

**MINUTE BOOK 23, PAGE 437
CITY OF STATESVILLE COUNCIL MEETING – April 19, 2010
CITY COUNCIL CHAMBERS– 7:00 P.M.
STATESVILLE, NORTH CAROLINA**

Mayor Costi Kutteh presiding:

Council Present: J. Johnson, Steele, Matthews, Gregory, Eisele, Huggins, M. Johnson, Matthews

Staff Present: Hites, Fugett, Smyth, Salmon, Bullins, Gaines, Cranford, Cornelison, Davis, Pressley, Hutchens, Windsor, Currier, Stephens

Media Present: J. McNally – Record & Landmark
D. Vieser – Charlotte Observer

Visitors: 22

Invocation

The invocation was given by the City Clerk.

Pledge of Allegiance

The Pledge of Allegiance was led by Girl Scout Troop 10000314.

Public Comment

Mayor Kutteh explained during the second meeting of each month, citizens are invited to speak about matters not on the current agenda.

Bill Balatow with the Charlotte Regional Realtor's Association thanked Mayor Kutteh and Council members for honoring Fair Housing Month. Mr. Balatow reported the association would be repairing homes for eight families in Iredell County.

Summer Lipford, 613 W. Charlotte St., Statesville, NC presented Council members with information about the Americans with Disability Act (ADA) (incorporated into the minutes by reference-attachment A). Ms. Lipford felt the city was not ADA friendly. She described an incident between her hearing impaired son and law enforcement. Ms. Lipford stated the City should have dedicated TTY lines in every City office and the Police Department should have a deaf interpreter and should be trained in ADA sensitivity.

Mayor Kutteh asked if any items needed to be added to the agenda. Council member Steele stated she needed to add the Quality of Life committee report. Mayor Kutteh answered the report would be heard after Item VIII on the agenda.

Mayor Kutteh reported the City achieved Tree City USA status for the 18th consecutive year. He thanked everyone for their hard work on the Arbor Day celebration that was held Saturday, April 17, 2010 at Lakewood Park.

CONSENT AGENDA – All items below are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion on these items unless a Council member so requests, in which event, the item will be removed from the Consent Agenda and considered with the other items listed in the Regular Agenda.

- A. Approve minutes of the Pre-agenda meeting of March 11, 2010, and the Council meeting of March 15, 2010.**
- B. Make a formal request that the City of Statesville be an official co-sponsor of the 2010 Piedmont Healthcare Friday After Five Summer Concert Series.**

- C. Consider passing a motion to close the 500 block of South Center Street, between West Bell Street and Garfield Street on Saturday, June 19, 2010, between 12:00 noon and 8:00 p.m. for the annual "Juneteenth" celebration sponsored by Impact, Inc.
- D. Consider passing a motion to close the traffic circle in the Tara's Trace subdivision, which consists of the intersection of Ballingarry Drive and Cappoquin Drive, on Saturday, May 15, 2010, between 12:00 p.m. and 6:00 p.m.
- E. Consider passing a motion to close West Broad Street from Kelly to Mulberry Street, from 3:00 pm to 10:00 pm, on May 28, June 11, June 25, July 9, July 23, and August 27, 2010 to accommodate the "Friday after Five Summer Concert Series". In addition, consider a motion to move the location of the "Friday After Five" concert, scheduled for August 13, 2010, from West Broad Street to North Meeting Street, between West Broad Street and Tunxis Place.
- F. Approve Budget Amendment # 43 to appropriate \$1,324 in insurance proceeds to the Electric Utilities account 030-8100-462-1503.
- G. Receive report of non-depreciable capital purchase in the Electric Utilities Department.
- H. Appropriate insurance reimbursement proceeds to the Street Maintenance account 010-5530-432-1502 and approval of Budget Amendment #44.
- I. Appropriate insurance reimbursement proceeds to the Sewer Maintenance account 031-5581-472-1503 and approval of Budget Amendment #45.
- J. Approve purchase of a photo ID printer and Budget Amendment #40.
- K. Request using appropriated funds for a sidewalk and flower bed instead of a walking trail at Grace Park.
- L. Consider Sidewalk Encroachment Permit at 105 East Broad Street.
- M. Consider passing a Resolution of Intent to close a portion of an unopened alley located between Wise Street and Charlotte Avenue.
- N. Consider passing a Resolution of Intent to permanently close portions of a right of way on Wilmington Avenue and South Meeting Street.

Upon a motion by Councilmember J. Johnson, seconded by Council member Eisele, the Consent Agenda was unanimously approved.

Conduct a Public Hearing and consider passing the 1st Reading of an Ordinance to annex the Layman property located on the north side of Ora Drive.

Planning Director David Currier reported Council had passed all the prerequisites required for the Public Hearing. Mr. Currier stated the property being considered for annexation is located on the north side of Ora Drive and is approximately 0.53 acres in size and encompasses Iredell County Parcel Identification Number (PIN) 4754-04-3553. The subject property is contiguous to the current primary municipal limits of the City of Statesville. Therefore, this request is being processed as a voluntary contiguous annexation.

Mayor Kutteh opened the public hearing and asked if anyone wished to speak in favor of or in of opposition of the annexation. No one was present to speak. Mayor Kutteh closed the public hearing.

