan may be modified in order to provide effective screening as allowed by Section 6.06(G), and to avoid conflict with utilities required to serve the development.
- (E) The site plan indicates mail delivery through cluster mailboxes. If the postal service and/or the North Carolina Department of Transportation (NCDOT) require a different facility(s) or location for mail delivery, such a change will not be considered a modification of the conditional zoning district requiring council action.

- (F) The sidewalk, as shown on the site plan, shall be extended along the entire frontage of East Salisbury Street, and shall be built to NCDOT standards. The Applicant shall obtain any required encroachment authorization from NCDOT for the construction of the sidewalk.
- (G) No outdoor recreational vehicle parking or storage shall be permitted on the Zoning Lot.
- (H) Prior to the issuance of a zoning compliance permit, construction plans concerning water, including provisions for fire hydrants determined to be required by Asheboro Fire and Rescue, and sanitary sewage that complies with city policies shall be submitted. Surveying and permitting of any required public utility lines and the associated easements that may be necessary shall be the responsibility of the property owner.
- (I) Fire department connections (FDCs) on the buildings shall be located within 100 feet of required fire hydrant(s). Fire hydrant(s), inclusive of number and location, are subject to the approval of the Asheboro Fire and Rescue Department.
- (J) Stormwater control measures designed by a properly licensed professional in accordance with the current North Carolina Department of Environmental Quality Stormwater BMP Manual shall be provided. Measures shall control the ten-year post-development peak discharge rates to pre-development peak flow rates. Prior to the issuance of a certificate of occupancy, a licensed professional shall provide certification that the storm water control measures were built according to the plans. Any open water retention or drainage areas shall be managed to control mosquitos. The maintenance of all runoff control measures shall be the responsibility of the property owner.
- (K) Prior to the issuance of a zoning compliance permit for the proposed land use, the Applicant shall submit documentation showing approval from the NCDOT and the North Carolina Department of Environmental Quality.
- (L) Prior to the issuance of a zoning compliance permit, the Applicant shall submit a site plan reflecting any revisions necessary to comply with city codes and conditions of approval.
- (M) Prior to the issuance of a zoning compliance permit for the proposed land use, the owner(s) of the Zoning Lot shall properly execute, and deliver to the zoning administrator for recordation in the Office of the Randolph County Register of Deeds, a Memorandum of Land Use Restrictions prepared by the city attorney for the purpose of placing notice of the conditions attached to this conditional zoning in the chain of title for the Zoning Lot.

The City of Asheboro Planning Board recommended approval of the rezoning application because the board concurred with the city planning staff's positive analysis of the Applicant's request. This analysis found the application to be consistent with the adopted comprehensive plans, reasonable, and in the public interest. The recommended analysis provided as follows:

This application seeks a moderate increase to the permissible floor-area ratio, and, therefore, size of the development that is permitted to be built on the property. Prior action of the city council already has determined that the property is appropriate for urban residential development, including a multi-family community. The primary evaluation is whether the project, as designed, sufficiently incorporates elements from the city's adopted plans to warrant approval of additional floor-area.

The plans submitted exceed many of the city's minimum development standards, including construction of the sidewalk along the frontage, ample recreational and open space, additional landscaping and buffering along much of the property's boundaries and in front of the building, plentiful parking, use of masonry accents in the building's design, and stormwater controls to address stormwater runoff expected from a 10-year storm.

The conditional district requested is consistent with the city's adopted plans and approval would facilitate a reasonable use of the property.

In response to Mayor Smith inviting comments from the public, Mr. Tom Wright, Esq. conveyed the Applicant's agreement to the supplemental conditions prepared by the city planning staff and presented comments in support of the rezoning application. Ms. Teresa Jones made inquiries about the proposed project and presented comments in opposition of the application. When no other comments were offered from the public, Mayor Smith then transitioned to the deliberative phase of the process.

After engaging in deliberations about the zoning map amendment application, Council Member Bell moved, and Council Member Swiers seconded the motion, to adopt the plan consistency/reasonableness statement printed below and to approve the requested rezoning with the following multi-part motion.

1. As correctly noted in the staff's analysis, this application seeks a moderate increase to the permissible floor-area ratio, and, therefore, size of the development that is permitted to be built on the Zoning Lot. Prior action of the city council has already determined that the Zoning Lot is appropriate for urban residential development, including a multi-family community. The primary evaluation is whether the project, as designed, sufficiently incorporates elements from the city's adopted plans to warrant approval of additional floor-area.

