MINUTE BOOK 25, PAGE 165
CITY OF STATESVILLE COUNCIL MEETING – February 17, 2014
CITY HALL COUNCIL CHAMBERS– 7:00 P.M.
STATESVILLE, NORTH CAROLINA

Mayor Costi Kutteh presiding:

Council Present: J. Johnson, West, M. Johnson, Huggins, Schlesinger, Watt, Phifer, Morgan

Council Absent: 0

Staff Present: Pressley, Fugett, Gaines, Currier, Collins, Davis, Smyth, Hutchens, Miglin, Harrell, Salmon, Billings, Watts, Anderson

Others: 3

Media Present: John Hamlin-Statesville Record & Landmark, Dave Veiser-Charlotte Observer

I **Call to Order**
Mayor Kutteh called the meeting to order.

II **Invocation**
The Invocation was given by the City Clerk.

III **Pledge of Allegiance**
Girl Scout Troop 1968 led the Pledge of Allegiance.

IV **Public Comment**
There were no speakers.

Mayor Kutteh thanked City employees for their rapid response to the snow cleanup and the citizens of Statesville for their patience while City workers cleared 150 miles of roadways.

V **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 advised that Item XI has been removed from the agenda by staff for further review and that one item was being added to the Regular Agenda, "Consider approval of mediation results for the purchase of the Bustle property and Budget Amendment #31".

A. **Consider an annual request from the Statesville ABC Board to approve the Board's adopted Travel Policy.**

B. **Consider approving an appointment to the Historic Preservation Commission.**

C. **Consider approval of the non-capital purchase in the Fire Department of 14 sets of replacement turnout gear.**

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

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

Regular Agenda

VI Consider approval of mediation results for the Bustle property and Budget Amendment #31.

City Attorney Eddie Gaines stated the City instituted a condemnation action for a 4.88 acre tract known as the Bustle property that fronts Amity Road and Highway 115. There were three different appraisals of this property, $210,000, $350,000 and $453,000. When an agreement could not be reached to purchase the property, the City filed condemnation papers and paid $210,000 to the court as part of the condemnation process. During a recent mediation, the purchase price of $360,000 was agreed upon subject to City Council approval. This amount includes the $210,000 already paid to the court. Budget Amendment #31 includes the additional cost of the mediation of $1,950 and an ad valorem tax payment of $1,033. Mr. Gaines added that the purpose of the condemnation was for the future realignment of Amity Hill Road through the property and for the future establishment of a Police Substation and Fire Station.

Mrs. Salmon explained that Budget Amendment #31 includes the balance due on the property of $150,000, recording fees of $27.00, the cost of the mediation of $1,950 and $1,033 for the ad valorem tax payment for a total of $153,010. She reminded Council that these funds are being appropriated from funds that have been donated by the Larkin Developer of $125,000 per year for a total of $500,000 for property acquisition related to a Fire Station in this area. There is currently a balance of $164,500 from those funds and this Budget Amendment will transfer the funds into the General Fund for these expenses. There will be a balance of just under $11,500 after this transaction.

Council member Huggins made a motion to approve the mediation results for the Bustle property and Budget Amendment #31, seconded by Council member Morgan. The motion carried unanimously.

VII Conduct a public hearing and consider approving a Resolution to close a 9 foot alley from North Center Street to Landmark Alley.

Mayor Kutteh asked to be recused from this item due to a conflict of interest.

Council member Schlesinger made a motion to recuse Mayor Kutteh from this item, seconded by Council member Huggins. The motion carried unanimously.

David Currier reviewed a map of the alley stating that it is 9 ft. wide x 205 ft. in length adjacent to the Carolina Landmark building. Over the years the alley has been in extreme disrepair and no one is responsible for the maintenance and it has become quite hazardous. City Council approved the Resolution of Intent to close the alley at its February 3, 2014 Council meeting and called for the public hearing and consideration of the Resolution to Close. The alley was posted with the Resolution of Intent to close and registered letters mailed to all adjoining property owners. Mr. Currier pointed out that the following statement was inadvertently left off the Resolution to Close: "WHEREAS, upon ownership Carolina Landmark Realty has agreed to improve the alleyway and maintain the same and allow pedestrian traffic on portions and parking on portions". He advised that Mr. David Jones is in the audience representing Carolina Landmark Realty and has agreed that this statement be inserted into the signed copy of the Resolution. Mr. Currier said no nearby property owners will be deprived of egress as a result of the proposed alley closure. Property owners on each side of the alley will get 50% if it is closed. Carolina Landmark has said they will be filing quit claim deeds to take control of the alley and improving it with street lights and planters with an improvement grant that they have secured from the Downtown Statesville Development Corporation.

