

**MINUTE BOOK 25, PAGE 050  
CITY OF STATESVILLE COUNCIL MEETING – July 15, 2013  
CITY HALL COUNCIL CHAMBERS – 7:00 p.m.  
STATESVILLE, NORTH CAROLINA**

**Mayor Constantine H. Kutteh presiding:**

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

**Council Absent:** Matthews

**Staff Present:** Pressley, Fugett, Gaines, Davis, Smyth, Salmon, Ashley, Hutchens, Hudson, Harrell, Watts

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

**Others:** 8

**Call to Order**

Mayor Kutteh called the meeting to order.

**Invocation**

The Invocation was given by the City Clerk.

**Pledge of Allegiance**

The Pledge of Allegiance was led by Mayor Kutteh.

**Public Comment**

Mayor Kutteh stated that during the second meeting of each month citizens are invited to speak about matters not on the current agenda. There were no speakers.

**Consent Agenda**

Mayor Kutteh explained that all items below 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 as follows:

- A. Approve the minutes of the Pre-agenda meeting of June 13, 2013, and the City Council meeting of June 17, 2013.**

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

Mayor Kutteh announced that Item VII on the Regular Agenda will be removed because Lisa Salmon reported that she received word at 6:00 p.m. today that an agreement had been reached by the House of Representatives and the Senate; however no details of the agreement has been announced yet.

**Regular Agenda**

**VI Presentation of the EPA Area Wide Optimization Program (AWOP) award for optimizing water treatment and reducing treatment costs.**

Mark Hahn, Environmental Senior Specialist with the North Carolina Department of Environment & Natural Resources said the EPA Area Wide Optimization Program is a national program which is an effort to enhance the performance of existing surface water treatment facilities. The City of Statesville is being honored for surpassing strict federal and state drinking water standards and meeting performance goals that are significantly more stringent. Mr. Hahn pointed out that not only did the department accomplish greater water quality; they also saved money. Mr. Hahn presented the award to Joe Hudson, City of Statesville Director of Water Resources.

Mayor Kutteh advised the department estimates savings of \$66,000 in treatment costs annually due to the changes made in the treatment process at the Statesville Water Treatment facility this year.

**VII Receive presentation from Finance Director Lisa Salmon regarding the Senate version of House Bill 998.**

This item was removed from the agenda.

**VIII Receive reports from City staff of storm damage costs to the City.**

Mr. Pressley stated he appreciated the efforts and dedication of City employees in getting the June 13<sup>th</sup> storm debris cleaned up and power restored. More than 7,000 customer lost power, primarily due to downed trees and limbs. Electric crews began work immediately restoring power, the Street Department helped clear debris, the Fire Department helped with traffic and various other issues and Sanitation crews are cleaning up remaining debris. The Sanitation Division has collected and hauled approximately 500 tons of storm debris to the landfill. The Electric Utilities division has incurred a cost of \$29,142. So far Sanitation Fees are \$15,474 for a total of \$44,616.

**IX Conduct a public hearing and consider approving first reading of an ordinance to annex the Leith Property located on the west side of 5<sup>th</sup> Street.**

Sherry Ashley stated this property located at 1908 5<sup>th</sup> Street is not contiguous to the current primary municipal limits of the City of Statesville; therefore, this request from Delores Leith is being processed as a voluntary satellite annexation. The subject property is approximately 0.541 acres in size.

Mayor Kutteh declared the public hearing open and asked if there was anyone present who wished to speak in opposition of this item. There being no speakers he asked if there was anyone present who wished to speak in favor of this item. There being no speakers, he declared the public hearing closed.

