

**MINUTE BOOK 23, PAGE 158
CITY OF STATESVILLE COUNCIL MEETING – May 18, 2009
CITY HALL COUNCIL CHAMBERS – 7:00 P.M.
STATESVILLE, NORTH CAROLINA**

Mayor Kutteh presiding:

Council Present: Steele, Gregory, M. Johnson, J Johnson, Matthews, Stallard, Huggins

Staff Present: Cranford, L Smyth, Hutchens, Bullins, S Smyth, Hites, Craddock, Earnhardt, Salmon, Currier, Pressley, Anderson, Davis, Gaines, Miller

Media Present: J McNally - Record and Landmark
D Vieser – Charlotte Observer

Invocation

The invocation was given by the City Clerk.

Pledge of Allegiance led by Troop #239

The Pledge of Allegiance was led by Girl Scout Troop #239.

Public Comments

Mayor Kutteh asked if there was anyone present who wished to address the Council. There were no speakers.

Mayor Kutteh offered congratulations to GSDC, together with the Mooresville-South Iredell Development Corporation, for ranking in the top 10 of all Metropolitan Economic Development Corporations. He also congratulated the several hundred members involved in helping Statesville achieve the Guinness World Record for a music marathon.

CONSENT AGENDA

- A. Approve minutes of the pre-agenda meeting of April 30, 2009, and Council meeting of May 4, 2009.**
- B. Consider a motion to close the West Broad Street public parking lot on Tuesday nights, between May 19 - October 20, 2009, from 5:30 pm- 8:30 pm to accommodate the “Toolin’ in Town” classic cars and motorcycle displays. Appropriate signage will be placed and notification to area merchants will be done in advance by the sponsors.**
- C. Consider passing the first reading of an ordinance to delete City Ordinance #16-01 (Section 12-138), which restricted parking in the Statesville Police Department parking lot during specified days and times to accommodate the Statesville Rotary Farmer’s Market. Due to the fact that the Farmer’s Market no longer operates from the Police Department parking lot, these restrictions are no longer necessary.**
- D. Consider passing the first reading of an ordinance amending Chapter 12, Article V, Division 1, of the City of Statesville Municipal Code to prohibit parking at all times on the south side of Durham Avenue, New Bern Avenue, and Wilmington Avenue, between 7th**

Street and Caldwell Street. Appropriate signage will accompany this ordinance.

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E. The American Renaissance School has requested the partial closing of Cooper Street on May 29th from 5:30 p.m. to 9:00 p.m. for a “Backyard Alley Bash”.

F. Make a formal request that the City of Statesville co-sponsor the 2009 celebration of Juneteenth and provide in-kind services.

G. Approval of BA# 31 to appropriate funds from ElectriCities.

Upon a meeting by Council member J Johnson, seconded by Council member Gregory, the Consent Agenda was unanimously approved.

REGULAR AGENDA

Conduct a public hearing on the 2009-2010 budget.

Mayor Kutteh declared the public hearing open. Mayor Kutteh asked if Council had any further questions or items for discussion. He advised the 2009-2010 budget will be approved at the June 15 meeting.

Council member Steele apologized for missing the budget work session. However, she read the minutes regarding the brief discussion on the school resource officer. She noted the difference between this school resource officer being a city police officer and a sheriff deputy. The alternative school is moving back into the City of Statesville. It was in the City of Statesville and we had a city police officer (Chris Bowen) who was the school resource officer. The school was moved to Barium Springs. The principal requested that the city police officer remain as the school resource officer. The County voted not to have a city officer since the school was in the county. Bowen became a sworn police officer for the City of Statesville. The school is now moving back into the City of Statesville. There was a brief discussion about keeping the deputy as the school resource officer. There was not a vote taken on that action and it wasn't added into the budget. With the difference in what the school pays; the City can get a sworn police officer who is a school resource officer for \$ 8,900. Council member Steele asked for this to be added to the budget.

Council member J Johnson stated that he went to the meeting at Barium Springs. This deputy has been with these children for 3 years and they all love the deputy. This could make the transition easier on these children. Principal Gable said he would like to keep the deputy.

Council member Steele stated the City (Manager & Finance Officer) has received a letter asking for the Police Chief to come up with a package. Mr. Hites confirmed that he saw that letter today.

Council member Steele noted this school is inside the city limits. The Police Department will be called to back up anybody that is there. The City is getting a police officer and the school system is paying for him ten months out of the year.

Mayor Kutteh noted that it appears there is information that Council hasn't seen. He asked Ms. Salmon to put this item on the next agenda.

