

**MINUTE BOOK 24, PAGE 579
CITY OF STATESVILLE COUNCIL MEETING – March 04, 2013
CITY HALL COUNCIL CHAMBERS – 7:00 p.m.
STATESVILLE, NORTH CAROLINA**

Mayor Constantine H. Kutteh presiding:

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

Council Absent: 0

Staff Present: Pressley, Fugett, Hutchens, Collins, Salmon, Barone, Pressley, Gaines Harrell, Smyth, Currier, Houpe

Media Present: Jim McNally-Record & Landmark, Dave Veiser-Charlotte Observer

Others: 6

Call to Order

Mayor Kutteh called the meeting to order.

Invocation

The Invocation was given by the City Clerk.

Pledge of Allegiance

Mayor Kutteh led the Pledge of Allegiance

Mayor Kutteh explained that all items on the Consent Agenda are considered to be routine by 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. Mayor Kutteh read the Consent Agenda.

Consent Agenda

- A. Approve the minutes of the Pre-agenda meeting of February 14, 2013 and the City Council meeting of February 18, 2013.**
- B. Consider approving 2nd reading of TA13-01 filed by the City of Statesville to amend Article 6-Development Standards, Section 6.09-Guidelines for Structures in the Central Business, Central Business Perimeter and Municipal Service Districts.**
- C. Consider approving 2nd reading of ZC11-02 filed by Mary Jo Crandall for the 5 Properties Located at 707, 709, 713 and 719 Brookdale Drive; Tax Maps 4745-32-0667, 4745-32-1523, 4745-32-1470, 4745-32-2176, and 4745-32-2096 from R-10 to O-1 CU (Conditional Use).**
- D. Consider approving Budget Amendment #26 to appropriate \$14,939 in insurance proceeds to the Electric Utilities account 030-8100-462-1503.**
- E. Consider approval of Budget Amendment #25 in the amount of \$37,254 to appropriate funds in the Police Department's budget that were reimbursed by the City of Charlotte for assistance provided during the Democratic National Convention.**
- F. Approve the Fire Department to accept the 2012 Assistance to Firefighters Grant from the Federal Emergency Management Administration (FEMA) in the amount of \$83,727, approve Budget Amendment #24, and authorize a sole source purchase.**
- G. Grant/Deny permission to the Civil Air Patrol (CAP) to hold an Aerospace Education/Rocket day at the Airport.**

Mayor Kutteh asked Council members if there were any items on the Consent Agenda that a Council member wished to be moved to the Regular Agenda. There being none, he asked for a motion to approve the Consent Agenda.

Council member J. Johnson made a motion to approve the Consent Agenda, seconded by Council member Matthews. The motion carried unanimously.

REGULAR AGENDA

Presentation by Ron Starner, General Manager for Site Selection Magazine

Mayor Kutteh stated that Mr. Starner is the General Manager for *Site Selection* magazine an international corporate real estate publication based in the Atlanta suburb of Norcross, Georgia. The official publication of the Industrial Asset Management Council, *Site Selection* reaches 44,000 high level decision makers six times a year with timely news, analysis and perspective on key events and trends impacting corporate real estate and economic development. The magazine also publishes SiteNet, the online Web portal for corporate real estate and economic development news and data. Mr. Starner also serves as Executive Director of IAMC, which has 440 members and is also based in Georgia and serves the needs of corporate directors of leading Fortune 500 companies. Mayor Kutteh welcomed Mr. Starner.

Mr. Starner announced that for calendar year 2012 and for the ninth time in the last eleven years, *Site Selection* magazine is naming the Statesville/Mooresville Micropolitan number one in the United States for the number of new and expanded corporate facility projects during that calendar year. Statesville/Mooresville is number one out of 576 census designated small town communities in the country. Finishing first for nine out of eleven years shows that Statesville/Mooresville is the very best at doing the hard work of economic development of any comparably sized community in the country. Statesville/Mooresville can contribute this to the great location of being right off Interstates 40 and 77 and very close to I-85, a great workforce that consists of master technicians, headquarters professionals, logistics experts, advanced manufacturers and many other highly skilled laborers, but most importantly there is great leadership here that had the foresight to develop product when other communities were running the other way. During the great recession while other communities were retrenching and cutting economic development, Statesville/Mooresville leaders were actually expanding and developing new product. He stated Statesville/Mooresville is very blessed to have one of the very best economic development professionals in the country, Mike Smith, Executive Director of Statesville Regional Development. Mr. Starner presented the award to Mayor Kutteh and Mike Smith

Consider a request from Brad Kesolowski/Penske racing for assignment of the Evernham Lease.

Mayor Kutteh advised that he had received a call around 5:00 p.m. this evening from Thomas Hazel, the Fixed Base Operator at the Statesville Airport regarding this item. Mr. Hazel said he had intended to attend this meeting to speak about this item, but due to a last minute emergency he could not attend. Mayor Kutteh said that Mr. Hazel requested that this item be removed from this agenda and be heard at the next Council meeting in two weeks. Mayor Kutteh stated he told Mr. Hazel he did not know the wishes of Council relevant to that, but out of respect for the position they hold as the Fixed Base Operator he would bring the request to Council. Mayor Kutteh asked Council members if they had any thoughts about this.