The plans submitted exceed many of the city's minimum development standards, including construction of the sidewalk along the frontage, ample recreational and open space, additional landscaping and buffering along much of the property's boundaries and in front of the building, parking that exceeds the city's pre-determined minimum standards, use of masonry accents in the building's design, and stormwater controls to address the stormwater runoff expected from a 10-year storm.

The requested conditional zoning ordinance and the resulting district will be consistent with the city's adopted plans. Approval of the requested conditional zoning ordinance, with the supplemental conditions proposed by city staff, will facilitate a reasonable use of the property and will be in the public interest.

2. Subject to the supplemental conditions listed above, the zoning ordinance map amendment application seeking to place the Zoning Lot into the requested OA6 (CZ) conditional zoning district is approved.

Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

- (b) **Legislative Hearing (Case No. RZ-23-02): An application to rezone property at 133 Southway Road (Randolph County Parcel Identification No. 7751346551) from R7.5 (CZ) and R15 zoning to O&I (CZ) office and institutional conditional zoning to allow business services with related accessory enclosed storage.**

Mayor Smith opened the legislative hearing on the above-described zoning map amendment application and first recognized Community Development Division Director Trevor Nuttall in order to receive the planning staff's analysis of the application. The application pertains to approximately 0.27 of an acre of land that is owned by FPB Investments, LLC, who is the applicant.

As indicated above, the applicant's lot (the Zoning Lot) is located at 133 Southway Road and is currently in a split zoning district identified as R7.5 (CZ) medium-density residential conditional zoning and R15 low-density single-family residential. The applicant is seeking to place the Zoning Lot into an O&I (CZ) office & institutional conditional zoning district that will authorize a business services land use with enclosed accessory storage.

Mr. Nuttall initially confirmed that the notice of this hearing had been mailed, advertised, and posted in compliance with the requirements prescribed by the North Carolina General Statutes. Mr. Nuttall then utilized a slide show to provide the following information.

1. The property is inside the city limits.
2. Southway Road, which becomes North McCrary Street northeast of the Zoning Lot, is a state-maintained collector road (SR 1456) with approximately 20-foot wide pavement in front of the Zoning Lot.
3. The area primarily consists of single-family and two-family dwellings, with the McCrary Park ball field being a notable exception directly across Southway Road.
4. The applicant proposes a 3,440-square foot single-story structure with 1,040 square feet of office area and 2,400 square feet of garage/storage area. No outdoor storage is shown, and storage is required to be kept within the enclosed building. Lighting shown is proposed to utilize full cut-off fixtures.
5. The proposed use is classified as "business services" by the zoning ordinance. The applicant has also indicated that the use will include storage within the enclosed structure.
6. The conditional zoning process allows an applicant to propose a project-specific zoning district that establishes approval conditions and site development requirements. The project specific zoning district is allowed to diverge from the zoning ordinance's predetermined land use requirements. The primary deviation proposed is the plan's proposal for landscaping. The applicant requests to utilize off-site landscaping to provide buffering and screening between the proposed non-residential use and the Lexington Commons development. Typically, buffering and screening is an on-site improvement provided on the property controlled by the developer. A secondary deviation is that only three parking spaces are provided. Typically, a business service land use requires 3.5 spaces per 1,000 square feet of gross office floor area. Lastly, the applicant requests approval of an alternate street yard. Generally, a wider street yard would be required, but in lieu of such a yard, the applicant proposes installing more plantings within that area than would normally be required.
7. The landscaping along the eastern property line, adjacent to a single-family dwelling, includes a landscaped screen provided from the street right-of-way to the building and evergreen trees at 30-foot intervals. The ordinance requires either a fence or a row of evergreen shrubs in

addition to the evergreen trees. As allowed by the ordinance's general requirements, the building wall may serve as screening in lieu of the fence; provided, there are no openings in the wall. If there are any openings added to the building wall, a row of evergreen shrubs would also be required as noted on the site plan.

8. The zoning ordinance describes the O&I Commercial District as "intended to produce moderate intensity office and institutional development to serve adjacent residential areas and to provide a transition from residential to commercial uses. Land designated O&I shall normally be located with access to a minor thoroughfare or higher classification street with access to local residential streets discouraged."

Mr. Nuttall noted that, when evaluating a rezoning application, careful consideration must be given to each goal and policy as outlined in the Land Development Plan.

