

**MINUTE BOOK 23, PAGE 135
CONTINUED CITY OF STATESVILLE COUNCIL MEETING – April 24, 2009
CITY HALL COUNCIL CHAMBERS – 9:00 a.m.
STATESVILLE, NORTH CAROLINA**

Mayor Kutteh presiding:

Council Present: Eisele, J. Johnson, M. Johnson, Matthews, Stallard, Steele

Staff Present: Hites, Salmon, Smyth, Anderson

Media Present: J. McNally – Record and Landmark

Visitors: 23

Mayor Kutteh opened the continued meeting by explaining this session of the legislature has proven to be a very active one and is requiring a significant number of local actions in response. Some items have been handled during regular agenda but there are three additional resolutions in response to legislative actions required of Council today. Mayor Kutteh explained these issues are not matters for public hearing but he expressed appreciation for those visitors who have taken time to attend today's meeting. Further, Mayor Kutteh noted that although Councilmembers Gregory and Huggins are not present, they were present at Monday's meeting and have not been duly excused hence their votes will be cast in the affirmative of any motion.

Approve a resolution opposing the representation of law enforcement officers by union representative in disciplinary proceedings. (Reso #14-09)

Manager Rob Hites informed Council that House Bill 1266 mandates law enforcement officers who are members of a union have a representative of the union present during any internal investigation or disciplinary action. Hites noted that the City of Statesville since 1946 has had in place a Civil Service Board to review disciplinary action of law enforcement officers and this system has served the purposes of the City and protected the interests of law enforcement officers in disciplinary actions. As the City's personnel officer, Hites recommends against involving any outside individual in a personnel matter he considers an internal matter and a private, protected concern of the employee. Further, Hites objects to any class of public employee receiving protections not afforded other classes of public employees. The Police Executives have also voted to oppose this bill.

Mayor Kutteh asked Hites if it was his opinion the Civil Service Board along with the City's appellate procedures satisfies the concerns intended by the union representative and Hites said he did think these items satisfied any concerns in this respect.

Upon a motion by Councilmember J. Johnson, seconded by Councilmember Steele, Council unanimously approved a resolution in opposing the representation of law enforcement officers by union representative in disciplinary proceedings.

Approve a resolution opposing the limitation of a local governing body's sovereign immunity. (Reso #15-09)

Smyth explained this bill will be more restrictive of a local government's authority to use sovereign immunity as a defense in liability claims, will require that claims in excess of \$25,000 be approved by the court system prior to settlement and expands the definition of proprietary functions for which there is no immunity or limits to liability. It is anticipated, if the bill passes, to be much more difficult to settle cases administratively and will take longer to settle those claims making it more expensive to settle them.

Upon a motion by Councilmember M. Johnson, seconded by Councilmember Steele, a resolution in opposition to Senate Bill 1026 and House Bill 887, was unanimously approved by Council.

Approve a resolution opposing HB676 (Iredell County Law Enforcement Jurisdiction) (Reso #16-09)

Manager Hites introduced this item by explaining this bill would repeal a local bill passed in 1971 that granted County wide jurisdiction to Mooresville and Statesville. The 1971 local bill allows Statesville officers to respond quickly to crimes that occur within the City limits but the investigation leads to locations and/or activities in the County. The expediency with which City officers are allowed to respond in the entire County results in a more successful resolution of the criminal activity.

Police Chief T. Anderson reported having a good, cooperative relationship with other law enforcement agencies in the County, including the Sheriff's Department, State Highway Patrol and the various City departments. Historically, the agencies have worked together in a cooperative manner and to his knowledge, this County wide jurisdiction has not caused any issues of officer safety. Anderson said that City officers participate at various check points throughout the County when invited to do so by agencies such as Iredell County Sheriff's Department and State Highway Patrol for programs like Booze It and Loose It or Click It or Ticket It.

Senator Forrester was first asked to introduce this bill and very shortly after his receipt of the request from the Sheriff's Department, he contacted Chief Anderson for his comments. Chief Anderson and Manager Hites commented opposition and the reasons for opposition to Senator Forrester and he decided not to introduce the bill. Current sponsors did not have contact with any City representative, elected or appointment, prior to introducing the bill.