Council member J. Johnson stated he did. He said that this started on December 6, 2012. The Airport Commission has met twice on it and it has been on the City Council agenda twice. There is a representative for the Kesolowski/Penske race team here tonight. I think that we need to vote it up or down tonight and get it behind us. It has been approximately four months we have been working on it and I feel it is the right thing to do to let the race team know.

Mayor Kutteh asked Council if there were any other thoughts on this. There being none, he instructed Phil Collins to give the staff report.

Phil Collins stated this is a request from Brad Kesolowski/Penske racing for assignment of the Evernham lease. They have expressed interest in purchasing the Evernham lease and one of the steps would be assigning the lease to them. Their intention is to base a Lear Jet 45 and a Bell 437 helicopter in that hangar. Also the applicant's intention is to store and fuel a CRJ200 at the hangar part time and not base it at the Statesville Airport. It is the applicant's contention that the CRJ200 jet is owned by one of the applicants and therefore should be allowed to use the hangar. Staff reviewed the Policy Statements in place because a request of this type has not been before us before, in that the non-based aircraft will not be based at the Statesville Airport,

but is nevertheless owned by one of the applicants. The Statement of Policy for lease space Section 1.g states that the facility being constructed by the applicant shall be used only by the applicant and their officers and employees and no other person shall use said facility; nor shall any aircraft or other property of any other person, firm or corporation be parked or stored in or upon the leased premises except for aircraft which are leased by, and fully in the control of, the applicant. Section 3.d of the Policy Statement states that all aircraft based in the leasehold shall be listed on the Iredell County and City of Statesville property tax rolls. The Fuel Farm Policy states that the fueling of aircraft with Jet A fuel is restricted to aircraft owned or leased by the lessee. After reviewing the request and the Policy Statements it was found that the request would be in conformance with our policy because the CRJ200 jet is owned by the applicant. The objection is that the CRJ200 will be allowed to utilize the hangar on a part time basis without being listed on the County and City of Statesville property tax roles. The Airport Commission reviewed this proposal at its December 6, 2012 and February 7, 2013 meetings and voted to recommend approval to City Council with the following recommendations:

- Increase the lease rate to \$0.20 per square foot,
- The annual rent should be adjusted according to the Consumer Price Index periodically, typically we do this every 3 – 5 years,
- The applicant would need to ensure that, at a minimum, \$5 million in aircraft would be based in the hangar at all times, and
- Non-based aircraft owned by the leaseholder shall not be stored in the hangar or on the leasehold for more than 4 consecutive days and no more than 60 days total per calendar year and if this regulation is violated the owner would be subjected to a fine equal to 5 times the City and County tax rate on any aircraft not based in Statesville per day. Staff may grant a waiver of this in certain conditions that would warrant the aircraft being stored for more time than specified above.

The lease term is 25 years and began on August 1, 2005. There are 17.5 years left on the lease which ends August 1, 2030. Mr. Collins asked Council members if they had any questions.

Council member M. Johnson asked if the applicant understands that this is without respect to depreciation, it is \$5 million net, period. Mr. Collins replied, yes they did. Council member M. Johnson asked Mr. Collins to give him a "for instance" why staff would grant a waiver. Mr. Collins replied that if the plane needed repairs that would take more than four days then we would grant them a waiver. Council member M. Johnson asked if there was any other reason. Mr. Collins stated that is the only reason he could foresee. Mayor Kutteh stated perhaps weather. Mr. Collins agreed.

Mayor Kutteh stated this is the first time we have had a request of this kind but we have had situations in the past where folks have had planes under a loose arrangement in a hangar that was leased by someone else and he knows that this situation has created some consternation all the way around. He asked Mr. Collins if this lease sufficiently protects us from that and if so how. Mr. Collins said he thinks so; the assignment of the lease will be to the actual owners. Mr. Collins said he believes he discussed this with the City Attorney, but the fact that the lease will be in the name of the owners, it should not happen. Mayor Kutteh said so we know that they own two aircraft that are housed here, and will continue to be, and a third one that is not, so if any other aircraft are here will they need to show a title or something. Mr. Collins stated yes they would need to show documentation that they owned the aircraft.