Council member Schlesinger asked if by making the alley private if this makes the owner liable. Mr. Currier replied it is possible as it is with any property ownership. Mr. Gaines said it would depend upon the circumstances of what happened whether there was negligence involved or not.

Council member Huggins asked if the attached rights go along with the sale of the property. Mr. Currier said they would.

Mayor Pro Tempore M. Johnson declared the public hearing open and asked if there is anyone present who wished to speak for or against this item. There being no speakers, he declared the public hearing closed.

Council member J. Johnson made a motion to approve a Resolution to close a 9 foot alley from North Center Street to Landmark Alley, seconded by Council member Schlesinger.

Mayor Pro Tempore M. Johnson asked if the City has active utilities in this alley. Mr. Pressley answered the City does not. There are service lines that are private to those buildings.

The motion carried unanimously.

Council member J. Johnson made a motion to bring Mayor Kutteh back, seconded by Council member Morgan. The motion carried unanimously.

VIII Conduct a public hearing and consider approving first reading of ZC14-01 filed by the City of Statesville for the property located on Old Mocksville Road between I-40 and White Fox Trail; Tax Map 4756-80-9225 from MU to LI.

Mayor Pro Tempore M. Johnson asked to be recused from this item due to a conflict of interest.

Council member West made a motion to recuse Mayor Pro Tempore M. Johnson, seconded by Council member Huggins. The motion carried unanimously.

Mr. Currier stated this site contains approximately 134.246 acres and was annexed and rezoned by the City of Statesville in 2004. The zoning was changed from Iredell County's RO (Residential Office) to the City's MU (Mixed Use) District. This zoning district included commercial, office and residential subject to several conditions. There was a Developer's Agreement placed on the property at this time as part of the Mixed Use but the development was never realized. City Council voted on January 13, 2014 to obtain an option to purchase the property with the intention to develop a business park. In order to move forward the property needs to be rezoned to an LI (Light Industrial) District. This district allows uses that are compatible with general business uses and primarily involve indoor production, assembly and storage. Currently the site is vacant, with a majority of the property being wooded. There is an area to the north that is or has been farmed in the past. There is also a low area in the middle of the property. The surrounding zoning districts and land uses are as follows:

NORTH OF THE SITE:	Iredell County R-20 (Single Family Residential), Iredell County RA (Residential Agricultural), stick built homes, manufactured homes, farms and vacant tracts and Iredell County GB (General Business), Country Boy Landscaping, Inc.
EAST OF THE SITE:	Iredell County RA (Residential Agricultural), stick built homes, farms, vacant tracts
SOUTH OF THE SITE:	Iredell County RO (Residential Office), vacant tracts, City of Statesville O&I-2 (Office and Institutional Complex), Beaver Creek Professional Center and Davis Regional Hospital
WEST OF THE SITE:	Iredell County RO (Residential Office), Iredell County R-20 (Single Family Residential) vacant tracts, stick built homes, manufactured homes and Noah's Ark Animal Boarding, Iredell County M-1 (Light Manufacturing), The Tharpe Company Inc. and City of Statesville O&I-2, vacant tract and lift station

The 2005 Land Development Plan projects the property to be low density residential (maximum of 2 dwelling units per acre). However, it was rezoned in 2004 to a Mixed Use District. The Land Development Plan is now nine years old (10 year horizon) and

will need updating in 2015. Iredell County's 2030 Horizon Plan designated this entire area for an employment center with industrial tracts. Light Industrial uses are within close proximity to this site and availability of utilities and good transportation access make the site conducive for a future business park. Other uses close to the interchange of I-40 include doctor offices, a daycare, and G. L. Wilson Construction. There is also Light Industrial Uses in the immediate vicinity of Wilson Park Road and Crawford Road. Therefore, staff's recommendation is favorable to rezone the property to LI (Light Industrial). The Planning Board's recommendation is favorable with a unanimous vote as presented and no one spoke in opposition at the Planning Board Courtesy Public Hearing.

Mayor Kutteh clarified that the Option to Purchase Contract did not specifically contain "rezoning" as a condition but the City has the specific right for any reason within 90 days to reject the contract.

Council member Schlesinger asked if the environmental studies have been received by staff. Mr. Pressley replied staff has received preliminary results from the Phase I study and it looks clear. Mayor Kutteh said if the first reading of this item is approved tonight, the 2nd reading of this item will be deferred until all studies are in and meet Council's satisfaction.

Mayor Kutteh declared the public hearing open. He advised that James Settlemyre had signed up to speak.