Councilmember M. Johnson sought clarification of the one mile extraterritorial jurisdiction and if that one mile is consistent with the extraterritorial jurisdiction approved by the County for Planning purposes. It was clarified that for the purposes of this issue, the one mile jurisdiction is measured from the contiguous City limits. There would be no extra mile of jurisdiction from the borders of a satellite annexation. Chief Anderson further clarified that if the City is actively pursuing a suspect, it could continue into the County but under the new bill, would be prohibited from following an investigative lead into the County. Anderson cited the example of the mall incident when the elderly lady was knocked down and injured in a robbery. Upon investigation of the incident, the City determined the addresses of the suspects were in the County but they were able to immediately respond to those address and seek the suspects. The Iredell County Sheriff's Department was notified of the City's encroachment into the County area. As a result of the Police Department's ability to respond without delay, they were successful in arresting the suspects. Chief Anderson noted that the longer the time delay between crime and timely investigation, the less successful the outcome of the investigation. Anderson reiterated that most stops by the City in County are done very close to the actual City limits or in a cooperative effort with other law enforcement agencies.

Councilmember J. Johnson said these types of issues were not the ones causing concern but instances where City officer are accused of taking enforcement action in the northern end of the County. Councilmember J. Johnson stressed that he was not indicating these rumors were truthful or anything more than rumor, but those incidents are the ones of primary concern and he asked Anderson if he was aware of the City taking enforcement action in the northern end of the County.

In response, Mayor Kutteh asked that every effort be made to focus on things we know to be true and that we try not to speculate about things that cannot be verified or legitimized. Councilmember Stallard supported Mayor Kutteh's comments and added that it should not be the goal of the Council to get into a who said what battle but to resolve real concerns that we know about as they arise. He suggested that we work

with the Sheriff's Department to establish a good, strong working relationship where each agency is supportive of the common goal to make our City and County safer.

Councilmember Eisele inquired what happens to an investigation if the crime is committed in the City but the suspect leaves the City limits and goes into County jurisdiction under this new bill. Anderson replied that it will take the City longer to coordinate a response that it currently. Rather than being able to draw their own warrants and respond, they will need to call the County, get them to swear the warrant and respond jointly, as the County has officers available. Councilmember Eisele expressed her concern regarding any reason the Sheriff would have to expedite these types of requests by the City.

In summary, Councilmember Steele stated that she believes the City's police officers and the sheriff's deputies have a common goal to protect and serve their respective citizens and all make a diligent effort to do so. Further, she noted that as an elected official for the City of Statesville, she is compelled to support actions that are in the best interest of citizens of the City and that limiting the jurisdiction of the Statesville Police Department impedes the ability of the department to close cases efficiently, expeditiously and effectively. Councilmember Steele also pointed out that deputies have a lot to lose in this situation and should this bill be adopted, all parties have a lot to lose and nothing to gain.

Councilmember M. Johnson inquired if since 1974, the Sheriff Department has asked for assistance from the City Police Department to which Chief Anderson replied in the affirmative. As a follow-up, Councilmember M. Johnson asked if these routine requests could be handled as easily in the future under the new bill to which Anderson replied they could not. Issues of jurisdiction and liability would become much more problematic and although a mutual aid agreement would cover some of the instances, there are others it would not address.

As a member of the elected Board for the City of Statesville, Councilmember M. Johnson expressed his outrage that no elected official who sponsored this bill contacted any member of the City of Statesville Council to seek input regarding their sponsorship of this bill. Senator Forrester contacted the Chief of Police when he was approached to sponsor the bill and after hearing both sides of the situation, chose not to sponsor the bill. Councilmember M. Johnson strongly urged Council to express their concern to the Iredell County elected delegation who sponsored this bill about their neglectful attitude toward this elected Board whose constituency is so materially and consequentially affected by this bill. Councilmember M. Johnson suggested such language could be added to the resolution but by consensus, Council thought it best to forward separate letters on this issue.

Upon a motion by Councilmember Steele, seconded by Councilmember Matthews, Council unanimously approved the adoption of a resolution to oppose HB676 (Iredell County Law Enforcement Jurisdiction).

There being no other business for Council consideration, upon a motion by Councilmember Steele, seconded by Councilmember Matthews, the meeting was adjourned.

Mayor

ATTEST:

City Clerk