**Council member Stallard made a motion to approve first reading of an ordinance to annex the Leith property located at 1908 5<sup>th</sup> Street, seconded by Council member J. Johnson. The motion carried unanimously.**

**X Conduct a public hearing and consider passing first reading of TA13-02 filed by the City of Statesville to Amend Article 3 Zoning, Section 3.04 Zoning District Regulations.**

Mrs. Ashley stated the purpose for these clarifications and corrections is to clarify the type of manufactured home allowed in the R-15M, R-10M, R-8M and R-5M Districts, to remove manufactured homes from the R-8 and R-8MF Districts because they are not a permitted use, to renumber the sections consecutively, to correct the maximum height from 50 ft. to 35 ft. in the O-1 District, to correct the purpose and authorized uses in the B-3, B-4, B-5 and CBP Districts, and to correct the Minimum Lot Width from 75 ft. to 60 ft. in the B-5 District.

Mayor Kutteh declared the public hearing open and asked if there was anyone present who wished to speak in opposition of this item. There being no speakers he asked if there was anyone present who wished to speak in favor of this item.

Dr. Michael Schlesinger asked from the audience for clarification of the changes being made that involved the B-3, B4, B-5 districts. Mrs. Ashley explained these changes are to correct the purpose and authorized uses. She said during the previous Board of Adjustment meeting there were some errors discovered that involved repetitive language and cut and paste errors. Dr. Schlesinger asked to see the changes. Mayor Kutteh asked Dr. Schlesinger to step to the podium if he wished to address the Council so those viewing by television could hear his comments.

Mayor Kutteh asked if there was anyone else present who wished to comment on this item. There being no other speakers, Mayor Kutteh declared the public hearing closed.

**Council member Stallard made a motion to approve first reading of TA13-02 filed by the City of Statesville to Amend Article 3 Zoning, Section 3.04 Zoning District Regulations, seconded by Council member M. Johnson. The motion carried unanimously.**

Mayor Kutteh advised Dr. Schlesinger there will be a 2<sup>nd</sup> reading of this item at the August 5, 2013 Council meeting if he had additional concerns after reading the information he received from Mrs. Ashley.

**XI Conduct a public hearing and consider passing first reading of TA13-03 filed by the City of Statesville to Amend Article 5 - Supplemental Regulations/Performance Standards, Section 5.03 - Temporary Uses and Structures.**

Mrs. Ashley stated this amendment will allow schools to have temporary mobile classrooms because currently, the City's design standards for non-residential developments do not allow metal or vinyl structures outside of the LI or HI districts. When this ordinance was adopted it was stated in the City Council minutes of April 21, 2008 that temporary units would be allowed for schools. This text amendment formalizes this unwritten policy and provides some criteria by which mobile classrooms would be permitted. Mrs. Ashley said that due to concerns expressed during the Pre-agenda meeting regarding allowing temporary classrooms in the Central Overlay and Historic Districts a revised ordinance has been distributed to Council in which these two districts will be excluded. The criteria that will be established are as follows:

1. Limited to its use as a classroom(s) and are located on-site as an accessory to a school.
2. Shall meet the same setbacks as the principal structure for the zoning district.
3. Shall be located so that it is not visible from the street if possible.
4. Are exempt from the Design Standards for Non-Residential Development, Section 6.08.
5. May be permitted for a five (5) year time period. Renewals will be based on five year increments.

Mayor Kutteh declared the public hearing open and asked if there was anyone present who wished to speak in opposition of this item. There being no speakers he asked if there was anyone present who wished to speak in favor of this item. There being no speakers, he declared the public hearing closed.

**Council member M. Johnson made a motion to approve first reading of TA13-03 filed by the City of Statesville to Amend Article 5 – Supplemental Regulations/Performance Standards, Section 5.03 - Temporary Uses and Structures, seconded by Council member Eisele and Huggins. The motion carried unanimously.**

**XII Conduct a public hearing and consider passing first reading of TA13-04 filed by the City of Statesville to Amend Article 6 - Development Standards, Section 6.07 - Sign Regulations, Table 6-13 - Permitted Sign Standards by Zoning District.**

Mrs. Ashley stated the purpose for this amendment is to allow internally illuminated signs in the O&I-2, B-2, LI and HI zoning districts. Internally illuminated signs would be permitted on sides of the properties that do not adjoin residential. This is to control spillage and achieve compatibility with adjoining residential uses. Mrs. Ashley stated the Planning Department has had several requests for this and gave several examples of businesses where this would be reasonable and examples where it would not be permissible.