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

- A. Municipal Agreement for Wilson Lee Bridge (Project #B-2576)**
- B. Utility Agreement for Wilson Lee Bridge (Project #B-2576)**

NC DOT plans to construct a new bridge over the railroad tracks on Wilson Lee Boulevard to replace the existing bridge.

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The City has water and sewer lines within the right-of-way and it is the City's responsibility to pay for utility relocations.

The most recent cost estimate from NC DOT is \$225,576.00. Due to the substantial expense, City staff has met with NC DOT staff and requested changes to reduce the cost. Following negotiations with the staff the cost estimates have been reduced to \$ 47,725. Mr. Pressley advised that he will bring back a Budget Amendment to Council and ask Council to establish a project budget of \$ 53,000 which includes a 10% contingency

Staff recommends approval of the Municipal Agreement and the Utility Agreement for the Wilson Lee Bridge Replacement Project B-2576.

Upon a motion by Council member M Johnson, seconded by Council member Stallard, the municipal agreement for Wilson Lee Bridge was unanimously approved.

Upon a motion by Council member M Johnson, seconded by Council member Stallard the utility agreement for Wilson Lee Bridge was unanimously approved.

Consider approving application COA09-11 filed by Mr. Josh Meeler, for the property located at 646 West Front Street; Tax Map Number 4734-74-3189.

Background

This is a one and one-half story brick bungalow with bracketed eaves and gabled dormer on the front. There is a porte-cochere on the right side of the house and a small garage in the rear. The home is a well preserved example of a 1920 bungalow.

Request

The house is owned by Mr. and Mrs. Josh Meeler. They are requesting to demolish the rear garage. The condition of the garage has worsened over the year. The structure is close to the ground which has caused water and termite damage. In the structure there are a number of rotten boards. The owner has made numerous attempts to salvage some of the lumber in the structure with attaching new lumber to the existing roof and walls (will not meet current building code standards). There are places that the rafters have been pieced, as well as on the west side of the structure there has been an addition added to the garage which would not meet current building code standards in any facet. The building is leaning due to a lack of structural support creating a safety hazard. The Meeler's have to utilize the neighbors drive to turn vehicles around. With the demolition of the structure the Meeler's will be able to use the area as additional parking space. Currently they are not able to park inside the structure for fear of the structure falling.

Staff Review

The Historic Preservation Commission recommended approving the demolition of the accessory garage at the April 24, 2008 meeting. The request was heard by City Council in May of 2008 and was denied.

Mr. Currier noted the DSS Childrens' Home has been located next door. They have reconfigured the driveway and parking. The Meeler's are no longer able to use that area to turn around. They are asking for Council's approval to demolish the structure and grass the area to be converted into a turn around.

Upon a motion by Council member Matthews, seconded by Council member Stallard, COA09-11 for the property located at 646 West Front Street was unanimously approved.

Consider approving site plan for P09-04 The Crescent Multi-Family Development located off Fourth Crescent Place; Tax Map 4745-57-0495

The site is located off Fourth Crescent Place behind Home Depot (see GIS map) within the city's ETJ. The property consists of approximately 20.45 acres with the portion developed with the apartments being 17.373 acres and it is zoned R-5MF. The site plan indicates 256 apartment units to be housed in 10 buildings with 512 parking spaces. Amenities such as a club house, future amenity area, half court basketball, and greenway walking trail are also proposed to be provided. Access to the site will be off Fourth Crescent Place or Parcel Drive via Turnersburg Highway. Even though a TIA was done in 2000 with the original phase of the development, NCDOT is requiring an updated TIA. Therefore, off-site improvements may be required.

The TRC reviewed the site plan on March 3, 2009 with several corrections and approved the site plan on April 1, 2009 contingent upon copies of the DENR permit, driveway permit, voluntary annexation, providing a greenway easement and sewer capacity approval before the zoning clearance is released. In addition, if the TIA or driveway permit requires changes to the site plan, it must come back to Planning Board and City Council for approval. These units will be sprinkled.

Mr. Currier recalled that at the pre-agenda meeting there was discussion about the erosion control and storm water runoff. The city doesn't have current measures for storm water mitigation. The applicant worked off current the regulations and with the economic crisis he has done all he can do to make this issue work.

The other issue is the proposed greenway. Mr. Bullard worked with Mr. Pressly on getting this dedicated to the city. Mr. Pressly had trouble with his current mortgage because of this unwritten easement. He is still trying to connect the easement. The applicant is compliant with the current regulations. This request has the unanimous recommendation of the planning board.

Council member M Johnson, seconded by Council member Matthews, made a motion to approve the site plan for P09-04The Crescent Multi-Family Development located off Fourth Crescent Place. The motion was unanimously approved.

