

**MINUTE BOOK 24, PAGE 594
CITY OF STATESVILLE COUNCIL MEETING – April 01, 2013
CITY HALL COUNCIL CHAMBERS – 7:00 p.m.
STATESVILLE, NORTH CAROLINA**

Mayor Constantine H. Kutteh presiding:

Council Present: J. Johnson, Eisele, West, Huggins, Stallard

Council Absent: Matthews, Gregory, M. Johnson

Staff Present: Pressley, Fugett, Salmon, Gaines, Smyth, Collins, Harrell, Watts, Hutchens, Davis

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

Others: 1

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 City Council Retreat meeting of February 28, 2013, the Pre-agenda meeting of March 14, 2013 and the City Council regular meeting of March 18, 2013.**
- B. Consider approval of Budget Amendment #30 in the HOME Consortium Fund to allocate the 2013-14 HOME grant.**
- C. Consider approval of a request to appropriate insurance money in the amount of \$5,093 and increase the Capital Outlay Equipment account of the Police Department and approve Budget Amendment # 33.**
- D. Consider approval of a dues/grant match payment based on the vote structure method in the amount of \$12,238 for MPO participation and make a recommendation to the MPO.**

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

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

REGULAR AGENDA

Consider approving a resolution directing the City Clerk to investigate a petition of annexation, receive City Clerk's Certificate of Sufficiency, and consider approving a resolution fixing a date, April 15, 2013, for a public hearing on the questions of the petitioned annexation.

Phil Collins stated the property being considered for annexation at the request of the property owner is located at 1908 5th Street (PIN 4733-96-3714) and is approximately 0.541 acres in size. The property is separated by two lots from the current City limits. Therefore, this request is being processed as a voluntary satellite annexation. The tax value of the property is \$51,510, which will yield \$211 annually in taxes.

Council member Stallard made a motion to deny this petition for annexation, seconded by Council member Eisele.

Council member West stated he had missed most of the pre-agenda meeting and asked the reason for denial. Council member J. Johnson explained that Council had discussed this at length at the Pre-Agenda meeting and Council members felt that this annexation was not in the best interest of the City. Council member Stallard said the reason for his motion is that there is no property tax benefit to the City from this property. Mayor Kutteh said the property already receives water/sewer and electric services at outside rates. He explained that the amount of revenue from the outside rates would be greater than the amount of taxes recovered on an annual basis. Council member West asked why the property owner is requesting annexation if there is already utility services at the property. Mayor Kutteh replied the utilities would be cheaper if switched to inside rates.

Upon request for a vote on the motion, the motion carried unanimously.

Consider accepting a petition for the improvement of Commerce Boulevard, Receive the City Clerk's Certificate of Sufficiency, and Consider adoption of a Preliminary Assessment Resolution for the proposed Commerce Boulevard improvements and fix a date, May 06, 2013, for a public hearing.

Scott Harrell reported that in accordance with the agreement approved by Council on February 4, 2103, the property owners abutting Commerce Boulevard have deposited an amount equal to one-half the estimated cost of repair and improvement of Commerce Boulevard into the trust account of the City Attorney's law firm (a total of \$150,000). The final portion of the deposit was received on March 7, 2013. The City subsequently received a petition from the property owners on March 15, 2013 requesting that Commerce Boulevard be improved and that they be assessed the remaining portion of the cost. The petition is signed by a majority of the property owners abutting Commerce Boulevard, and their properties represent a majority of the lineal feet of frontage along the street. In accordance with General Statute 160A regarding levying of special assessments for street improvements, staff submits for Council's consideration a Certificate of Sufficiency regarding the petition and a Preliminary Assessment Resolution describing the intent to improve Commerce Boulevard and assess the abutting property owners one-half the cost of the improvements. The resolution also fixes the date for a public hearing at 7:00 P.M. on May 6, 2013. Staff recommends acceptance of the petition and approval of the Preliminary Assessment Resolution.

Council member Stallard asked if the assessment is for a period of ten years. Mayor Kutteh said it is his understanding that the assessment can be for up to ten years but it bears 8% interest. Mr. Harrell stated the property owners also have the option to pay the total due upfront within 30 days of the assessment or to pay in equal installments.

Council member Eisele asked if a lien is filed if the property owner does not pay the assessment. City Attorney Edmund Gaines replied that is correct, the assessment acts as a lien.

Council member West asked if the project comes in over the estimated amount, if the property owners are required to add 50% of the overrun to the \$150,000 held in escrow. Mr. Harrell stated that is correct, the agreement that Council approved included the provision that they would have 15 days to come up with an additional 50% of the overrun and the other 50% would be included in the assessment. Mayor Kutteh asked if the property owners had the option to void the entire deal at that point. Mr. Gaines said they did not; those who contributed towards the \$150,000 are obligated to pay any additional amounts. The City can pull out of the deal if the bids come in above the estimated project total. If bids come in under the estimated amount, the City is required to refund a portion of the \$150,000 as well. Council member J. Johnson recalled the contract states that if the actual bid cost comes in over the \$150,000 those participating have the option to back out, but they must reimburse the City for any expenses the City has incurred up to that point.

