

**MINUTE BOOK 25, PAGE 243
CITY OF STATESVILLE PRE-AGENDA MEETING – June 12, 2014
CITY HALL – 227 S. CENTER STREET, STATESVILLE, NC – 4:30 P.M.
STATESVILLE, NORTH CAROLINA**

Mayor Costi Kutteh presiding:

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

Council Absent: Phifer

Staff Present: Pressley, Gaines, Fugett, Salmon, Ashley, Smyth, Houpe, Harrell, Davis, Adams, Hutchens, Anderson, Miglin, Hudson

Others: Marin Tomlin

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

Mayor Kutteh called the meeting to order. He advised there was one addition to the agenda from the electric department.

Mr. Pressley announced that he has appointed Scott Harrell as the Public Works Director. He also mentioned that staff is in the process of selecting consultants for the Highway 115 South corridor project and an engineer for the realignment of Amity Hill Road and Shelton Avenue. This will be for the Municipal Services Operation Center, Fire Station, Police and possibly a couple of other things. Staff will bring proposals to Council in sixty days or so.

Mayor Kutteh read the Consent Agenda.

- A. Consider approving the May 27, 2014 Budget Workshop meeting minutes.**
- B. Consider approving 2nd reading of an ordinance to annex the LR Wooten Property located to the north of Northside Drive.**
- C. Consider approving administrative budget changes transferring funds from capital lines to operating for items purchased below the capitalization threshold.**

Lisa Salmon stated that each year several departments' budget and purchase items in capital accounts that do not meet capital classification. This request is to move the budget and the cost to these items in accordance with the City Purchasing Policy.
- D. Consider approval of Budget Amendment #44 to appropriate \$5,480 in insurance proceeds to the Finance Department budget for vehicle repairs.**

Mrs. Salmon stated on May 8, 2014, vehicle 1303 (meter reading truck) sustained damage when another vehicle ran into it. This budget amendment will appropriate the insurance proceeds of \$5,480 into the account to be used for repairs.
- E. Consider approving Budget Amendment #45 in the Economic Development Fund to remove the appropriation to Providencia USA, Inc. for the One North Carolina Fund Grant in the amount of \$42,000.**

Mrs. Salmon said in 2011 Providencia USA Inc. was awarded a grant in the amount of \$42,000 by the N.C. Department. The company has elected to forego the grant. No grant funds have been spent by the company or the City. The grant expired on January 26, 2014. This budget amendment will eliminate the grant revenue and the corresponding appropriation for the payment of grant funds to the company in the amount of \$42,000.

Mayor Kutteh advised that Providencia USA, Inc. is the largest electric consumer in the City.
- F. Consider approving a formal request from the Downtown Statesville Development Corporation that the City of Statesville be an official co-sponsor of the Statesville Criterium Bike Race, providing in-kind services.**

Marin Tomlin stated the Downtown Statesville Development Corporation is working with Charlotte Sports Cycling to coordinate the Statesville Criterium Bike

Race set for Friday, August 1, 2014, in Downtown Statesville. In keeping with the City's Special Events Sponsorship Policy, DSDC would like to make a formal request that the City of Statesville be an official co-sponsor of the 12th year of this event, providing in-kind services such as electrical hookups, portable lights, bleachers, security, set up and removal of barricades, sanitation pickup, trash containers and other services as approved by the City Manager. 300 race participants and 1,000+ spectators in attendance are expected.

- G. **Consider approving (1) a request from the Downtown Statesville Development Corporation to close selected streets in downtown Statesville for the Statesville Criterium Bicycle Race on Friday, August 1, 2014, (2) the temporary towing enforcement of vehicles along the race route during the closure period and (3) two alternate street closures in case Option A is unsuitable due to Phase II streetscape construction.**

Chief Anderson stated that this event has been successful in previous years, with no complaints made to the Police Department by the general public or business owners. NC DOT permission to close effected State maintained streets has been requested, and approval is pending. Statesville Police Officers will provide traffic control and security for the event. Council has granted the requested towing enforcement in previous years.