Upon a motion by Councilmember Steele, seconded by Councilmember Gregory, the motion to pass first reading of an ordinance to annex the Layman property, Iredell County Parcel Identification Number (PIN) 4754-04-3553, was unanimously approved.

Approve a Resolution opposing changes to the ABC system.

City Manager Rob Hites reported the Governor and State Legislature are studying the abolition of local ABC Commissions in favor of a single county ABC Commission as well as the privatization of ABC sales in North Carolina. Mr. Hites reported the Governor has expressed interest in removing ABC sales from localities and franchising private stores through the State ABC Commission. This would direct all ABC proceeds to the State and not local government which could result in a tremendous loss of income for cities in the state who depend on ABC revenue as a significant contribution to their general fund. Mr. Hites stated it is the belief of both the City of Statesville's and the City of Mooresville's ABC boards that both work well for their community and revenues have been directed appropriately as to their communities' needs.

Mayor Kutteh noted Mr. Tip Nicholson and Michelle Rokes, members of the Statesville ABC board, were present. Mayor Kutteh stated he felt it was important to remind the community that since 1973 the Statesville ABC had supported its own capital improvements, local parks, and drug and alcohol rehabilitative services.

Upon a motion by Council member Steele, seconded by Council member Stallard, the motion to approve a resolution opposing changes to the ABC system was unanimously approved.

Consider endorsing the Socio-Economic Data to be used in the update of the Comprehensive Transportation Plan.

Mr. Bill Dustin, Planning Director with Centralina Council of Government reviewed the Statesville Comprehensive Transportation Plan Socio-Economic Data 2009-2040 with Council (incorporated into the minutes by reference-attachment B).

Upon a motion by Council member M. Johnson, seconded by Council member Stallard, the motion to endorse the Socio-Economic Data to be used in the update of the Comprehensive Transportation Plan was unanimously approved.

Quality of Life Committee Report for Garfield Recreation Center

Council member Steele advised the Quality of Life Committee recommended demolishing the existing building and pool, retaining the basketball court, and removing the barbed wire surrounding the top of the basketball court fence at the Garfield Recreation Center. Recreation and Parks Director Mr. Cornelison will provide Council with a demolition cost. Council member Steele stated demolition costs may be covered in the 2009-2010 budget year and the cost for the new park amenities would be included in the 2010-2011 budget.

Upon a motion by Council member Steele, seconded by Council member Gregory, the motion to demolish the existing building and pool, retaining the basketball court, and removing the barbed wire surrounding the top of the basketball court fence at the Garfield Recreation Center was unanimously approved.

Consider the purchase of a used motor grader for the Street Department and approve Budget Amendment #41.

Larry Pressley explained the current 1984 model motor grader is well worn and needs approximately \$24,000 in repairs to remain usable. The salvage value is only \$12,000-\$15,000. Mr. Pressley stated the list price for a new motor grader is well over \$250,000. Governmental pricing for a new unit is \$185,000. Staff is requesting authorization to purchase a used motor grader not to exceed \$125,000. Council member Huggins asked the life expectancy of a used model. Mr. Pressley replied staff had looked at a 2005 model that should have a life expectancy of 15-20 years.

Upon a motion by Council member Huggins, seconded by Council member M. Johnson, the motion to approve authorization to purchase a used motor grader, price not to exceed \$125,000, and approve Budget Amendment #44 was unanimously approved.

Approve the reclassification of an Administrative Secretary position to a Property Evidence Custodian position in the Police Department.

Assistant City Manager Lynn Smyth stated for the past several years the Police Department has experienced a substantial increase in the volume of items taken and stored as evidence. Ms. Smyth explained evidence collection workloads have increased but the need for secretarial support in the department has decreased due to the officers' ability to complete report entry from in car computers.

Council member Steele asked if this reclassification would require additional training. Ms. Smyth replied it would. She stated one of the secretaries had part of the training and the person who had been in the position for sometime had the required training.

Upon a motion by Council member Steele, seconded by Council member Eisele, the motion to approve the reclassification of an Administrative Secretary position to a Property Evidence Custodian position in the Police Department was unanimously approved.

Approval of a resolution to establish standards and a rider for interconnecting renewable and non-renewable small generator systems.

Perry Windsor reviewed the program, the resolution and the Power Purchase Agreements with Council. There was some discussion about the cost of the program to the city and the need for the resolution.

Council member Stallard, seconded by Council member Steele, made a motion to table approval of a resolution to establish standards and a rider for interconnecting renewable and non-renewable small generator systems. The motion was unanimously approved.

Receive an update on the Neil Scroggs house located at 621 West Sharpe Street.

Planning Director David Currier reported upon inspection of the residence there had been major outside clearing of brush on the property, a substantial amount of electrical and plumbing work had been completed, floor sections had been removed to repair floor joists and the current heating system was being replaced with baseboard heaters. The property had been inspected and found to be termite free. Mr. Currier stated it appears at this time, momentum for the repairs has increased substantially. Mr. Currier recommended that City Council request the staff continue to defer implementation of the Ordinance, monitor the progress and report back to Council periodically.

Upon a motion by Council member Steele, seconded by Council member Matthews, the motion to defer implementation of the ordinance until the May 17th Council meeting was unanimously approved.

Consider passing a Resolution establishing a policy regarding the leasing of city owned hangar space to private aircraft hangar keepers.