Council member Eisele made a motion to accept a petition for the improvement of Commerce Boulevard, receive the City Clerk's Certificate of Sufficiency, consider adoption of a Preliminary Assessment Resolution for the proposed Commerce Boulevard improvements and fix a date, May 06, 2013, for a public hearing, seconded by Council member Stallard and J. Johnson. The motion carried unanimously.

Mayor Kutteh pointed out that this is an example of good government in finding a solution to a big problem for property owners in the City. He thanked all involved in this for their efforts.

Authorize the effort to obtain sponsorship of local legislation for the purpose of amending the City's code to eliminate the Civil Service Board.

Lynn Smyth reminded Council that in July 2007, the City Code was amended removing the Civil Service Board responsibilities relative to the hiring process for City employees of the Police and Fire Departments. Since that time, the Civil Service Board has met only one time to hear an employee disciplinary matter. In speaking with the Chiefs of Police and Fire, they expressed opinions that the City's current policy regarding disciplinary matters and the City's adverse action/grievance appeal process can serve the function provided by the Civil Service Board. Both chiefs were supportive of the elimination of the Board and its responsibilities.

As referenced above, the City's personnel policy does contain an adverse action/grievance appeal process. An employee may appeal any adverse employment action through this policy either by processing the appeal through the departmental chain of command or in the case of alleged discrimination based on a protected status (age, race, gender, national origin, religion, disability, etc), the action may be appealed directly to the Human Resources or City Manager offices. City policy requires that if an action can be grieved through the Civil Service Board, the employee must take that route so as to avoid a duplication of process.

Employment laws and court rulings have significantly changed the human resources practices and procedures since the inception of the Civil Service Board. The liability associated with improper discipline and terminations have compelled employers to review such actions carefully to be as certain as possible that the actions taken are legally justifiable and are commensurate with the offense reducing the need for external oversight of that process. In the City, involuntary terminations and other serious disciplinary actions, including suspensions without pay, are reviewed by senior management prior to the action being taken for consistency with policy and practices. Despite these efforts, we do have occasions in our appeals process where an action is reversed or modified based on the outcome of that process. To some extent, this proves the process works effectively as we are able to objectively hear the employee's side of the event and adjust our disciplinary response.

Mayor Kutteh asked if both the Fire and Police Department Chiefs concur with staff's recommendation. Mrs. Smyth replied both concur that the current grievance process is sufficient. Mayor Kutteh asked if the number of Civil Service Boards has declined from five since 2007. Mrs. Smyth said she believes that Statesville is one of three in the state of North Carolina now.

Council member Stallard made a motion to approve staff obtaining sponsorship of local legislation for the purpose of amending the City's code to eliminate the Civil Service Board, seconded by Council member Eisele. The motion carried unanimously.

Consider adoption of a resolution authorizing the City of Statesville to enter into a Grant Agreement with the North Carolina Department of Transportation, Consider approval of Budget Amendment #31, and consider approval of a Work Authorization for the Apron Expansion project at the Statesville Airport.

Phil Collins stated this Grant Agreement, from the NCDOT – Division of Aviation, is in the amount of \$177,750 and is intended for the construction of an expansion of the apron which will be used for the parking of helicopters. City Council has previously certified the availability of local funds. As you may recall, this grant is a result of remaining funds from the Grants used for the Runway Strengthening and Rehabilitation project. A 5% match is required from the City.

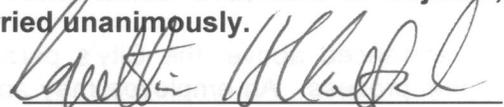
Council member J. Johnson made a motion to adopt a resolution authorizing the City of Statesville to enter into a Grant Agreement with the North Carolina Department of Transportation, approve Budget Amendment #31, and approve a Work Authorization for the Apron Expansion project at the Statesville Airport, seconded by Council member Huggins. The motion carried unanimously.

Consider adoption of a resolution authorizing the City of Statesville to enter into a Grant Agreement with the North Carolina Department of Transportation, Consider approval of Budget Amendment #32, and consider approval of a Work Authorization for the installation of perimeter fencing at the Statesville Airport.

Mr. Collins said this Grant Agreement, from the NCDOT – Division of Aviation, is in the amount of \$171,000 and is intended for the installation of perimeter fencing in areas where none currently exists. City Council has previously certified the availability of local funds. This grant is a result of remaining funds from the Grants used for the Runway Strengthening and Rehabilitation project and requires a 5% City match.

Council member J. Johnson made a motion to adopt a resolution authorizing the City of Statesville to enter into a Grant Agreement with the North Carolina Department of Transportation, approve Budget Amendment #32, and approve a Work Authorization for the installation of perimeter fencing at the Statesville Airport, seconded by Council member Huggins. The motion carried unanimously.

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


Constantine H. Kutteh, Mayor



ATTEST:


Brenda Fugett, City Clerk