Regular Agenda

- III **Conduct a public hearing and consider approving first reading of TA14-02 filed by the City of Statesville to amend Article 6 Development Standards, Section 6.07-Sign Regulations, G. Permitted Sign Standards, 2. C. Awning Signs and R. Signs in the CB, CBP, Municipal Service and H-115 Districts, and 9. Awning Signs.**

Sherry Ashley stated the purpose of this text amendment is as follows:

- Allow larger signs on awnings in the CB, CBP, Municipal Service District and the H-115 District (from 20 sq. ft. to 20% of the awning area)
- Allow same size awning signs consistent throughout city's jurisdiction
- Prohibit awning signs on 2nd story and above

Staff has completed research and would like to request that the City consider this language to allow the sign to be more proportional to the awning area. DSDC is also in support of this amendment. The language to be removed is shown as strikethrough and the new language is underlined in the proposed ordinance. The Planning Board's recommendation is favorable as presented with a unanimous vote and no one from the public spoke at the courtesy hearing.

Mayor Kutteh asked if this would allow multiple tenants to be on the sign as long as it did not exceed the 20%. Mrs. Ashley replied that it would.

- IV **Conduct a public hearing and consider approving first reading of ZC14-03 filed by 4G1C Properties, LLC for the property located at 204 Island Ford Road; Tax Map 4725-40-3580 from B-1 Conditional Use (CU) to B-2 Condition Use (CU).**

Mrs. Ashley stated this property was rezoned from R-10 (Urban Low Density Residential) District to B-1 CU (Neighborhood Service Conditional Use) District back in September of 1993. The only condition was that the property was to be used as a florist shop only. In 2007, the parcel to the south and the parcel to the west were rezoned from R-10M to B-1 CU with the conditions that convenience store/gas stations, eating establishments, coin laundry and any 24 hr. service being prohibited. Since that time the house located at 218 has become Savvy Salon. Ms. Karen Osborne with 4G1C Properties, LLC is requesting to rezone the parcel located 204 Island Ford Road (see GIS map) from B-1 CU to B-2 CU to allow an internet based office (sells apparel, collectibles and antiques) and future antique shop. The B-2 District would allow general office and antique shops. However, because the B-2 district allows more uses than the current B-1 District, the applicant is proposing to exclude several uses that would not be compatible with the neighborhood (see attached conditional use zoning permit). Currently the site contains a two story house and two paved areas for parking. To use for the property for other uses permitted in the future, the site would have to be brought into compliance with parking, setbacks, screening and landscaping, etc. to meet the requirements of the Unified Development Code.

The surrounding zoning districts and land uses are as follows:

- NORTH OF THE SITE:** R-10M (Urban Low Density Manufactured Housing Residential) District, nonconforming apartments (2 duplexes), B-5 (General Business) District, Southern Bell Telephone and the City of Statesville substation
- EAST OF THE SITE:** B-4 (Highway Business) District, West Park Shopping Center
- SOUTH OF THE SITE:** B-4 (Highway Business) District, CVS Pharmacy, and the Employment Security Commission, B-1 CU (Neighborhood Services) District, currently contains a house, R-10M (Urban Low Density Manufactured Housing Residential) District, Single-family homes
- WEST OF THE SITE:** B-1 CU (Neighborhood Service) District, house at 218 now Savvy Salon and R-10M (Urban Low Density Manufactured Housing Residential) District, Single-family homes

The 2005 Land Development Plan projects the property to industrial. However, the properties closer to and around the intersection are zoned and used as commercial. Staff could support a B-2 CU with conditions because of the previous 2 re-zonings in the area and provided the Land Development Plan is amended. In staff's opinion a B-2 CU district is a reasonable transition from B-4 to B-1. In addition, it is time to update the 2005 Land Development Plan. Also site plan approval will be required by Planning Board and City Council when the use changes or exterior changes to site are proposed.