James Settlemyre, 738 West End Avenue, Statesville, spoke in opposition of this item. He questioned City Council's authority to spend tax dollars to purchase property to develop a business park and referred to several Letters to the Editor previously published in the Statesville Record & Landmark regarding City Council spending. Mr. Settlemyre criticized the Streetscape project, Council member Huggins, City Council purchasing property instead of developing empty buildings, and the 3rd Creek Wastewater Treatment Plant project.

Council member West briefly addressed comments made by Mr. Settlemyre regarding the purchase of this property.

Mayor Kutteh addressed comments made by Mr. Settlemyre concerning Council member Huggins.

There being no other speakers, Mayor Kutteh declared the public hearing closed.

Council member West made a motion to approve first reading of ZC14-01 filed by the City of Statesville for the property located on Old Mocksville Road between I-40 and White Fox Trail; Tax Map 4756-80-9225 from MU to LI, seconded by Council member Watt. The motion carried unanimously.

Council member Schlesinger made a motion to bring Council member M. Johnson back, seconded by Council member Huggins. The motion carried unanimously.

IX **Consider approval of an easement agreement with West Iredell Water Corporation.**
Scott Harrell stated West Iredell Water Corporation (WIWC) has requested an easement from the City of Statesville for a water main extension project near the airport. WIWC plans to extend their water main along W. Aviation Drive to connect to their main on Airport Rd., just north of the traffic circle. The majority of the water main extension will be constructed within NC DOT right-of-way. In the vicinity of the traffic circle an existing guard rail and fill slope preclude installation of the water main in the right-of-way, requiring the proposed water main alignment to cross City property in the NW quadrant of the traffic circle. The proposed alignment does not interfere with any currently planned City projects. Per the agreement, should any future work or project by the City require modification of the WIWC main where it crosses City property, such work is to be performed at WIWC's expense. The permanent easement width will be 15 feet, with an additional 10 feet included as a temporary construction easement. Staff recommends approval of the easement agreement with West Iredell Water Corporation.

Council member M. Johnson asked why the City would want to give West Iredell Water Corporation another easement into our area and subject the City to further restrictions.

Mr. Gaines said that as long as the company is under an FHA loan they are protected from the City curtailing their services. He explained they have had a number of loans that have been rolled into over loans and he is still researching the matter.

Council member M. Johnson asked if there is a customer waiting for the extension for service. Mr. Pressley explained that WIWC would not have requested the easement if they had been able to stay within the NCDOT right-of-way but in the vicinity of the traffic circle an existing guard rail and fill slope prevented installation of the water main in the right-of-way, requiring the proposed water main alignment to cross City property in the NW quadrant of the traffic circle. Council member M. Johnson said he believes the City has a 12" service line in Highways 64 & 70 that runs all the way to Old Mountain Road. He said this line was put in to serve the Industrial Park and the City has no recovery on that line.

Council member J. Johnson pointed out that this also happened at the County Club and said Council needs to set a time limit for Mr. Gaines to provide the information regarding the FHA loan.

Council member M. Johnson asked if WIWC buys water from the City to serve this area. Council member J. Johnson said they do, but not as much as they had previously. Council member M. Johnson said he did not want to agree to an easement that gives WIWC franchise in the area, knowing that from an economic development point of view, if the City brings in a new business it would not receive the water revenue.

Council member M. Johnson made a motion to table this item, seconded by Council member West. The motion carried unanimously.

X Consider a boundary amendment to the Statesville Flying Service lease dated October 4, 2006.

Phil Collins stated the Statesville Flying Service executed a lease with the City in 2006 to construct additional hangar space, parking and apron to the east of the existing terminal area. The hangars that were built were estimated to be 15,000 square feet at the time of approval. However, it was discovered during a refinancing that the hangars were actually constructed at 18,000 square feet in size. The result is a portion of the western most portions of the new hangars extend outside of the leasehold approximately 77 feet. Statesville Flying Service has agreed to pay the current rate of $0.05 per square foot for the additional area. The increased lease amount will be $120.53 per month. The lease amount is adjusted every three years based on the Consumer Price Index. The next adjustment will be October 2015 and will include the additional square footage.

Council member J. Johnson made a motion to approve a boundary amendment to the Statesville Flying Service lease dated October 4, 2006, seconded by Council member Morgan. The motion carried unanimously.

XI Consider approving Work Authorizations to be sent to the NC Division of Aviation for review and concurrence.