Proposed Land Use Map Designation: Neighborhood Residential

Small Area Plan: Northwest

Growth Strategy Map Designation: Primary Growth

LDP Goals/Policies Supporting the Request:

Checklist Item 5: Complies with the Growth Strategy Map.

- 4.3.1 The city will aid the Parks and Recreation Department in establishing opportunities for additional recreational facilities (parks, greenways, and trails) implementing the Parks and Recreation Master Plan and obtaining state and federal funding.

Checklist Item 12: Property is located outside of watershed.

Checklist Item 13: The property is located outside of Special Hazard Flood Area.

Checklist Item 14: The proposed rezoning is not located on steep slopes of greater than 20%

LDP Goals/Policies Which Do Not Support the Request:

Checklist Item 1: Rezoning is not compliant with the Proposed Land Use Map.

Checklist Item 3: The property on which the rezoning district is proposed does not fit the description of the Zoning Ordinance.
(Article 200, Section 210, Schedule of Statements of Intent)

As part of the analysis, the city planning staff also offered suggested conditions believed to be necessary to ensure Land Development Plan consistency and general conformity with city codes.

Suggested Conditions from Planning Staff

- (A) The use approved shall be business services, including related accessory enclosed storage.
- (B) All parties involved in this request, including the owner and the owner's heirs, successors, and assigns, agree to the conditions and approved site plan.

- (C) If solid waste disposal facilities as shown on the site plan are deemed to be inadequate, the property owner shall be responsible for ensuring that additional facilities or measures are installed. Any such facilities shall be consistent with city policies and codes.
- (D) If, in the future, the existing protective yard provided by the vegetation and fencing on the adjoining Lexington Commons property outside the boundaries of the Zoning Lot no longer provides the equivalent of a Type B buffer or Type B screen, the owner of the Zoning Lot, which is identified by Randolph County Parcel Identification Number 7751346551 and is the subject property in city land use case file RZ-23-02, shall install a Type B buffer or Type B screen along the southern and western property boundaries of the Zoning Lot.
- (E) No outdoor storage shall be permitted on the Zoning Lot.
- (F) Prior to the issuance of a zoning compliance permit for the proposed land use, the applicant shall submit documentation detailing permitting from the North Carolina Department of Transportation.
- (G) Prior to the issuance of a zoning compliance permit, the applicant shall submit a site plan reflecting any revisions necessary to comply with city codes and conditions of approval.
- (H) Prior to the issuance of a zoning compliance permit for the proposed land use, the owner(s) of the Zoning Lot shall properly execute, and deliver to the Zoning Administrator for recordation in the office of the Randolph County Register of Deeds, a Memorandum of Land Use Restrictions prepared by the city attorney for the purpose of placing notice of the conditions attached to this conditional zoning in the chain of title for the Zoning Lot.

The City of Asheboro Planning Board recommended approval of the rezoning application because the board concurred with the city planning staff's positive analysis of the applicant's request. The recommended analysis found the application to be consistent with the adopted comprehensive plans and reasonable. The city planning staff's report provided as follows:

Although this property is designated for Neighborhood Residential Use by the Land Development Plan, when viewed in context with McCrary Park, the establishment of an appropriately controlled office and institutional district would help to provide a transition between the high intensity sporting complex and the lower intensity residential development adjacent to the park. A general O&I district likely would not be appropriate for the location; recognizing this concern, the applicant presents this conditional zoning application to establish development parameters that can ensure compatibility with adjoining residential properties.

The conditional district requested is consistent with the city's adopted plan and approval would facilitate a reasonable redevelopment of the property.

In response to Mayor Smith inviting comments from the public, Mr. Ronnie Pugh presented comments in support of the rezoning application and accepted as appropriate the supplemental conditions recommended by the city planning staff. No other comments were offered from the public, and Mayor Smith then transitioned to the deliberative phase of the process.

After engaging in deliberations about the zoning map amendment application, Council Member Bell moved, and Council Member Burks seconded the motion,

to adopt the plan consistency and reasonableness statement printed below and to approve the requested rezoning with the following multi-part motion.

1. Although the Zoning Lot is designated Neighborhood Residential by the Land Development Plan, the zoning map amendment application must be viewed in the context of the neighboring McCrary Park ball park and its high intensity activities. The establishment of an appropriately controlled office and institutional conditional zoning district would help to provide a transition between the high intensity sporting complex and the lower intensity residential development adjacent to the park. Recognizing that a general O&I district likely would not be appropriate for this location, the applicant has submitted this conditional zoning application and accepted the proposed supplemental conditions in order to establish development parameters that can ensure compatibility with adjoining residential properties.