Mayor Kutteh declared the public hearing open and asked if there was anyone present who wished to speak in opposition of this item. There being no speakers he asked if there was anyone present who wished to speak in favor of this item. There being no speakers, he declared the public hearing closed.

**Council member Huggins made a motion to approve first reading of TA13-04 filed by the City of Statesville to Amend Article 6 - Development Standards, Section 6.07 - Sign Regulations, Table 6-13 - Permitted Sign Standards by Zoning District, seconded by Council member Stallard. The motion carried unanimously.**

**XIII Consider approving a site plan for P13-04 Village Inn located at 1503 Cinema Drive; Tax Map 4744-74-8947 pt.**

Sherry Ashley stated the site is located at 1503 Cinema Drive. The property is zoned B-4 Conditional Use district and the total acreage of the site is approximately 2.7 acres. Village Inn is proposing to re-locate from Broad Street to a new structure on a portion, about 1.3 acres, of the 2.7 acre tract located inside the Eastside Centre. The property for

this center was zoned back in 1999 to a B-4 conditional use district. The design standards for non residential development have been met, the site is required to provide 36 parking spaces, 54 have been provided and the landscaping proposed is also in compliance with the ordinance. In regards to access, one driveway will be provided that lines up with the driveway for Outback and two stub outs have been provided, one at the front and the other at the rear of the site for future connections to the remainder of the parcel. The Technical Review Committee reviewed the site plan on May 15, 2013 and approved the site plan on June 5, 2013 contingent upon revised storm water calculations and a revised landscape plan. These revisions have been made. Therefore, staff recommends approval contingent upon receiving a copy of the DENR permit before final CO. The Planning Board reviewed this and made a favorable recommendation with a unanimous vote.

**Council member West asked to be recused from discussion and vote on this item due to a conflict of interest.**

**Council member Gregory made a motion to recuse Council member West, seconded by Council member Eisele. The motion carried unanimously.**

**Council member Eisele asked to be recused form discussion and vote on this item due to a conflict of interest.**

**Council member Stallard made a motion to recuse council member Eisele, seconded by Council member Huggins. The motion carried unanimously.**

**Council member Huggins made a motion to approve site plan P13-04, Village Inn, located at 1503 Cinema Drive; Tax Map 4744-74-8947 pt, seconded by Council member Stallard.**

Council member M. Johnson stated he is not going to oppose this, but he is concerned with the stormwater runoff through Valley Stream. He suggested City Engineering run an entire calculation on this site at build out, at the prescribed density, impervious area, that there is at this point before we move forward with the other parcels. Council member M. Johnson asked Mr. Pressley if he had a comprehensive stormwater plan for this entire development. Mr. Pressley replied this has occurred over a period of time, prior to involvement of any Phase II regulations, as well as any changes to the City's UDO so the 9.45 acres was built on prior to any enactment of stormwater regulations. He said the changes that were made to the UDO did include some issues for control and they kick in at 5 acres or ten lots. As a result, this is one area that staff determined what the peak flows out were going to be based on the modifications to the basin and found out that those flows did not increase. Mr. Pressley stated that one thing that makes this even more complicated is that presently the State does have some jurisdiction over what happens in stormwater since Statesville has not been named a Phase II city. Council member M. Johnson reiterated that a comprehensive plan needs to be developed before moving forward with any future development of this area.