The applicant held the required informational meeting on May 22, 2014. One adjoining property owner, Mr. Robert Jarvis attended and one other adjoining property owner called, Mr. Jerry Hicks. Both were not opposed to the requested use(s). The Planning Board's recommendation is favorable as presented with a unanimous vote and no one spoke in opposition.

Council member Schlesinger asked if the adjoining property owners have been notified. Mrs. Ashley replied they have and the applicant is also required to hold an information meeting which was held on May 22, 2014.

- V Consider appointing/re-appointing two members to the Planning Board.**
Mayor Kutteh explained the process.
- Council members briefly discussed term limits for Boards and Commissions.
- VI Consider re-appointing Chuck Goode and Bryan George to the Downtown Design Review Committee.**
Mayor Kutteh explained the process.
- VII Consider renewing a lease agreement between the City of Statesville and I-CARE, Inc., for property located at 1204 Rickert Street for a term of five years at a rate of \$1 per year.**
Mrs. Ashley stated this lease is recommended to extend child care services to the Rickert Street neighborhood. The facility is located on municipally owned property which we have leased to I-CARE since 1994.
- Council members agreed by consensus to move this item to the Consent Agenda.**
- VIII Consider awarding the contract for Street Improvement Projects – Division Y and Unpaved Streets.**
The Public Works Department received bids for the annual street improvement contract on June 12, 2014 at 10 AM; the results of the bid opening are below:
1. Maymead, Inc. \$505,275.00

Bids were originally due on June 3, 2014, but only one was received. In accordance with state guidelines for the formal bidding process, the project was re-advertised for a period

of seven days, with a new due date of June 12, 2014. On the second due date no additional bids were received, and the original bid was opened.

The bid amount is based on unit prices and includes asphalt resurfacing, adjustment of manholes and valve boxes, and minor patching as necessary prior to resurfacing to improve ride quality of the streets. The price of asphalt increased from the previous street improvement contract, from \$87.78 per ton to \$91.50 per ton. Unpaved streets to be paved in this contract include Springdale Drive and Wood St., which are Nos. 22 and 23 on the unpaved street priority list. The City's Street Division will perform the grading work for these streets. Funds available for Division Y Streets total \$525,000 and the bid amount is \$505,275.00. Staff recommends a project budget of \$525,000, and requests authorization to apply any remaining funds to street maintenance, with a priority on unpaved streets. Maymead has successfully completed paving projects in Statesville and surrounding areas and their work has been satisfactory. Staff recommends award of the Street Improvement Projects — Division Y and Unpaved Streets contract to Maymead, Inc. of Mountain City, TN in the amount of \$505,275.00, with a project budget of \$525,000.

IX Consider approving first reading of an ordinance establishing a two way stop intersection at south Mulberry Street and Steele Street.

Chief Anderson stated the Traffic Safety Director has made a study of the traffic conditions on South Mulberry Street and Steele Street, and recommends to Council that a two way stop intersection be established at the intersections of South Mulberry Street and Steele Street. Currently there is an established stop intersection at Steele Street and South Mulberry Street for traffic traveling west on Steele Street. Throughout the business day there is a considerable amount of foot traffic entering and exiting JC Steele. Reports indicate that motorist traveling south from Mulberry Street, onto Steele Street, are turning sharply on to Steele creating a potentially hazardous condition for pedestrian traffic. It is the opinion of the Traffic Safety Director that ensuring the motoring public's safety and welfare requires that a two way stop intersection be established at South Mulberry Street and Steele Street.

Council members agreed by consensus to move this item to the Consent Agenda.

X Consider granting permission to the Statesville Police Department to enter into a contractual agreement with the Statesville Housing Authority (SHA) for the purpose of assigning a full-time police officer to provide police services exclusively at all properties owned by the SHA within the City of Statesville.