Under a comprehensive review of all of these factors, the requested conditional zoning district is consistent with the city's adopted comprehensive plans. The proposed use of the Zoning Lot will facilitate a beneficial redevelopment of the property that is reasonable and in the public interest.

2. Subject to the above-stated supplemental conditions that the applicant accepted during the legislative hearing, the above-described zoning ordinance map amendment application seeking to place the Zoning Lot in an O&I (CZ) conditional zoning district that will allow a business services land use, including related accessory enclosed storage, is approved.

Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

(c) Designation of Local Historic Landmarks

Mayor Smith opened a legislative hearing on the question of the designation of local historic landmarks.

Mr. Nuttall introduced Mr. Ross Holt of the Randolph County Historic Landmark Preservation Commission. During a discussion, Mr. Holt reported that the Commission has recommended that the exterior of the Parks Hosiery Mill/McCrary Hosiery Mill No. 2 and the Acme-McCrary & Sapona Recreation Center be designated as local historic landmarks.

As part of his presentation, Mr. Holt submitted a proposed ordinance to make the recommended historic landmark designation. After opening the floor for additional testimony, and receiving no comments from anyone else, Mayor Smith closed the hearing and transitioned to the deliberative phase.

Based on the recommendations received from the Randolph County Historic Landmark Preservation Commission, Council Member Heath moved, and Council Member Burks seconded the motion, to approve/adopt the following ordinance by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

Ordinance Number 10 ORD 3-23

Ordinance Designating the Exterior of the PARKS HOSIERY MILL/McCRARY HOSIERY MILL No. 2, ca. 1925; and ACME McCRARY & SAPONA RECREATION CENTER, 1949, as Local Historic Landmarks in Asheboro, North Carolina

WHEREAS, Chapter 160A, Article 19, Part 3C of the North Carolina General Statutes provides for the designation of local historic landmarks; and

WHEREAS, the City of Asheboro designated the Randolph County Historic Landmark Preservation Commission as a joint historic preservation commission on September 4, 2008, having the authority to exercise, within the planning jurisdiction of the City of Asheboro, all powers and duties given it by the Randolph County Historic Preservation Ordinance; and

WHEREAS, the Randolph County Historic Landmark Preservation Commission has taken into consideration all information contained in the Historic Landmark Designation Application for the Parks Hosiery Mill/McCrary Hosiery Mill No 2, ca. 1925; and the Acme-McCrary & Sapona Recreation Center (now Asheboro Recreation Center), 1949; and

WHEREAS, the North Carolina Department of Natural and Cultural Resources, State Historic Preservation Office, has been given the opportunity to review the Local Landmark designation report which contains the historical information necessary for the Randolph County Historic Landmark Preservation Commission to determine special historical significance and integrity; and

WHEREAS, the Randolph County Historic Landmark Preservation Commission and the Asheboro City Council conducted the require public hearings, and published legal notices; and

WHEREAS, the Randolph County Historic Landmark Preservation Commission has adopted a unanimous resolution requesting the City of Asheboro to designate the exteriors of the Parks Hosiery Mill/McCrary Hosiery Mill No. 2, ca. 1925; and the Acme-McCrary & Sapona Recreation Center (now Asheboro Recreation Center), 1949, as local historic landmarks, and

WHEREAS, the Randolph County Historic Landmark Preservation Commission finds that the Parks Hosiery Mill/McCrary Hosiery Mill No. 2, ca. 1925; and the Acme-McCrary & Sapona Recreation Center (now Asheboro Recreation Center), 1949, meets the following specific criteria outlined in the Ordinance establishing the Commission: (1) Critical part of the Asheboro's and Randolph County's heritage by having value as an example of the cultural, historic and social heritage of the city and the County; (2) Its identification with persons who significantly contributed to the architectural, cultural, economic, historical, social or other aspect of the development of the Asheboro and Randolph County; (3) Its important architecture as an exemplification of an architectural type or style distinguished by innovation, rarity, uniqueness, or overall quality of design, detail, materials or craftsmanship; (4) Its distinctive theme, representing an architectural, cultural, economic, historic or other theme expressed through distinctive buildings.