**Upon call for a vote, the motion carried unanimously.**

**Council member Stallard made a motion to reinstate Council members West and Eisele, seconded by Council member Gregory. The motion carried unanimously.**

**XIV Consider approving a contract in the amount of \$100,000 with Keith Corporation to build a shell building at the Statesville Business Park and approve Budget Amendment #3.**

City Attorney Edmund Gaines said this is a contract between the City of Statesville, Keith Corporation, Pate-Dawson, Iredell County and the GS Area Committee of 100 for construction of a shell building in the Statesville Business Park. The essence of this contract is that Keith Corporation will build a shell building on approximately 17 acres of property adjacent to the current Pate-Dawson tract in the Statesville Business Park. There will be a grading cost to prepare this site for construction of \$620,000. Pate Dawson has agreed to contribute \$260,000, the City of Statesville will contribute \$100,000, Iredell County will contribute \$100,000, the Committee of 100 will contribute \$60,000 and the Keith Corporation will contribute \$100,000. Subsequent to the grading being completed Keith Corporation will construct a 60,000 square feet shell building on the 17 acre site at the estimated cost of \$3 million. Upon completion, the property will be marketed for a new industrial client for the City of Statesville. Mr. Gaines stated that

Paragraph 4 in the contract is subject to ongoing negotiations between Iredell County and the Keith Corporation. He asked that the motion be made with the understanding that the agreement is approved regardless of how Iredell County and the Keith Corporation end up negotiating the terms of Paragraph 4.

Mayor Kutteh stated there have been numerous efforts to get a second shell building built. Keith Corporation was selected because they came to the City with this proposal to build a second shell building. In most other communities in the State and our region, governmental entities must pay the full cost to construct a building such as this. Council felt that the contribution of the land and \$100,000 would be a good return for the City and positive for our economic development. He explained the shell building is comparable to a model home in a subdivision.

**Council member M. Johnson made a motion to approve a contract in the amount of \$100,000 with Keith Corporation to build a shell building at the Statesville Business Park and approve Budget Amendment #3, notwithstanding negotiations between Iredell County and Keith Corporation, seconded by Council member Eisele and Stallard. The motion carried unanimously.**

**XV Approve revisions to the City of Statesville Personnel Policy.**

Lynn Smyth reviewed the following recommended changes to the Personnel Policy.

Per Council request at the annual retreat, the language in the Educational Leave Policy would now reflect a requirement for the employee to continue working for the City for a 90 day duration after the conclusion of a class for which the employee received educational reimbursement of tuition, books and fees. Based upon discussion at the Pre-Agenda meeting a change was made to this amendment. Article 6, Section 10 B (second paragraph) would be amended to read as follows:

*Any employee receiving reimbursements via this policy agrees to continue working for the City at least ninety (90) days beyond completion of the course prior to reimbursement or that the employee agrees to reserve a sufficient balance of accrued but unused vacation leave to refund the reimbursement if paid prior to ninety days after completion of the course. Vacation reserved will be released after the completion of ninety days and upon request of the employee.*

Mrs. Smyth stated that Departments asked consideration be given to allow the reservation of vacation leave to refund a reimbursement given before the ninety day time period as some employees use their reimbursement from one class to fund the next class.

The recommended change to Article II, Section 11 (B) is to add language to clarify that in the event of *reorganization* and an employee is transferred into another position, rather than having his or her current position reclassified, the employee's hourly wage or salary will not be reduced. This is consistent with past City practices but was reflected somewhat vaguely in the current policy.

Article II, Section 11 (B) amended would read as follows: If an employee is demoted as a result of a reclassification or reorganization, and the employee's current salary falls above the maximum of the range for the lower class, the employee's hourly wages or salary will usually remain the same ...."

The amendment to Article 1, Section 3 (definitions) is being requested to be consistent with some of the upcoming health care reform changes. Beginning in 2014, employers will be required to consider all positions, including part-time and temporary, for eligibility for health insurance. The federal mandate will require eligible employees work at least 30 hours per week to receive health care benefits. So as not to cause any confusion or potential conflict with the new mandates, staff recommends requiring at least 30 hours weekly, year round, for part time staff to receive benefits.

The recommended amendment is to change the definition of *Part-Time Employee* from:

Part-Time Employee - An employee appointed to an established job position who is regularly scheduled to work less than the number of hours considered to be full-time, and is paid on an hourly basis. Part-time employees are generally eligible for pro-rated benefits and are designated by the City Council as being part-time to: Part-Time

Employee – An employee appointed to an established job position who is regularly scheduled to work between thirty (30) and thirty nine (39) hours per week and is paid on an hourly basis. Part-time employees are generally eligible for pro-rated benefits and are designated by the City Council as being part-time.