Approve Fire Department to apply for two Assistance to Firefighter's Grants- 10% match required

- 1) **Fire Department Operations and Safety Area- Wellness and Fitness Programs Grant** to purchase fitness testing equipment to perform fire service standard physical capabilities testing on all personnel and to have two personnel become Certified Fitness Trainers. We have one certified trainer in our department at the present and adding two additional trainers will allow for one trainer per shift to oversee fitness testing, nutrition and training classes, and monitor compliance with department guidelines on physical fitness.

Certification for two Peer Fitness Trainers	\$3715.00
Testing Equipment	\$6435.00
Total	\$10,150.00
10% Match	\$1,015.00

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- 2) **Vehicle**-Engine for Fire Station 4. Custom Fire Pumper/Engine & chassis, 6 passenger cab with 15" raised roof, 500 gallon minimum tank, and 1500 gpm pump. The engine will be similar to E-1, our most recent engine purchase. All equipment for engine will be requested as well.

Total grant request will be	\$591,680.00
10% Match	\$59,168.00

Summary of Grant: These funds are being requested from the Assistance to Firefighters Grants offered through FEMA and the Department of Homeland Security each year. There are three areas of grant funding available and we have applied for funds in each area.

Total funds being requested-	\$601,830.00
10% Matching funds from City of Statesville	\$ 60,183.00

Upon a motion by Council member J Johnson, seconded by Council member Stallard, the two Assistance to Firefighter's Grants with 10% matching funds were unanimously approved.

Approval of a territorial agreement with Energy United

In July 2005, the North Carolina legislature passed SB512 which modified existing territorial law regarding ElectricCities members and electric cooperatives. One provision of this law was the mandate for the cities and cooperatives to negotiate territory and if an agreement was reached to submit the agreement to the North Carolina Utilities Commission (NCUC) for approval. Negotiations with EnergyUnited began in fall of 2005 and continued until June 2008 with no agreement reached. In September 2008, EnergyUnited filed a petition with the NCUC requesting that it resolve EnergyUnited's claim of a dispute with the City of Statesville. Voluntary mediation was the first step in the NCUC resolution process. The City of Statesville and EnergyUnited agreed to mediation, and reached a tentative agreement in April.

The proposed agreement establishes several areas outlined in the attached map:

1. Area A is a portion of the area originally assigned to EnergyUnited by the NCUC in 1965. Statesville would agree not to extend electric service into this area.
2. Area B provides exclusive electric service rights for Statesville. This area is primarily the existing city limits and a buffer area around most of the city. EnergyUnited would agree not to serve any new loads in this area. Statesville would have exclusive rights to serve here except in limited areas where Duke Energy may be able to compete with Statesville for electric service rights. This agreement would obligate Statesville to provide electric service in Area B and upon a customer's request would require extension of Statesville's electric distribution lines to the customer.
3. Area C is within Statesville's city limits and Statesville would agree to relinquish all electric service rights to EnergyUnited. This area is primarily the territory within the city limits east of Fourth Creek. Statesville currently has no distribution lines in this area.
4. Area D would be handled under existing law with a few modifications. This area is around the Statesville Airport and Statesville Business Park and provides Statesville the ability to annex and compete for new customers as we currently do outside the city.

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This agreement requires the approval of Statesville City Council, EnergyUnited, and the NCUC. This compromise was reached after considerable research, discussion, deliberation, and negotiation and involved the work of the city staff as well as ElectriCities' staff and attorneys from the law firm of Poyner and Spruill. We believe this agreement offers a fair and balanced approach for both Statesville and EnergyUnited while maintaining ample opportunities for future growth for Statesville's Electric Utility.

Council member M Johnson asked if the hatched area with 26 service miles at a cost of \$ 4 million goes outside to the area where we are competing with Duke Power. He confirmed staff hasn't done any calculations through Murdock Road. Cranford replied that we would have the opportunity to determine if it made sense to extend our services into those areas. Mr. Hites clarified the obligation to serve is only when the client asks us to serve. Cranford agreed except for the City of Statesville exclusive area.

Mayor Kutteh added that what Mr. Hites is suggesting that the \$ 4 million loan will only be incurred if a particular customer within our service area requests our service. This will not happen all at one time. Mr. Cranford agreed.

Upon a motion by Council member Stallard, seconded by Council member Gregory, the territorial agreement with EnergyUnited was unanimously approved.

Receive a report regarding prohibiting registered sex offenders in public parks and recreation facilities.

Council member Stallard requested that the staff study the issue involving the prohibition of registered sex offenders from the city's parks, walking trails and recreation facilities. Chief Anderson has studied the subject and found that a number of cities have adopted such prohibitions including Gastonia, Gaston County, Hickory, Greensboro, Asheville and Wilmington.