WHEREAS, the property is more specifically described as follows:

The Parks Hosiery Mill/McCrary Hosiery Mill No. 2, ca. 1925, is located at 170 N. Church Street, Asheboro, N.C. (PIN 7751736404); and the Acme-McCrary & Sapona Recreation Center (now the Asheboro Recreation Center) is located at 148 North Street, Asheboro, N.C. (PIN 7751831174); in Asheboro Township;

NOW, THEREFORE, BE IT ORDAINED, by the Asheboro City Council, North Carolina, that:

- 1:** The property known as the exterior of the Parks Hosiery Mill/McCrary Hosiery Mill No. 2, ca. 1925, located at 170 North Church Street; and the Acme-McCrary & Sapona Recreation Center (now Asheboro Recreation Center), 1949, located at 148 North Street, Asheboro, N.C., within the planning jurisdiction of the City of Asheboro, North Carolina, are hereby designated as Local Historic Landmarks pursuant to Chapter 160A, Article 19, Part 3C, of the North Carolina General Statutes, and by inter-local agreement approved September 4, 2008, between the City of Asheboro and the County of Randolph.
- 2:** That the exteriors of the Parks Hosiery Mill/McCrary Hosiery Mill No. 2, ca. 1925; and the Acme-McCrary & Sapona Recreation Center (now Asheboro Recreation

Center), 1949 building may be materially altered, restored, remodeled, or demolished only following issuance of a Certificate of Appropriateness from the Historic Landmark Preservation Commission.

- 3: That nothing in this Ordinance shall be construed to prevent the ordinary maintenance or repair of any architectural feature in or on said property that does not involve a change of design, material or outer appearance thereof, after obtaining the necessary permits and official approval for said stated repair. Nothing herein shall prevent the construction, alteration, restoration, demolition, or removal of such features when a building inspector or similar authorized official certifies to the Historic Landmark Preservation Commission that such action is required for the public safety because of an unsafe condition. Furthermore, nothing shall be construed to prevent the property owner from making any use of this property not prohibited by other statutes, ordinances or regulations.
- 4: That suitable signs may be posted indicating the designation as a Local Historic Landmark and containing appropriate information.
- 5: That the City of Asheboro, owner of the Acme-McCrary & Sapona Recreation Center, and Church Street Loft Apartments, owner of the Parks Hosiery Mill/McCrary Hosiery Mill No. 2, hereby accept notice as required by the applicable law of this action, and directs that copies of this Ordinance be filed and indexed in the office of the Asheboro City Clerk, the Randolph County Register of Deeds, the Randolph County Tax Department, and both the City and County Planning and Inspections Departments as required by applicable law.

Upon the motion of Council Member Heath, and a second by Council Member Burks, the foregoing ordinance was passed upon its first reading by a vote of 7 to 0.

CITY OF ASHEBORO
NORTH CAROLINA

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

March 9, 2023
Adoption Date

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

7. Follow-up Regarding Case No. RZ-22-06

Mr. Nuttall updated the council members regarding Case No. RZ-22-06. Since the approval of the above-referenced conditional zoning land use case last year, the streets within the Parkway South Townhomes subdivision have been shown as offered for dedication to the public on a subdivision plat that has been submitted for review under the Subdivision Ordinance of the City of Asheboro.

Once city review officers complete the review of the submitted plat, a resolution accepting the offer of dedication will be submitted for council action. It is anticipated that this resolution will be considered during the council's regular meeting in April 2023.

No formal action was taken by the council during this portion of the meeting.

8. Zoo Themed Art

City Manager John Ogburn presented examples of zoo themed art that will be placed in downtown Asheboro as part of the place making project.

No formal action was taken by the council during this portion of the meeting.

9. Building Inspections Annual Report

Due to an unavoidable scheduling issue, the chief building inspector was unable to attend this council meeting. The above-referenced item will be presented at a later date.

10. Code Enforcement Annual Report

Code Enforcement Officer Charles Garner utilized a slide show presentation to provide an overview of the activities, including remedial actions, undertaken by the code enforcement office during the preceding year. Mr. Garner's report reflected the recorded violations for 2022. These violations included, but were not limited to, unlawful tent cities and dilapidated structures

A copy of the slide show utilized by Mr. Garner is on file in the city clerk's office. No formal action was taken by the council during this portion of the meeting.

11. Methods for Dealing with Nuisance and Destructive Deer

Captain Byron Hill of the Asheboro Police Department and Officer Darrell Johnson from the North Carolina Wildlife Resources Commission led a discussion of methods for dealing with nuisance and destructive deer within the city. Within the past year, citizens have been dealing with a seemingly growing population of deer.