David Currier stated three private hangars will be owned by the City of Statesville by June 2010. He advised the Infrastructure Committee met on April 7, 2010 and recommended the attached policy be adopted to lease the newly owned hangars. Mr. Currier reported the components of the policy include the following:

1. The current hangar keeper or lessee will be given first right of refusal for a new lease.
2. If first right of refusal is not accepted, the City will enter into private negotiation.
3. The base market rate will be determined every five years or as necessary to reflect the current market basis. (Current rate \$3.50/sq. ft. per year for hangar and supporting land determined from report by Edmund Hunter & Associates, Inc.).
4. The leasehold term will be for five years with CPI adjuster and no renewal option.

Mayor Kutteh asked who would be responsible for maintenance on the structure. Mr. Currier replied each individual lease would contain those details. Mr. Currier explained each lease would come before council for approval.

Upon a motion by Council member Stallard, seconded by Council member M. Johnson, the motion to pass a resolution establishing a policy regarding the leasing of city owned hangar space to private aircraft hangar keepers was unanimously approved.

Convey to Mitchell Community College a surplus, unbuildable parcel of property at the intersection of West Sharpe Street and Cochran Street and retain all utility easements.

City Manager Rob Hites stated Doug Eason, President of Mitchell Community College, requests the City convey a parcel of land located at the terminus of West Sharpe Street to the college. The parcel is bordered by Mitchell's property, Cochran Street and Southern Railroad. It is not buildable and is vacant except for a location sign for the adjacent industry. The property was deeded to the City in April of 1958 as settlement for street assessments. Dr. Eason requests the college receive the property in order to "round off" the rear of their property. Sharpe Street's right of way becomes the entrance to the parking area of the maintenance garage. The entire tract lies within Southern Railway's 100' right of way. Staff recommends conveying the parcel by Quit Claim Deed, subject to the utility easements.

Upon a motion by Council member Huggins, seconded by Council member Eisele, the motion to convey to Mitchell Community College a surplus, unbuildable parcel of property at the intersection of West Sharpe Street and Cochran Street and retain all utility easements was unanimously approved.

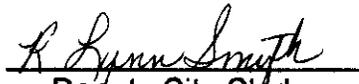
There being no further business to come before Council, upon a motion by Council member Steele, seconded by Council member Eisele, the meeting was continued until Monday, April 26, 2010 at 4:30 p.m. to be held in the City Hall Conference room.

ATTEST:





Mayor



Deputy City Clerk

Chapter 8B.**Interpreters for Deaf Persons.****§ 8B-1. Definitions; right to interpreter; determination of competence.**

As used in this Chapter:

- (1) "Appointing authority" means the presiding judge or clerk of superior court in a judicial proceeding, or a hearing officer, examiner, commissioner, chairman, presiding officer or similar official in a legislative or administrative proceeding.
- (2) "Deaf person" means a person whose hearing impairment is so significant that the individual is impaired in processing linguistic information through hearing, with or without amplification.
- (3) "Qualified interpreter" means an interpreter licensed under Chapter 90D of the General Statutes. If the appointing authority finds that a licensed interpreter is not available, an unlicensed interpreter may be called and used as a qualified interpreter if the interpreter's actual qualifications have otherwise been determined to be adequate for the present need. In no event will an interpreter be considered qualified if the interpreter is unable to communicate effectively with and simultaneously and accurately interpret for the deaf person.

A deaf person who does not utilize sign language may request an aural/oral interpreter. Before this interpreter is appointed, the appointing authority shall satisfy itself that the aural/oral interpreter is competent to interpret the proceedings to the deaf person and to present the testimony, statements, and any other information tendered by the deaf person. (1981, c. 937, s. 1; 1997-443, s. 11A.118(a); 2002-182, s. 2; 2003-56, s. 3.)

§ 8B-2. Appointment of interpreters in certain judicial, legislative, and administrative proceedings; removal.

(a) When a deaf person is a party to or a witness in any civil or criminal proceeding in any superior or district court of the State, including juvenile proceedings, special proceedings, and proceedings before the magistrate, the court shall appoint a qualified interpreter to interpret the proceedings to the deaf person and to interpret the deaf person's testimony, if any.

(b) When a deaf person is a witness before any legislative committee or subcommittee or legislative research or study committee or subcommittee or commission authorized by the General Assembly, the appointing authority conducting the proceeding shall appoint a qualified interpreter to interpret the proceedings to the deaf person and to interpret the deaf person's testimony.

(c) When a deaf person is a party to or a witness in an administrative proceeding before any department, board, commission, agency or licensing authority of the State, or of any county or city of the State, the appointing authority conducting the proceeding shall appoint a qualified interpreter to interpret the proceedings to the deaf person and to interpret the deaf person's testimony, if any.

(d) If a deaf person is arrested for an alleged violation of criminal law of the State, including a local ordinance, the arresting officer shall immediately procure a qualified interpreter from the appropriate court for any interrogation, warning, notification of rights, arraignment, bail hearing or other preliminary proceeding, but no arrestee otherwise eligible for release on bail under Article 26 of Chapter 15A of the General Statutes shall be held in custody pending the arrival of an interpreter. No answer, statement or admission taken from the deaf person without a qualified interpreter present and functioning is admissible in court for any purpose.