Mr. Collins stated that Parrish and Partners has submitted the work authorizations for review and concurrence by Staff, the Airport Commission and City Council. The projects associated with these work authorizations were included within the 2014-2020 Transportation Improvement Program (TIP). The Division of Aviation has suggested that work authorizations be reviewed by Staff and the Division of Aviation prior to official submittal in an effort to eliminate any confusion before proceeding with grant funding requests. The work authorizations have been reviewed by Staff and but were not reviewed by the Airport Commission due to their February 13, 2014 meeting being cancelled due to inclement weather. Staff concurs with work authorizations #1-Runway Grooving, #2-PAPI/REIL Upgrade and #3-Environmental Overview. However, staff is seeking guidance on whether or not to include a public input meeting component(s) in authorization #4-ALP Update. The FAA does not require public input meetings for ALP updates but Staff has suggested that there should be public involvement within this process from airport stakeholders to the general public. The next step of this process, subsequent to DOA review and concurrence, will be to submit grant applications and certify local funding for grant matches. It is estimated the cost would be a little over $8,700 for this.

Mayor Kutteh clarified that the bulk of this is for the South Parallel Taxiway. He pointed out that this taxiway may not be built for several years and asked how long the information contained in the study is good for. Mr. Collins stated it was his understanding that this is a preliminary study to determine what in depth studies will be needed.

Council member M. Johnson said if this is part of the National Environmental Protection Agency (NEPA) process, then it is very time consuming. Mr. Collins mentioned that this is not an official request for funding, it is simply a step in the NCDOA process and staff would come back to Council to verify availability of local matching grant funds.

Mr. Pressley suggested removing this item in order to provide Council with additional information before the next meeting.
Council member West said the cost for the grooving seems very high. Council member J. Johnson said that he had been contacted by Phil Hazel stating that he is against grooving the runway. Mr. Collins said that some pilots have asked for it. Council members discussed potential problems with grooving the asphalt runway. Mr. Collins advised that he will have Jeff Kirby with Parrish & Partners attend the next meeting to answer questions.

XII Consider approving a request from Donnie Pennell to lease the Brittain Lumber property and continue his wood shavings business, fast pitch softball lessons and personal storage.
This item was removed from the agenda by staff for further review.

XIII Consider granting approval to the Statesville Police Department to pursue a grant via the NC Governor's Highway Safety Program (GHSP) and authorize Sergeant Daniel Miglin to represent the City of Statesville in the management of this process.
Sergeant Dan Miglin stated the Statesville Police Department requests to pursue grant funding from the NC GHSP to support the addition of a new Traffic Unit Sergeant position (including salary, fringe benefits, training, uniforms & accessories) and to purchase two fully equipped police sport utility vehicles. If awarded, the grant will go into effect October 1, 2014. The grant is offered on a reimbursement basis. Proposed match funds will be drawn from Drug Seizure Funds and the Fund Balance. The grant requires that one currently frozen position be "unfrozen" and reclassified from police officer (pay grade 15) to police sergeant (pay grade 19) to avoid supplanting issues. We have found, and studies have shown, that a direct supervisor is essential to oversee this unit in order to direct special group tasks, ensure compliance with policies and laws, evaluate performance of officers assigned, and report to & coordinate activities with the GHSP. This is a 3+ year grant project, with the GHSP covering 85% of expenses in Year 1 (City match of 15%), 70% of expenses in Year 2 (City match of 30%), and 50% of expenses in Year 3 (City match of 50%). The City of Statesville is obligated to retain the position for at least twelve months at the end of Year 3. Total value of Year 1 proposal is $175,757, of which only $26,364 is required in match funds from the City of Statesville. Annual renewal is based on performance and compliance with grant conditions.

Mayor Kutteh asked if there would be Drug Seizure Funds to cover Year 4. Sergeant Miglin replied those funds would only cover Year 1.

Council member Schlesinger asked if there is a current need for this. Sergeant Miglin explained that most of the Patrol Supervisors do not have the time to devote the amount of time needed for this position nor are they properly trained for this position.

Mayor Kutteh advised that Daniel Miglin is the Police Department's primary grant writer/manager and that overall, he has written 74 grants and received over $3 million in funding at a cost of only $233,244 to the City of Statesville.

Council member M. Johnson made a motion to grant approval to the Statesville Police Department to pursue a grant via the NC Governor's Highway Safety Program (GHSP) and authorize Sergeant Daniel Miglin to represent the City of Statesville in the management of this process, seconded by Council member Schlesinger. The motion carried unanimously.

XIV Consider granting approval to the Statesville Fire Department to apply for a Smoke Alarm and Home Safety Grant for senior adults.