During the discussion, Captain Hill and Officer Johnson gave some tips on how to deal with the deer. For example, property owners should not feed the deer when they appear on their property. Other methods that include, but are not limited to, the erection of scare-a-crows and the possibility of an urban archery season.

No formal action was taken by the council during this portion of the meeting.

12. Finance Items

(a) Ordinance to Amend the General Fund – Allocating Additional Funds for Departments Use for McCrary Ballpark Improvements Outside Executed Contract

Finance Director Deborah Reaves presented and recommended adoption, by reference, of an ordinance to amend the General Fund.

Council Member Moffitt moved, and Council Member Heath seconded the motion, to adopt/approve the following ordinance by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

11 ORD 3-23

**ORDINANCE TO AMEND THE GENERAL FUND
FY 2022-2023**

WHEREAS, In November 2022, the City of Asheboro desires to appropriated \$250,000 from the General Fund Balance for miscellaneous expenses for the McCrary Ballpark renovation that fall outside of the scope of the executed construction contracts.

WHEREAS, as of February 28, 2023, all those funds have been spent and additional funds are needed for City Staff to continue their work.

WHEREAS, the City of Asheboro desires to appropriate an additional \$300,000 from the General Fund Balance for miscellaneous expenses for the McCrary Ballpark renovation that fall outside of the scope of the executed construction contracts.

WHEREAS, the City of Asheboro desires amend the 2022-2023 General Fund operating budget to as required by law to adjust for changes in revenues and expenditures in comparison to the current adopted budget.

WHEREAS, the City of Asheboro desires to be in compliance with all generally accepted accounting principles, and;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA:

That the following Revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
10-000-399.0000	Fund Balance Allocation	300,000

That the following expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
10-620-574.6500	Contribution to McCrary Ballpark Fund	300,000

Adopted this the 9th day of March 2022.

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

ATTEST:

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

(b) Ordinance to Amend McCrary Ballpark Fund – Additional Funds for Departments Use for McCrary Ballpark Improvements Outside Executed Contract

Ms. Reaves presented and recommended adoption, by reference, of an ordinance to amend the McCrary Ballpark Fund.

Council Member Bell moved, and Council Member Burks seconded the motion, to adopt/approve the following ordinance by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

12 ORD 3-23

**ORDINANCE TO AMEND
THE MCCRARY BALLPARK IMPROVEMENTS FUND
FY 2022-2023**

WHEREAS, In November 2022, the City of Asheboro desires to appropriated \$250,000 from the General Fund Balance for miscellaneous expenses for the McCrary Ballpark renovation that fall outside of the scope of the executed construction contracts.

WHEREAS, as of February 28, 2023, all those funds have been spent and additional funds are needed for City Staff to continue their work.

WHEREAS, the City of Asheboro desires to appropriate and additional \$300,000 from the General Fund Balance for miscellaneous expenses for the McCrary Ballpark renovation that fall outside of the scope of the executed construction contracts.

WHEREAS, the City desires to recognize funding from the General Fund and appropriate for these expenses in the McCrary Ballpark Improvements fund.

WHEREAS, the City of Asheboro desires amend the 2022-2023 capital project fund budget to as required by law to adjust for changes in revenues and expenditures in comparison to the current adopted budget.

WHEREAS, the City of Asheboro desires to be in compliance with all generally accepted accounting principles, and;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA:

Section 1: The following revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
65-000-300.0001-65	Contribution from General Fund	300,000

Section 2: The following expense line item be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
65-000-405.0000-65	Miscellaneous	300,000

Adopted this the 9th day of March 2023.

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

ATTEST:

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

(c) Ordinance to Amend the General Fund – Allocating funds to the Airport Improvement Fund II to Cover Timing Issues

Ms. Reaves presented and recommended adoption, by reference, of an ordinance to amend the General Fund.

Council Member Heath moved, and Council Member Bell seconded the motion, to adopt/approve the following ordinance by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

13 ORD 3-23

**ORDINANCE TO AMEND THE GENERAL FUND
FY 2022-2023**

WHEREAS, in June 2022, the City of Asheboro created the Airport Improvements fund II to track revenue and expenses associated with the construction of a new 80' x 80' corporate hangar at the south end of the Asheboro Regional Airport.

WHEREAS, the reimbursement from Federal Sources do not always follow within the City of Asheboro budget year

WHEREAS, the reimbursement from Federal Sources do not always follow within the City of Asheboro budget year

WHEREAS, the City of Asheboro would like to appropriate funds from the General Fund to transfer to the Airport Improvements Fund II to provide revenue to the project fund during this interim period between expenses incurred and reimbursement.