(e) Whenever a juvenile whose parent or parents are deaf is brought before a court for any reason whatsoever, the court shall appoint a qualified interpreter to interpret the proceedings and testimony for the deaf parent or parents, and to interpret any statements or testimony the deaf parent or parents may be called upon to give to the court.

(f) A qualified interpreter shall not be appointed until the appointing authority makes a preliminary determination that the interpreter is able to communicate effectively with and to interpret accurately for the deaf person. If no qualified interpreter can be found who can successfully communicate with this person, he may select his own interpreter without regard to whether the interpreter is "qualified" within the meaning set forth under this statute.

(g) The appointing authority may, on its own motion or on the request of the deaf person, remove an interpreter for inability to communicate or because his services have been waived. (1981, c. 937, s. 1.)

§ 8B-3. Waiver of appointed interpreter.

(a) A deaf person entitled to the services of an interpreter under this Chapter may waive these services. The waiver must be approved in writing by the person's attorney. If the person does not have an attorney, approval must be made in writing by the appointing authority.

(b) A deaf person who has waived an interpreter under this section may provide his own interpreter at his own expense, without regard to whether such interpreter is qualified under this Chapter. (1981, c. 937, s. 1.)

§ 8B-4. Notice of need for interpreter; proof of deafness.

A deaf person entitled to an interpreter under this Chapter shall, if practicable, notify the appropriate appointing authority of his need prior to his appearance. A failure to notify or to request an interpreter is not a waiver of the right to an interpreter. Before appointing an interpreter, an appointing authority may require satisfactory proof of the requesting person's deafness if he has reason to believe the person is not hearing impaired. (1981, c. 937, s. 1.)

§ 8B-5. Privileged communications.

If a communication made by the deaf person through an interpreter is privileged, the privilege extends also to the interpreter. (1981, c. 937, s. 1.)

§ 8B-6. List of interpreters; coordination of interpreter services.

The Department of Health and Human Services shall prepare and maintain an up-to-date list of qualified and available interpreters. A copy of the list shall be provided to each clerk of superior court and to the North Carolina Interpreter and Transliterator Licensing Board created in Chapter 90D of the General Statutes. When requested by an appointing authority to provide an interpreter the Division of Services for the Deaf and the Hard of Hearing shall assist in arranging for an interpreter at the time and place needed through its program of community services for the hearing impaired. (1981, c. 937, s. 1; 1989, c. 533, s. 4; 1997-443, s. 11A.118(a); 2002-182, s. 3; 2003-56, s. 3.)

§ 8B-7. Oath.

Before acting, an interpreter shall take an oath or affirmation that he will make a true interpretation in an understandable manner of the proceedings to the person for whom he is appointed and that he will convey the statements of the person in the English language to the best of his skill and judgment. (1981, c. 937, s. 1.)

§ 8B-8. Compensation.

(a) An interpreter appointed under this Chapter is entitled to a reasonable fee for services, including waiting time, time reserved by the courts for the assignment, and

reimbursement for necessary travel and subsistence expenses. The fee shall be fixed by the appointing authority who shall consider any fee schedule for interpreters established by the Department of Health and Human Services. Reimbursement for necessary travel and subsistence expenses shall be at rates provided by law for State employees generally.

(b) The fees and expenses of interpreters who serve before any superior or district court criminal and juvenile proceeding are payable from funds appropriated to the Administrative Office of the Courts.

(c) The fees and expenses of interpreters who serve in civil cases and special proceedings are also payable from funds appropriated to the Administrative Office of the Courts.

(d) Fees and expenses of interpreters who serve before a legislative body described in this Article are payable from funds appropriated for operating expenses of the General Assembly.

(e) Fees and expenses of interpreters who serve before any State administrative agency are payable by that agency.

(f) Fees and expenses of interpreters who serve before city or county administrative proceedings are payable by the respective city or county.

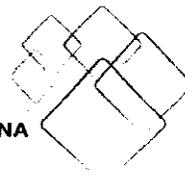
(g) Repealed by Session Laws 1995, c. 277, s. 1. (1981, c. 937, s. 1; 1989, c. 533, s. 5; 1995, c. 277, s. 1; 1997-443, s. 11A.118(a).)

§ 8B-9. Responsibility for payment of funds to implement Chapter.

Responsibility for payment of funds to implement this Chapter rests with the particular entity specified in G.S. 8B-8 whose procedure required the service. (1981, c. 937, s. 2.)

§ 8B-10. North Carolina Training and Licensing Preparation Program fees.

The Division of Services for the Deaf and the Hard of Hearing of the Department of Health and Human Services may charge a fee of no more than fifty dollars (\$50.00) to individuals who participate in interpreter training or workshops offered by the North Carolina Training and Licensing Preparation Program. The Division may charge a fee of no more than one hundred dollars (\$100.00) for a diagnostic evaluation offered under the Program. This fee is for voluntary diagnostic services only. These fees are to cover the cost of administering the Program and are payable when a participant takes part in a planned activity. (1991, c. 465, s. 1; 1997-443, s. 11A.118(a); 2002-182, s. 4; 2003-56, s. 3.)



Interacting with Law Enforcement: A Guide for Persons with Disabilities

“Law enforcement” are the men and women in uniform that enforce our system of laws. Local law enforcement officers include police officers and deputy sheriffs. Situations involving an officer are often a stressful experience. They may be more stressful if a person with a disability is involved. Why? Maybe the officer does not understand how to work with people with disabilities. Or maybe the person with a disability is struggling to communicate with the officer.