Currently there are two part-time positions in the City, one that works 20 hours per week and the other 25 per week. Staff requests these two positions be permitted to continue at their current hours with benefits until the incumbent leaves the position. At that time, the need for the position will be re-evaluated and ways to meet the minimum threshold of hours will be considered.

Staff is requesting to amend Article II, Section 4, Paragraph 2 by changing the language as reflected below using strikethrough, underlined and in italics, to be more specific relative to when increases are available.

Starting hourly wages or salaries may be adjusted for educational incentives upon hire. For purposes of this policy, a college degree must be earned from a regionally accredited institution or the City Manager or designee may approve a nationally accredited institution on a case by case basis. An employee with a college degree from a regionally accredited institution hired into a position that does not require, prefer, desire or otherwise indicate a need for a college degree may receive a five (5) percent increase for an one associate degree and or a ten (10) percent increase for a one bachelor degree. If the position requires, prefers, desires or otherwise indicates a need for an associate degree and the employee has a bachelor degree, a one five (5) percent increase may apply and or if the employee has a master degree, a one ten (10) percent increase may apply. If a bachelor degree is required, preferred, desired or otherwise indicated, then an employee with a master degree may receive a one five (5) percent increase. If a master degree is required, preferred, desired or otherwise indicated, no educational incentive increase shall be available. Increases may be incremental, for example, an employee with no degree requirement may earn an associate degree, get a five (5) percent increase and subsequently earn a bachelor degree and get an additional five (5) percent increase for a total ten percent educational incentive. In no instance shall an employee receive more than ten (10) percent in educational incentive increases. Current employees may be given the same increases upon completion of college degrees while employed by the City.

**Council member Stallard made a motion to approve the revisions to the Personnel Policy, seconded by Council member Eisele. The motion carried unanimously.**

**XVI Authorize Consultant Services for Fourth Creek Wastewater Treatment Plant Improvements and approve Budget Amendment #1.**

Larry Pressley reminded Council that in October, the City was approved for zero percent (0%) interest funding in the amount of \$4.8 million for this project. He said that staff has received a proposal from McGill & Associates for Engineering Services for the Fourth Creek WWTP improvements. The Engineering Report has been approved and upcoming milestone dates are summarized below. Funding is contingent upon adherence to the following schedule. Mr. Pressley stated that staff anticipates a 15 month construction period at this point.

- |    |   |                  |
|----|---|------------------|
| 1. | Plans & Specification Submittal                         | December 3, 2013 |
| 2. | Plans & Specification Approval                          | March 3, 2014    |
| 3. | Advertise, Receive Bids, Receive IFS Authority to Award | June 2, 2014     |
| 4. | Execute Construction Contracts                          | July 1, 2014     |

Details of Services:

Planning Design & Permitting Phase	\$288,000
Bidding & Award Phase	\$ 17,000
Post Construction Phase	<u>\$225,000</u>
Total	\$530,000

Mr. Pressley explained stated this upgrades the Sta-Lime system, various mechanical components as well as some electrical upgrades and then also the SCADA control system.

**Council member M. Johnson made a motion to authorize Consultant Services for Fourth Creek Wastewater Treatment Plant Improvements and approve Budget Amendment #1 in the amount of \$530,000, seconded by Council member J. Johnson and Stallard. The motion carried unanimously.**

**XVII City Council discussion of zoning related matters and revision of the Unified Development Ordinance.**

Mrs. Ashley advised a Use Matrix that has been condensed and modified to include uses that require Supplemental Regulations (SR), Performance Standards (PS) and Special Use Permit (S) has been distributed to Council as well as several maps that identify the interchanges to be discussed by their interstate exit number with enlarged maps of Exits 150 and 154 as requested by Council at the Pre-agenda meeting. Mrs. Ashley reviewed the various zoning districts within the one mile radius of Exit 150. She pointed out that Section 2.10 – Special Use Permits and Section 3.03 – Use Matrix and Interpretation had been included with this information for Council's review.