Chief Hutchens stated this grant is offered through the North Carolina Department of Insurance – Office of State Fire Marshal for the purpose of installing 10 year lithium smoke alarms, carbon monoxide alarms, deaf and hard of hearing alarms in residences identified as high fire risk. The goal of the grant is to reduce fire deaths and injuries to North Carolina residents by targeting senior citizens who live in our community. If approved for the grant, staff will partner with the Iredell Council on Aging to provide alarms for senior citizens who reside in Statesville. The Office of State Fire Marshal will supply the department with 50 long-life smoke alarms, carbon monoxide alarms, deaf and hard of hearing alarms, a tool kit for alarm installation, and other safety and educational materials.

Council member West made a motion to grant approval to the Statesville Fire Department to apply for a Smoke Alarm and Home Safety Grant for senior adults, seconded by Council member Schlesinger. The motion carried unanimously.

XV Consider un-tabling Text Amendment TA13-06 and discuss Text Amendments.

Council member M. Johnson made a motion to un-table Text Amendment TA13-06, seconded by Council member Schlesinger. The vote on the motion is as follows:

Ayes: M. Johnson, Schlesinger, Morgan, West, Phifer, Watt, Huggins
Nays: J. Johnson
Motion carried 7-1

Council member M. Johnson distributed copies of a Chapel Hill ordinance to Council members and reviewed four findings of fact listed therein. He explained that this ordinance requires a Special Use Permit to be issued only when the Board of Adjustment, or in the case of the City of Statesville, in a quasi-judicial hearing process, makes an affirmative finding of the four findings of fact.

Council member M. Johnson made a motion to incorporate the four findings of fact listed below and the definition previously submitted for Truck Stop/Travel Plaza, also listed below, into Text Amendment TA13-06.

Findings of Fact

1. **That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.**

2. **That the use meets all required conditions and specifications**

3. **That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity**

4. **That the locations and character of the use, if developed according to the plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the City of Statesville and its environs. (Reference Ordinance # and Section #)**

Definition

Truck Stop/Travel Plaza – a business that is open to the public and that serves commercial vehicles such as tractor trailers or other heavy trucks, including by selling fuel to such vehicles. Truck stops/travel plazas may provide repair and maintenance services, food and convenience item sales, overnight vehicle accommodation, and other related services typically associated with such uses. A truck stop/travel plaza need not serve commercial vehicles exclusively and may also provide fuel sales and other services for passenger vehicles or other types of vehicles. A business that would otherwise meet this definition shall not be deemed a truck stop/travel plaza if it has no more than two (2) diesel fuel pumps and no more than five (5) overnight parking spaces large enough for tractor trailers or other heavy trucks.

Council member M. Johnson said that some members of Council have expressed their desire to have a legislative basis for this text amendment and other members have expressed wanting a standard Special Use, Quasi-Judicial format for the issuing of a Special Use Permit in this zoning instance.

Mayor Kutteh advised that Mr. Gaines believes that this revision to Text Amendment TA13-06 is far enough removed from the request on the current agenda, that it does not need to go back to the Planning Board but it must be re-noticed and then come back to City Council. If these changes are approved tonight, Council cannot vote on it and put it into effect tonight. That allows time to get a determination as to whether the Chapel Hill criteria can be placed into a legislative hearing process.

Council member M. Johnson said he wants Council members to understand that whether the process is legislative or quasi-judicial, that it will be based on the discussed findings of fact and the definition of truck stops/travel plazas, only the mechanism of their execution will be different. He said this is a very good, fair process and will allow Council to determine the best possible plan that can be derived for the benefit of all the citizens in the City and preserve property rights at the same time.

Council member Schlesinger seconded the motion made by Council member M. Johnson.

Council member Schlesinger asked how this text amendment is so different that it needs to be re-noticed.

Mr. Gaines said that the proposed text amendment did not include the four Findings of Fact.

Council member J. Johnson said that he still feels that a text amendment regarding truck stops/travel plazas in B-4 zoning should not be executed until the Love's Truck Stop issue is settled and that by implementing a Special Use Permit process Council is basically guaranteeing there will not be another truck stop in Statesville.

Council member West said that attorneys on both sides of that case have stated that a text amendment executed at this time will have no bearing on that case.

Council member Schlesinger stated the concern is that there will be another truck stop located on the twelve acres next to the proposed Love's Truck Stop.

Council member M. Johnson commented that both text amendments will be the same, the only difference will be in how it is executed, either quasi-judicial or legislative.

The vote on the motion was as follows:

Ayes: M. Johnson, Schlesinger, Morgan, Phifer, Watt, Huggins, West
Nays: J. Johnson
Motion carried 7-1

Council member West made a motion to adjourn the meeting, seconded by Council member Watt. The motion carried unanimously.

Constantine H. Kutteh, Mayor

Attest:

Brenda Fugett, City Clerk