Did you know? People with developmental disabilities (such as people with autism and mental retardation) come in contact with law enforcement almost seven times more often than those without disabilities.¹

What You Will Learn From This Fact Sheet

- You will learn about laws that protect people with disabilities from discrimination by law enforcement officers.
- You will learn how interactions between people with disabilities and officers may be improved.
- You will learn how to report violations of your rights by officers.

Laws That Protect The Rights Of People With Disabilities

The Americans with Disabilities Act²

The Americans with Disabilities Act (ADA) is a federal law that says people with disabilities are to be treated the same as people without disabilities. The ADA has five sections (called “titles”) that protect people with disabilities in different settings:

Title I:	Employment
Title II:	State and local government
Title III:	Public accommodations
Title IV:	Miscellaneous section
Title V:	Communication (such as relay telecommunications access)

Police officers and sheriffs are employees of the public and are paid for with your tax dollars. Therefore, Title II is the part of the ADA that protects your rights during dealings with the police, sheriffs, and other state law enforcement officers. We will talk more about these rights later on.

Section 504 of the Rehabilitation Act of 1973³

Section 504 of the Rehabilitation Act of 1973 (the Rehab Act) is another federal law says people with disabilities are to be treated the same as people without disabilities. Your rights under the Rehab Act are the same as those under the ADA. So why are there two different laws? The Rehab Act was passed first, and it only protected your rights in programs and services that are funded with federal money. Twenty years later, the ADA was passed. The ADA expanded the rights of people with disabilities beyond what was covered by the Rehab Act. One expansion was to cover your rights in programs and services paid for with state or private money.

Sometimes, a program is funded with state and federal money at the same time. This is true for most law enforcement. When a program or service is funded with state and federal money, your rights are protected by the ADA and the Rehab Act at the same time. Since your rights are the same under both laws we will not talk about them separately. When we talk about your rights under the ADA in this fact sheet, remember that we are also talking about your rights under the Rehab Act.

Your Rights

As a person with a disability, you have the right to the same treatment as people without disabilities. The regulations under the ADA also specifically say that officers and their headquarters must change policies, practices, or procedures when needed to prevent unequal treatment of you because of your disability.⁴

Practically speaking, this means that law enforcement must change the way they “normally” do things to make sure that they are not making things harder for you because of your disability. Here are some examples of how officers should change their routines:

- The officer comes up to your car and notices that you have a “handicap” license plate or that you drive with a hand control. The officer should expect that you might reach for a walker, cane, or other mobility device before you get out the car.
- The officer thinks you might be drunk or using drugs. You have told the officer that you have a neurological impairment that causes you to seem drunk. The officer should test you with a breathalyzer. You probably cannot walk a straight line, and asking you to do so may lead to your wrongful arrest.
- You are a person with low vision or are blind. The officer should read you any papers that he wants you to sign. The officer should also describe any procedures in advance to help you understand what is happening and what you are being asked to do.
- You are a diabetic. There is a set food schedule for the jail. The schedule should be changed as needed for you to regulate your sugar levels.
- You are deaf. The handcuffing procedure is to handcuff people behind their back. You should be handcuffed in front to allow you to sign and write notes.

- You take medication for your epilepsy, diabetes, or another condition. When you are jailed, your medicine should not be confiscated like it is when people without disabilities are arrested.
- You are a person with an intellectual disability (sometimes called mental retardation). The officer must still give you a Miranda warning (“You have the right to remain silent,” etc.). The officer should use simple language to explain your rights. The officer should ask questions to make sure you understand – like asking if you know what a lawyer is. The officer may want to use pictures.⁵

Your Right to an Interpreter if you are Deaf or Hard of Hearing

If you are deaf or hard of hearing, you may have trouble communicating with officers. The ADA regulations say that the officer should allow you to tell them how you communicate best.⁶ Many people will probably say sign language. However, the ADA does not say that a sign language interpreter must be provided in every situation. The ADA only says that the officer must communicate with you in a way that you understand what is being said.

If you are deaf or hard of hearing, these are some ways that a non-signing officer might use to communicate with you:

- A TDD
- Orally with gestures and visual aids
- Written notes⁷

However, there are times when an officer may be required to provide a sign language interpreter. The officer must think about:

- What the officer will be talking with you about;
- The number of people involved in the conversation; and
- The importance of what you will talk about.⁸

Generally, if an officer wants to talk to you for a long time, or you will be talking about something complicated or important, an interpreter must be provided for you.⁹ Many good officers will request an interpreter on their own, but you should ask for one in writing if you need an interpreter.

Here is an example of when you do and do not have the right to an interpreter:

- A routine traffic stop. You do not have the right to an interpreter. Written notes should be enough to tell you how fast you were going or what you did wrong.
- The police are questioning you about a crime they think you committed. You have the right to an interpreter.¹⁰

There is also a North Carolina State law says you have the right to an interpreter. The law says that if you have been arrested for a State crime, you cannot be interrogated, read your rights, arraigned, have a bail hearing, or go through any other preliminary proceedings until you have

been provided with an interpreter.¹¹ If you are a person who is deaf or hard of hearing, and are involved with the criminal justice system, consult with an attorney about your rights.

How to Communicate with Officers

Tell the officer that you have a disability right away.