Council member M. Johnson asked Council member J. Johnson if he wanted the Airport Commission to grant the waivers or for staff to do it. Council member J. Johnson replied staff because the Airport Commission is just an advisory board, it does not make decisions. Mayor Kutteh asked why they would not want Council to have the authority to grant the waivers which is pretty significant. Council member Eisele agreed. Larry Pressley stated if Council does not have a meeting at the time the aircraft needs to be here longer than four days, the requirement could not be met. Mayor Kutteh pointed out that if the aircraft is here for seven days Council does not need to make a decision right then; it is still going to go when it is ready. He said Council could take six months to make the decision as to whether or not to we want to impose the penalty and send them a bill and then they are going to come back and say that they do not want to pay it. Council member J. Johnson pointed out that the applicant agreed during the Airport Commission meeting that they would pay it. He said he thinks that this is just for an extended time, if the jet needed to stay 15 or 20 days. If it needed to stay five consecutive days, they have no problem paying that. Mayor Kutteh stated he would have a problem with that, it is

a significant number, but the question right now is who will have the authority to grant the waiver. Council member J. Johnson stated it would have to be City Council. Council member Eisele and Mayor Kutteh pointed out that is not what the lease says; it states that staff will grant the waiver. Council member J. Johnson asked what staff. He then said it could be the City Manager, but certainly should not be the Airport Commission. Council member Eisele said Council should grant the waivers.

Mayor Kutteh asked Wayne Settingington, representative for Brad Kesolowski/Penske racing, if he had any objections to that. Mr. Settingington replied he had no objections to this and that there was a zero percent chance that we will run into that. He said the only reason the jet would sit there more than 4-5 hours would be because of a major mechanical malfunction and that most of their trips our landing, loading people and taking off, there are very few overnight stays and a very short amount of time the jet is on the ground.

Council member Huggins made a motion to approve the request from Brad Kesolowski/Penske Racing for assignment of the Evernham Lease as presented, with a change to the Airport Commission recommendations that the granting of waivers will be under the direction of the City Council, not staff. The motion was seconded by Council member M. Johnson and carried unanimously.

Approve Budget Amendment #27 in the General Fund to allocate additional revenues from utility franchise taxes.

Lisa Salmon explained that last year Council authorized an agreement with a consultant, DavenportLawrence, to provide a review of utility franchise tax distributions paid by the State to the City to ensure accuracy. The contract with DavenportLawrence provides for a contingent fee of 30% of any additional revenue captured and retroactively paid to the City, as well as for a 24-month period following implementation. The consultant pays for all costs and expenses associated with its services. As a result of the consultant's services, on September 17, 2012, the City received a retroactive payment from the State in franchise tax revenues for previous quarters (3 years) from one utility company in the amount of \$111,264. In December 2012, the City received an additional retroactive payment of \$56,070 from another utility. This equates to approximately \$18,690 per year in additional franchise tax revenues. The below calculation summarizes the fees due to the consultant based on the discovered revenues:

Retroactive revenues received (3 yrs)	\$ 56,070
Anticipated revenues following adjustment (2 yrs)	\$ 37,380
Total Revenues	\$ 93,450
	x 30%
Less 30% commission for DavenportLawrence*	28,035
Net increase in revenues by City	\$ 65,415

*Note: the consultant's commission is due as the additional revenues are received; \$21,026 in 2012-13; \$5,608 in 2013-14; \$1,401 in 2014-15.

This request is to allocate \$21,026 of the new franchise tax revenues to compensate the consultant this fiscal year. At this time, the consultant has invoiced for fees of \$18,222.75; the remaining fees will be billed and paid quarterly as the City receives the additional revenues from the State.

Council member Gregory made a motion to approve Budget Amendment #27 in the General Fund to allocate additional revenues from utility franchise taxes, seconded by Council member J. Johnson. The motion carried unanimously.

Consider approving the purchase of (36) desktops, laptops, and associated productivity software in the Police Department.

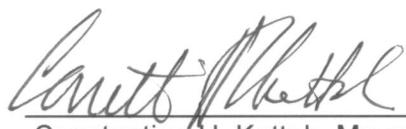
Captain Joe Barone stated the Police Department is requesting to purchase 36 computers, a mix of desktop and laptops, using funds budgeted for this in the 2012-2013 budget. He explained that since 2008 the Statesville Police Department has only minimally upgraded computer systems whereas one would fail or become so obsolete that replacement was the only option. The department is now quickly approaching a point where all desktop computers within the agency will become obsolete. The current outdated computers are now routinely crashing, causing delays, and impacting current efficiency. Captain Barone stated that if this request is approved laptops will be purchased for the Criminal Investigation Division so they can take their office to the field with them. This will be much more efficient than the officers having to return to the office to write reports or access the internet to CJLeads and NCAware. Desktop computers

will be purchased for those who spend the majority of their time in the office. New desktop and laptop computers will also allow for the execution of software designed for Windows 7 or 8, video capability, mobile video capability, audio capability, mobile audio capability and modern technology.

Council member Matthews made a motion to approve the purchase of (36) desktops, laptops, and associated productivity software in the Police Department, seconded by Council member Huggins. The motion carried unanimously.

There being no other business, Council member J. Johnson made a motion to adjourn, seconded by Council member Eisele. The motion carried unanimously.




Constantine H. Kutteh, Mayor

ATTEST:


Brenda Fugett, City Clerk