Captain Miglin stated the Statesville Housing Authority will reimburse the Statesville Police Department up to \$53,756 between July 1, 2014 and June 30, 2015 as compensation for providing one (1) full-time police officer to provide police services exclusively in all SHA properties within the City of Statesville. Total compensation will include fringe benefits, as well as training, vehicle, and equipment expenses. Overtime expenses are the responsibility of the City of Statesville. The SHA Officer will perform essential job functions as identified on attached job description. Reimbursement to the City of Statesville will be made upon the submission of a monthly invoice identifying hours worked, name of officer, and submission of monthly activities, all of which will be provided by the Statesville Police Department.

ADD Consider approval of a resolution amending the rates established in the Renewable Energy Credit Rider RECR-1.

Kent Houpe stated these rates were established as part of Resolution #28-13 on December 16, 2013. As a result of this rider being adopted mid-year it was inadvertently left out of the rate package submitted as part of the 2014-2015 budget. The amount of the changes is very insignificant, but needs to be adopted by Council prior to being applied. The rider credits are being amended as recommended by Power Agency NCMPA1.

Council members agreed by consensus to move this item to the Consent Agenda.

XI Consider amendments to various Downtown Guidelines.

Nancy Davis gave the following report. Council's directives are listed after each item.

The streetscape project has created a valuable opportunity for the City and DSDC to review the regulations and policies which guide the development and use of downtown.

The primary project is to create an on-line resource with easy access to all types of information about Downtown: guidelines, forms, contact information, maps, photos ... everything anyone would need to visit, to open a business, buy a property or refurbish an upstairs!

In the process of research and gathering this information, we have become aware of various issues that possibly require some tweaking of our current ordinances. The topics I am bringing to you today are only the ones that are most pressing. Along the way, you will also have a chance to review proposed guidelines for storefront aesthetics and other issues that we are certain will come up. I will also note that educational workshops are being planned for downtown property owners to get everyone on the same page with any changes.

Our goal today is to go over these most pressing issues and get Council's feedback. We want to answer your questions and help you consider the different possibilities and their implications. Marin Tomlin is here, along with City staff to field your questions. DSDC, Planning, Public Works, Police - a lot of folks have been a part of this in some fashion.

Ribbons on the light poles in Downtown Statesville

In recent years, four organizations received permission from the City Manager's office to tie ribbons on the light poles in Downtown Statesville for the period of one month or less in order to observe their causes. The UDO lists "ribbon" as a prohibited sign in any district, but this is a new means of promotion and received mixed reviews from the public. As it is written now, the City Manager does have the authority to make exceptions. - but there are no specifications about quality of ribbon, use of metal wire to tie them on the pole, length of time they can be tied or the definition of a "cause".

What are your questions or thoughts on allowing ribbons to be tied on the downtown poles?

Consensus was to direct the City Manager to prohibit tying ribbons on poles.

Staff will develop a recommendation for the wording and whether it should be adopted as an amendment to the current ordinance or as a City policy.

City's guidelines for allowing outdoor dining

To get a permit for an encroachment, the establishment must get a permit from the Planning Dept. The regulations are that it must be: be a restaurant, comply with ABC laws and have appropriate insurance coverage, meet the dimension guidelines and furniture standards.

- *"Establishments" may apply with the Planning Department for an encroachment*
- *The layout for the outdoor dining area must be submitted, along with the types of barriers, furniture and other accessories, for approval.*
- *Guidelines and examples of acceptable layouts, furniture and materials are provided in the Design Guidelines for Downtown.*
- *If the "establishment" complies with all ABC regulations and has proof of liquor liability insurance, the sale and consumption of alcoholic beverages are permitted within the encroachment area between 7 a.m. and 10 p.m. provided that such beverages are sold in conjunction with dining in the establishment.*
- *The encroachment approvals are good for one year only and must be reapplied for on an annual basis.*
- *There are no fees associated with the encroachment application process.*

The amendment to allow alcohol to be served in outdoor dining areas was approved in 2002. From everything we can find, the intent of the permission to serve alcohol was in conjunction with dining. The original ordinance required that the establishment meet the requirements of the NCABC Commission necessary to allow the sale of mixed drinks ... which is currently "Food sales must exceed 30% of total food and alcohol sales. Beer, wine and mixed beverage sales are included in the total alcohol sales. • Food must be available during all business hours. A limited menu is allowed during non-dining hours.