WHEREAS the City of Asheboro would like to appropriate General fund balance in the amount of \$350,000 for this purpose

WHEREAS, the City Council of the City of Asheboro desires amend the budget as required by law to adjust for changes in revenues and expenditures in comparison to the current adopted budget.

THEREFORE, BE IT ORDAINED by the City Council of the City of Asheboro, North Carolina

Section 1: The following revenue line item be increased:

<u>Line Item</u>	<u>Description</u>	<u>Amount</u>
76-000-300.0000-76	Contribution (transfer) from General Fund	350,000

Section 4: The following amounts are appropriated as expenditures for this project:

That the following Expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Amount</u>
76-000-430.0000-76	Miscellaneous	350,000

Adopted this the 9th day of March 2023.

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

ATTEST:

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

(e) Ordinance to Amend and Close the Sidewalk Improvements Fund

Ms. Reaves presented and recommended adoption, by reference, of an ordinance to amend and close the Sidewalk Improvements Fund.

Council Member Heath moved, and Council Member Swiers seconded the motion, to adopt/approve the following ordinance by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

15 ORD 3-23

**ORDINANCE TO AMEND & CLOSE
SIDEWALK IMPROVEMENTS FUND
FY 2022-2023**

WHEREAS, in November 2018, the Sidewalk Improvements fund was established when the City of Asheboro received a grant from NCDOT (DOT Project EB-5862 Randolph Community College Public Sidewalk Improvements) for sidewalk improvements.

WHEREAS, in May 2022, the City received proposals for construction as well as for construction, engineering and inspection services for NCOT Project EB-5862 and the budget in the amount of \$236,500 established in 2018 was not sufficient to cover costs.

WHEREAS, considering the proposals were in excess of the project budget, the city decided to reevaluate

WHEREAS, the city decided to complete the task in house and give up the future grant proceeds

WHEREAS with the project now being completed, the City wishes to close the sidewalk project find with the follow final budget amendment

WHEREAS, City of Asheboro desires to be in compliance with all generally accepted accounting principles.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA:

Section 1: That the following expense lines are increased / decreased:

<u>Line Item</u>	<u>Description</u>	<u>Amount</u>
73-000-400.9002-73	Construction	(30,645)
73-000-400.9006-73	Contribution to General Fund	30,645
		<hr/> \$0

Adopted this the 9th day of March 2023.

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

ATTEST:

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

(f) Ordinance to Amend the General Fund – Receive Funds from Sidewalk Improvements Fund

Ms. Reaves presented and recommended adoption, by reference, of an ordinance to amend the General Fund.

Council Member Burks moved, and Council Member Heath seconded the motion, to adopt/approve the following ordinance by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

16 ORD 3-23

**ORDINANCE TO AMEND THE GENERAL FUND
FY 2022-2023**

WHEREAS, in November 2018, the Sidewalk Improvements fund was established when the City of Asheboro received a grant from NCDOT (DOT Project EB-5862 Randolph Community College Public Sidewalk Improvements) for sidewalk improvements.

WHEREAS, in May 2022, the City received proposals for construction as well as for construction, engineering and inspection services for NCOT Project EB-5862 and the budget in the amount of \$236,500 established in 2018 was not sufficient to cover costs

WHEREAS, considering the proposals were in excess of the project budget, the city decided to reevaluate

WHEREAS, the city decided to complete the task in house and give up the future grant proceeds

WHEREAS with the project now being completed, the City wishes to close the sidewalk project find with the following final budget amendment

WHEREAS, City of Asheboro desires to be in compliance with all generally accepted accounting principles.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA:

Section 1: That the following Revenue lines are increased / decreased:

<u>Line Item</u>	<u>Description</u>	<u>Amount</u>
10-000-399.0000	Fund Balance allocation	(30,645)
10-000-365.0012	TSF in from Sidewalk Fund (73)	30,645
		<hr/>
		\$0

Adopted this the 9th day of March 2023.

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

ATTEST:

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

(g) Ordinances to Amend the General Fund –

(i) For Cultural and Recreation Services Division

615 – Funds for Added Programs at Sunset Theatre

620 – Funds for Utilities, Operating, and to Fix the North Asheboro Pool

Ms. Reaves presented and recommended adoption, by reference, of an ordinance to amend the General Fund.