All officers should have some training on how to interact with people with disabilities. If you tell an officer that you have a disability, a good officer will use his training and adjust how he expects you to behave in the situation. Get to this place of understanding right away by telling the officer about your disability.

What could happen if you do not tell the officer about your disability? Here are some examples:

- Example: An officer approaches your car. She asks you to step out of the car. You have mobility impairment, so you reach behind the seat to get your walker or cane. Reaching behind your seat may make the officer think you are reaching for a gun or covering up illegal activity.
- Example: An officer yells for you to "freeze." You are a person who is deaf. You cannot hear the officer and continue to move away. Similarly, you are a person with low vision or you are blind and you are ordered to get over "there." You have no idea where the officer is pointing. In these situations, the officer may mistakenly believe that you are resisting arrest, being uncooperative, or are fleeing from the scene.
- Example: Your car has only one working headlight. You are pulled over by an officer. When you give the officer your registration, they notice that your hand is trembling. He also notices that your speech is slurred. The officer assumes that you are drunk and arrests you. The officer is wrong. You are actually a person with a neurological impairment that causes these symptoms.
- Example: You have autism. As a result of your disability, you are uncomfortable making eye contact and do not like to be touched. An officer sees these actions as being "suspicious." The officer might start aggressively questioning you or even arrest you. The officer has no idea that these behaviors are caused by your disability.¹²

The police expect you to be a little nervous around them. However, the police have also been trained to notice when people are overly nervous or not nervous enough. Your disability could cause you to seem suspicious. You can prevent this from happening. Tell the officer about your disability immediately. A good officer will understand that you may behave differently than expected in the situation.

If the officer does not understand your particular disability, you may suggest that she contact a supervisor, ADA compliance officer, or other community health professional for advice.

Tell the jailer that you have a disability right away.

If you have been arrested or charged with a crime, you may now be in jail. Make sure that your arresting officer or the jailer knows about your disability. The officer or jailer should ask about any special needs you have because of your disability. If you are not asked, tell the officer or jailer what your special needs are.

People with developmental disabilities are especially vulnerable in jail. If the officer or jailer has been told about a developmental disability, these persons may be separated from other inmates for their protection or to provide a more calming environment.

Carry a pocket-size card with information about your disability.

You or a family member can make a small card that explains your disability. Include contact information for your family or friends on the card, especially if they are needed to talk to the officer for you. The North Carolina Division of Services for the Deaf and Hard of Hearing offers free, pre-made cards for people who are deaf, hard of hearing, or deaf-blind.

The contact person on the card can be the officer's best resource. The contact person can tell the officer how to help you calm down, and can come to the scene to help you and the officer communicate. These cards are very useful when talking to people with developmental disabilities.¹³

Some of the advantages of these cards are:

- They can be used even when a person does not or cannot talk.
- They help officers understand that you have a disability. Officers are more likely to accept that you have a disability when you are carrying one of these cards.
- It helps you prove that you told the officer about your disability if proof is needed later.

Contact your local law enforcement office about ADA training for officers.

The ADA affects all parts of an officer's job, including receiving citizen complaints; interrogating witnesses; arresting, booking, and holding suspects; operating emergency call centers; providing emergency medical services; enforcing laws; and other duties.¹⁴

You can find out what ADA training is available for officers by contacting your local police department or sheriff's office. Ask whether officers get any specific training on working with people with disabilities. You can also ask what types of disabilities are included in the training. If a training program does not exist or if a particular disability is not included in the training, you can ask that the training be created or expanded. You may also contact the North Carolina Division of Services for the Deaf and Hard of Hearing. They can provide some disability-related training to law enforcement.

Any time that you ask for information about officer training or suggest that they begin a type of training, keep a record. You may need this information later.

Reporting Mistreatment by Law Enforcement

If you think that your rights were violated because of your disability, you may complain about it to the headquarters of the officer you are complaining against. If you think you saw someone else's rights being violated because of a disability, you can also complain about that.

Reporting an Officer Locally

To complain, you should call or go to the headquarters of the officer you are complaining against. Explain that you would like to make a complaint. The officer at the headquarters should tell you how you can file your complaint. Typically, complaints can be filed over the phone or by filling out a form. Sometimes, you may be able to complain anonymously.

If you have decided to complain against an officer, try having the following information ready:

- The officer's name;
- The officer's vehicle number if possible;
- A description of what the officer looks like;
- The name and contact information for anyone else who saw what happened;
- Where the event took place;
- Date and time it happened.

If you and the officer have had a bad experience with one another, do not question the officer for his badge and vehicle number. This may make the situation worse. Later, when you are describing what happened to you in the complaint against the officer, do not call the officer names. Try to write the complaint like you are a newspaper reporter – just report the facts and do not give your personal opinion.

Reporting Officers to the Department of Justice

You may also report mistreatment by an officer to the U.S. Department of Justice (the DOJ). The DOJ enforces Title II of the ADA and Section 504 of the Rehabilitation Act of 1973. The form for you to fill out is on the DOJ's website at www.ada.gov/enforce.htm. You can also call to get the complaint form and to ask questions about how to fill out the form. Call (800)-514-0301 (voice) or (800)-514-0383 (TTY).

This document contains general information for educational purposes and should not be construed as legal advice. It is not intended to be a comprehensive statement of the law and may not reflect recent legal developments. If you have specific questions concerning any matter contained in this document or need legal advice, we encourage you to consult with an attorney.