There have been no problems - but there hasn't been a lot of policing either. It seems to be working.

Currently, only restaurants have been granted encroachments and permission to serve alcohol - but there may come a time when an establishment with an on premise license but offers no dining may request an encroachment permit.

There are communities in our area who do not require dining with being served an alcoholic beverage in an outside area. There are also communities like Statesville who do require it.

What are your questions or thoughts on amending the encroachment ordinance as it applies to serving alcohol in outdoor dining areas?

Eddie Gaines will contact the lawyer with the ABC Commission and clarify the definition of "adjacent" and the legality of serving alcohol in outdoor dining areas that do not abut the property.

Council consensus is that establishments permitted to serve alcohol in outdoor areas be prohibited from using city-owned furniture in these areas.

Council consensus (but not unanimous) is to remove the outdoor dining requirement that alcohol can only be served in encroachment areas in conjunction with dining.

Staff will evaluate the benefit of changing the times allowed for outdoor dining as it relates to the day of the week and locale of dining to residential areas.

Sidewalk Obstructions

Another topic is the ordinance concerning sidewalk obstructions - specifically as it applies to newspaper boxes, sidewalk displays by nonprofit organizations and street performers.

The code prohibits the placement of structures and objects on the right-of-way of a public sidewalk except as defined as an encroachment. Freedom of speech allows individuals and groups to stand on sidewalks as long as they don't obstruct the flow of traffic or pedestrians, don't block entrances to buildings, don't physically or maliciously detain passers-by and don't use amplification. The Police handle permitting for marches and parades. The City has panhandling and nuisance restrictions in place, but does not have any guidelines for sidewalk performers.

Different towns handle these topics differently - some towns provide kiosk type literature boxes and lease them to newspapers and magazines. They are able to control the look of the boxes as well as the location. There are two areas currently in downtown that have become a mish-mash of different literature boxes - most don't comply with the standards we require for sandwich board signs, waste containers, etc. Conversations were held during the development of the Master Plan to create a decorative newspaper dispenser in the downtown area, but no action was taken. The R&L has expressed a willingness to work with the City on this matter.

What are your questions or thoughts on regulating the placement of literature boxes on public property in downtown?

Staff will develop design standards for newspaper boxes and where they can be placed on public property in downtown in keeping with the streetscape master plan. Staff will distribute to Council a photo of the kiosk type boxes included in the original streetscape master plan.

Display Structure on Downtown Sidewalks

Currently, one organization has set up two different display structures on the sidewalk. While the ordinance allows them to stand on the sidewalk and hand out literature, it does not permit structures to be erected on a sidewalk.

What are your questions or thoughts on regulating display structures on sidewalks in downtown?

According to Eddie Gaines, Freedom of Speech rights take precedence over the City's sidewalk obstruction regulations in regards to non-commercial displays and placement of furniture/equipment on the sidewalks. Individuals or groups setting up such displays may not obstruct the flow of traffic or pedestrians, block entrances to buildings, physically or maliciously detain passers-by and use amplification. There will be no changes to these regulations at this time.

Street Performers

Currently, there have been a few spontaneous musicians performing in public areas downtown, but there have been no problems. Some communities regulate the entertainers with a permit process that also designates where they can perform and for how long.

What are your questions or thoughts on regulating sidewalk performers in downtown?

Council gave no direction at this time to create any guidelines for street performers.

There being no further business to discuss, Council member West made a motion to adjourn the meeting, seconded by Council member J. Johnson. The motion carried unanimously.



Attest:

Constantine H. Kutteh, Mayor

Brenda Fugett, City Clerk