Council member M. Johnson reviewed uses in zoning districts that require a Special Use Permit. He asked Mrs. Ashley if staff is referring to quarries and/or contaminated materials in the use "Extraction of earth products, Section 2.10" or is contaminated materials not addressed. Mrs. Ashley replied that contaminated materials are considered under Hazardous Waste which is also a Special Use under the HI district. Council member M. Johnson said that in terms of remediation of hazardous waste there is no designation. Mrs. Ashley said no, but staff has made the determination that this is hazardous waste. Council member M. Johnson said this is open-ended to some degree because it is not specifically stated, but a determination has been made. Whether Council agrees with that determination or not, or views it in the context of the appropriate plan for the area, is what this discussion is about. He said a person may conclude from this list that Special Use Permits are generally relative to hazardous material. Mrs. Ashley agreed that was a fair assessment.

Mayor Kutteh pointed out that the uses that Council member M. Johnson read are all areas that you cannot do anything without coming before Council and getting a permit. Mrs. Ashley said the majority of those uses were in the industrial districts of LI and HI.

Council member M. Johnson said the theory of the UDO relative to automotive, was to move those types of functions away from heavily concentrated residential areas, i.e. Council made them smaller. He said there is a conglomeration of intense uses at these interstate exchanges that are heavily surrounded and impacted by residential.

Council member M. Johnson suggested changing Section 3.03 (f) regarding Uses Not Specifically Listed, to be interpreted by Council rather than putting that burden solely on staff. Council member Eisele agreed with this suggestion.

Mayor Kutteh asked if staff had researched Highway Overlay Districts used by other cities. Mrs. Ashley said she has not but she does know that an overlay district must be applied like a zoning so Council would need to rezone the parcels that it wants to apply the overlay district to. Council member M. Johnson asked if we would need to rezone or conditional use within the zone. He said he did not feel that everything needed to be by conditional use and that was not his intent.

Mayor Kutteh said having nothing by right is not the answer because that process would be overwhelming so some uses must be by right which means that some things may be by right that perhaps are offensive to some people but necessarily to others. He said the UDO is a fairly comprehensive ordinance but is certainly not perfect.

Council discussed the need to look at the uses within a zone and consider implementing a Highway Overlay District.

Council member J. Johnson said he has been asked if this discussion was triggered by the Love's Travel Center issue. Mayor Kutteh said that all text amendments are precipitated by some request or some action within the City. So yes, essentially the need for a more comprehensive look at the interstate interchanges was a result of the issues with Love's Travel Center, but nothing Council does now will change whatever happens with Love's.

Council member West suggested moving truck stops to the B-5 district. Council member M. Johnson said he felt it would be better to change the designation to a Special Use Permit. Council member West agreed. Council member M. Johnson said there are other issues out there that could be potential issues and this discussion is not just about the truck stop issue.

Mayor Kutteh asked Mrs. Ashley to show the Exit 154 map. He said that one particular area of concern with this interchange is that a lot of the area is in the County so the City will need to meet with them about this also.

Mrs. Ashley reviewed the City zoning districts located in the one mile radius around Exit 154 as well as the County zoning districts.

Council members discussed possible transportation issues at Exit 154 in relation to the existing zoning.

Council member M. Johnson suggested petitioning Iredell County for ETJ in this area, if the Legislature approves it, in order to develop a comprehensive plan for this area. Mayor Kutteh agreed saying that more than half of this area is outside of the City's control.

Council directed staff to list more uses in the Use Matrix, research Highway Overlay Districts used by other cities, develop a text amendment to revise Section 3.03 (f) to change interpretation of unlisted uses to Council from staff and add truck stops to the Use Matrix with a Special Use Permit designation in the appropriate zone.

**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