Created in 2010 by Disability Rights NC.

¹K.L. Curry *et al.*, *Training Criminal Justice Personnel to Recognize Offenders with Disabilities*, OSERS News in Print, Winter 1993 at 4.

² 42 U.S.C. § 12101, *et seq.*

³ 29 U.S.C. § 794a.

⁴ 28 C.F.R. § 35.130(b)(7).

⁵ See Disability Rights Section, U.S. Dep't of Justice, *Commonly Asked Questions About The Americans With Disabilities Act And Law Enforcement* (2006), available at <http://www.ada.gov/policeinfo.htm> [hereinafter *Commonly Asked Questions*].

⁶ 28 C.F.R. §35.160.

⁷ See Disability Rights Section, U.S. Dep't of Justice, *Model Policy for Law Enforcement on Communicating with People who are Deaf or Hard of Hearing* (2006), available at <http://www.ada.gov/lawenfmopolicy.pdf> [hereinafter, *Model Policy*].

⁸ 28 C.F.R. § 35, App. A, Subpart E – Communications, §35.160 General.

⁹ *Id.*

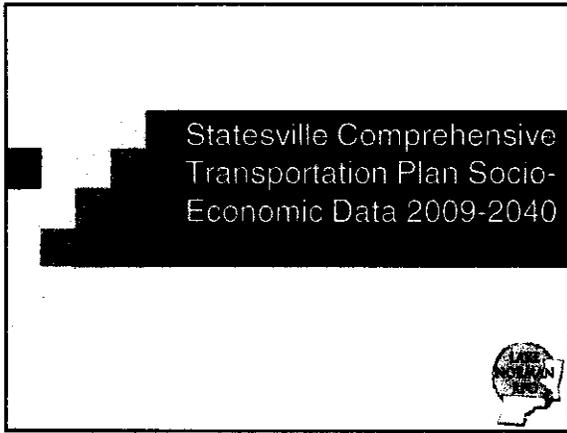
¹⁰ See *Commonly Asked Questions*, *supra* note 5.

¹¹ Interpreters for Deaf Persons, N.C.G.S. §8B-2(d).

¹² See *Commonly Asked Questions*, *supra* note 5. See also Dennis Debbaudt, *Disclosing to the Authorities*, in *COMING OUT ASPERGER: DIAGNOSIS, DISCLOSURE, AND SELF-CONFIDENCE* 258 (Dinah Murray ed., 2006).

¹³ See Nat'l Law Enforcement Policy Ctr., Int'l Ass'n of Chiefs of Police, *Law Enforcement Encounters with Persons who are Developmentally Disabled* (2004), available at <http://cforjustice.org/wp-content/uploads/2008/08/encounters-w-persons-dev-disabled-paper.pdf>.

¹⁴ See *Commonly Asked Questions*, *supra* note 5.



What is a Comprehensive Transportation Plan (CTP)

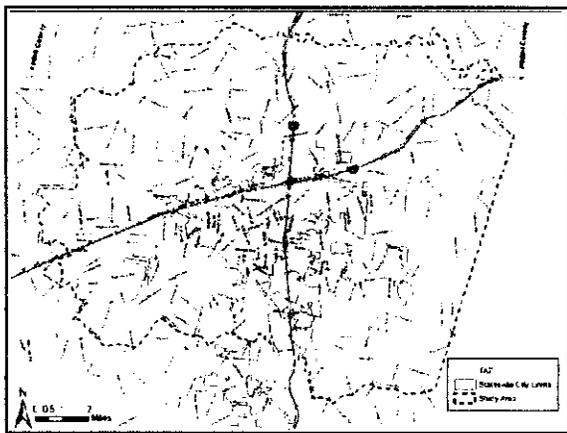
- Developed by the NCDOT
- A multi-modal plan that consists of four elements: roadway, bicycle, pedestrian and transit.
- Used by local governments, RPOs, NCDOT and FHWA.
- Identifies land reservation for future transportation corridors and helps guide decisions on setbacks
- Identifies needed transportation improvements as development occurs today and into the future.

CTP Mandate

- NCGS136-66.2 requires each municipality, with the cooperation of the NCDOT, to develop a Comprehensive Transportation Plan (CTP) serving present and anticipated travel demand in and around the municipality.
- The plan shall be based on the best information available:
 - ✓ population growth
 - ✓ economic conditions and prospects
 - ✓ patterns of land development in and around the municipality

Primary Phases of CTP

1. Survey and vision statement (**done**).
2. Data collection and model development, including local approval of SE data (**in progress**).
3. Analyze deficiencies, identify and evaluate alternatives, develop draft recommendations.
4. Review draft recommendations with steering committee, RPO, planning boards, city council, county commissioners, and public.
5. Adoption of CTP/recommendations by city and county, endorsement by RPO, adoption by NCDOT (to occur in the next 12 months)



Why is Socio-Economic Data Collected?