Mayor Kutteh instructed staff to put the first reading of this ordinance on the June 1st meeting.

Appropriate contingency funds in the SFAC construction budget to complete owner purchases for additional items at the Fitness Center and the pool.

Lynn Miller presented the updated membership projections as of May 8, 2009. Miller asked Council to appropriate contingency funds in the construction budget for additional items at the Fitness Center and the pool. She noted the additional equipment is being requested because of the number of additional memberships.

Council member J Johnson stated it is not the time to spend money for a greenway connection. Lynn Miller countered that a lot of folks are inquiring about connection to the parking lot.

Mayor Kutteh recalled there was some discussion about the blinds. Miller stated that they haven't been able to get someone out to provide estimate but staff will continue to look into that.

Council member Steele noted that Council bought a software package for the new recreation center. We were told that it would meet all of our needs and that didn't happen. There was some question about how many people could work on the computers at one time; there are a lot of computers in the recreation center. She asked if we have some assurance, from someone other than the people selling the software that this is going to work. Sassy Smyth has talked with

references provided by the software company and they are very pleased with the company. Council member Steele asked if the city has a guarantee if this doesn't
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work. Sassy Smyth explained that there are a maximum number of concurrent users who can be on the computer at the same time according to the licensing agreement; they are looking for 10 seats. Council member Steele stated that she thought this included the cemetery and everything that came under the recreation department. Mr. Hites agreed that was his understanding. Lynn Miller advised the cemetery is not included in this.

Mayor Kutteh asked if these are the same assurances that staff received from the software company the last time. He stressed that he needs to understand why this guarantee is better than the last vendor.

Miller explained that she feels the problem is that Rec Ware was bought by Active Network. This software would be operated from the internet and the city would be charged for each transaction. Staff isn't comfortable with that since when the internet is down or power is out the city wouldn't have any software.

Council member Steele asked if this will totally replace the old system. Miller replied that is her understanding.

Sassy Smyth stated that once the city purchases new software they will no longer use Rec Ware. She will rebuild the customer data base. The software she is looking at has more features than the current system and she feels more comfortable with it. Council member Steele stated she would like staff to ask the vendor what happens if we do all this and it doesn't work. Smyth agreed to ask that question of the vendor.

Mayor Kutteh asked how the ceiling fans and everything for the pool come up now. Lynn Miller stated the fans were requested from clients working out. All the things at the pool were considered owner related items. Mr. Hites added that he was under the impression that all these items were included but he was mistaken.

Council member M Johnson recommended calling the HVAC contractor to come out and determine if the system is balanced.

Council member J Johnson asked Mr. Pressley why the walking trails are so important now when the city has been discussing the possibility of cutting employees hours. Pressley stressed that he is not saying that this isn't something that the city couldn't function without. It was recommended by the Recreation staff. Pressley advised he walked through the woods on the proposed routes. It does appear the city forces could do the work on that. With the City doing the grading and putting down stone the city would cut costs to \$10,000. Pressley advised this would come out of the back of the recreation center toward Davie Avenue and wind down through the woods and tie into the greenway near the bridge on Davie Avenue.

Council member M Johnson commented that he has not discussed cutting hours of employees. Mr. Hites noted in October before we recognized the current budget situation we talked about cutting hours should the city budget necessitate it. However, at this point it doesn't seem that will be necessary. Council member Steel stressed that Council never talked about laying off employees. Mr. Hites agreed.

Council member Stallard stated that in the pre-agenda meeting he asked staff to look at this list to see if they could do without something. Staff came back without any cuts. It is almost like a wish list because there was money in the budget. He stated that staff should bring back a solid recommendation of what is needed.

Mr. Hites added that staff has done that and they feel they need all these items.

Miller advised the ice cream company may furnish the freezer but that isn't definite.

Mayor asked for the pleasure of Council.

Council member Steele made a motion to approve \$ 30,000 for Rec Ware Upgrade and \$ 17,000 for the pool. Council member J Johnson seconded the motion.

Miller advised that Council instructed her to get quotes on perimeter security. She advised the quote received by phone was \$ 3,500.

Mayor Kutteh pointed out there were other items recommended by Finance; 2 Cash Registers @ \$300 each; Locking Cash Drawer @ \$250; 1 Phoenix Safe \$ 700 and 2 security cameras for Concession and Admission @ \$1,700 for a total of \$ 3,250. Ms. Salmon agreed that she thought these items are essential.

Council member Steele amended her motion to include the items recommended by Finance. Council member J Johnson amended his second to the motion. The motion was unanimously approved.

There being no further business to come before Council, upon a motion by Councilmember Steele, seconded by Councilmember Gregory, the meeting was adjourned.

Mayor

ATTEST:

City Clerk