Council Member Bell moved, and Council Member Burks seconded the motion, to adopt/approve the following ordinance by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

17 ORD 3-23

**ORDINANCE TO AMEND
THE GENERAL FUND
FY 2022-2023**

WHEREAS, the City of Asheboro needs to appropriate more funding for the recreation department budget for increased funding to external agencies youth activities / athletics, increased utilities cost and for salary and benefit adjustments.

WHEREAS, the City of Asheboro needs to appropriate funding in the recreation department budget to replace the filter at North Asheboro Pool that prohibited the pool from being opened last summer.

WHEREAS, The City of Asheboro needs to appropriate more funding for the Cultural Services department for added programming at Sunset Theater.

WHEREAS, the City of Asheboro would like to appropriate fund balance in the amount of \$431,000.

WHEREAS, the City of Asheboro desires to amend the 2022-2023 budget as required by law to adjust for changes in revenues and expenditures in comparison to the current adopted budget.

WHEREAS, the City Council of the City of Asheboro wants to be in compliance with all generally accepted accounting principles.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA:

Section 1: The following revenue line item be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
10-000-399.0000	Fund Balance Appropriated	431,000

Section 2: The following expense line item be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
10-615-512.0001	Programs- Sunset Theatre	97,000
10-620-502.0000	Salaries & Wages	60,000
10-620-502.1000	Salaries & Wages PT	80,000
10-620-507.0002	Fringe Benefits	5,000
10-620-507.0005	Retirement	4,000
10-620-509.0001	Insurance	5,000
10-620-512.0000	Athletic Programs	35,000
10-620-513.0000	Utilities Fuel Lights	8,000
10-620-513.0003	Utilities Fuel Lights- skate park	1,000
10-620-513.0500	Utilities Fuel Lights- McCrary Gym	13,000
10-620-513.0600	Utilities Fuel Lights- Gatekeepers	1,000
10-620-515.0001	Maint & Repair- North Asheboro Pool	100,000
10-620-515.0900	Maint & Repair -McCrary Gym.	13,000
10-620-522.0007	Village of Barnabus	9,000
	TOTAL	431,000

Adopted this the 9th day of March 2023.

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

ATTEST:

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

(ii) For City Hall Parking Lot

Ms. Reaves presented and recommended adoption, by reference, of an ordinance to amend the General Fund.

Council Member Bell moved, and Council Member Swiers seconded the motion, to adopt/approve the following ordinance by reference. Council Members Bell, Burks, Heath, McCaskill, Moffitt, Redding, and Swiers voted aye. There were no dissenting votes.

18 ORD 3-23

**ORDINANCE TO AMEND
THE GENERAL FUND
FY 2022-2023**

WHEREAS, the City of Asheboro has granted an easement for parking to the Church Street Lofts Senior housing development.

WHEREAS, the about 2/3rds of the area allotted for Church Street Lofts parking will be handicapped parking and the standards for the Church Street Lofts housing development grant requires concrete surfaces on handicapped parking.

WHEREAS, the City of Asheboro will be modifying and installing new islands in part of the City Hall parking lot area to allow for the installation of new light poles to enhance safety.

WHEREAS, some of this work will be contracted out and some work will be performed in house.

WHEREAS, the City of Asheboro is estimating the total cost for this project to be around \$225,000 and would like to appropriate fund balance for this expense.

WHEREAS, the City of Asheboro desires amend the 2022-2023 budget to as required by law to adjust for changes in revenues and expenditures in comparison to the current adopted budget.

WHEREAS, the City Council of the City of Asheboro wants to be in compliance with all generally accepted accounting principles.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA:

Section 1: The following revenue line item be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
10-000-399.0000	Fund Balance Appropriated	225,000

Section 2: The following expense line item be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
10-500-515.0002	Maintenance & Repair – Parking	225,000

Adopted this the 9th day of March 2023.

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

ATTEST:

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

13. Discussion of Selling Alcoholic Beverages in Sunset Theatre

Mayor Smith initiated a discussion regarding the selling of alcoholic beverages in Sunset Theatre during certain events. During the discussion, a consensus of the council emerged that city staff should explore and investigate what other cities and towns are doing. City staff will research the policies of other cities and towns and report to the council as information becomes available.

14. Upcoming Events and Items not on the Agenda

Mayor Smith and Mr. Ogburn led a discussion of upcoming events within the city government and the community in general. No action was taken by the city council during this discussion.

There being no further business, the meeting was adjourned at 9:26 p.m.

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

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