- Statesville CTP has a travel-demand model to project future traffic volumes
- Demographics are key to future travel demand
 - Absolute number of people, jobs, and students
 - Location of people, jobs and students
 - Types of jobs

Socio-Economic Data Sources

- 1980, 1990 and 2000 Census figures
- North Carolina Employment Security Commission
- Iredell-Statesville School District
- Environmental Systems Research Institute (ESRI)
- NC State Data Center



Socio-Economic Data

- Timeframe includes a base year (2009) and a future year (2040)
- Data collected
 - Population
 - School enrollment
 - Jobs



Employment Categories

- Industrial (e.g., Construction, Manufacturing)
- Retail (e.g., Merchandise, Home Improvement)
- High-Traffic Retail (e.g., Auto Sales, Gas Stations, Restaurants)
- Service (e.g., Education, Legal, Medical)
- Office (e.g., Finance, Insurance, Government)



2009 Data Methodology

1. Establish study area totals
2. Assign ESRI data from Block Group down to Traffic Analysis Zone (TAZ) levels
3. Submit for review by Statesville and Iredell County staff



2040 Methodology

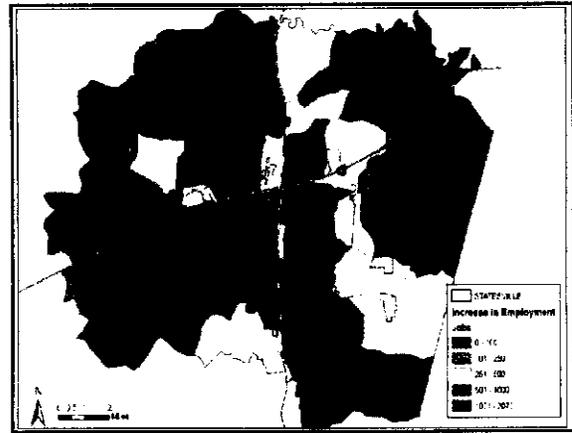
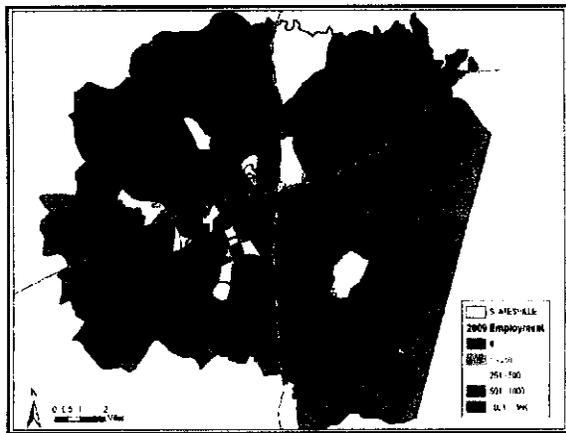
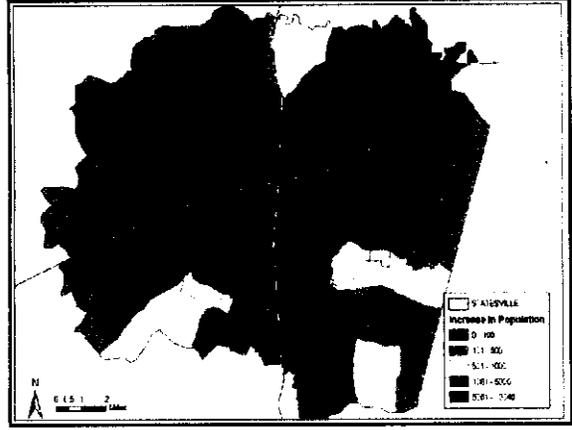
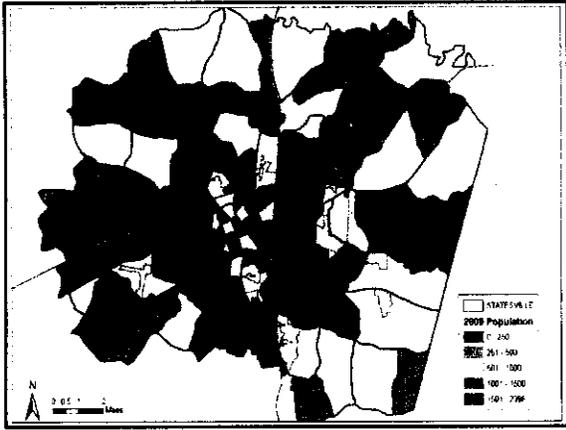
1. Project County population and employment totals
2. Project Study Area population and employment projections
3. Calculate school enrollment projections
4. Allocate to the TAZ level within the Study Area



Study Area Results

Category	2009	2040	Absolute Change	Percent Change
Population	65,518	100,000	34,482	52%
Households	25,902	39,534	13,632	52%
Total Jobs	27,478	45,118	17,640	64%
Jobs- Industrial	10,681	13,535	2,854	27%
Jobs- Retail	5,511	9,024	3,513	64%
Jobs- High Traffic Retail	2,326	4,963	2,637	113%
Jobs- Service	7,252	12,182	4,930	68%
Jobs- Office	1,708	5,414	3,706	217%
K-12 Enrollment	7,415	11,357	3,942	53%
College Enrollment	2,642	4,015	1,373	52%





Presentation Schedule and Requested Action

- Statesville Planning Board Recommended Approval- March 23
- Iredell County Planning Board Recommended Approval- April 7
- Statesville City Council Endorsement- April 19
- Iredell County Board of Commissioners Endorsement- April 20

Questions: Contact Bjorn Hansen
 (704) 688-6501 bhansen@centralina.org

