

**MINUTE BOOK 25, PAGE 392
CITY OF STATESVILLE PRE-AGENDA MEETING – April 09, 2015
CITY HALL – 227 S. CENTER STREET, STATESVILLE, NC – 4:30 P.M.
STATESVILLE, NORTH CAROLINA**

Mayor Costi Kutteh presiding:

Council Present: J. Johnson, Schlesinger, Morgan, Williams, Watt, M. Johnson

Council Absent: Phifer, West

Staff Present: Pressley, Fugett, Gaines, Tomlin, Davis, Anderson, Miller, Hutchens, Cornelison, Houpe, Currier, Smyth, Ventresca, Harrell, Triplett

Others: 9

Media Present: 0

I Call to Order

Mayor Kutteh called the meeting to order. He advised there is one addition to the agenda; to hear a Request for Qualifications report from Marin Tomlin.

Mayor Kutteh stated an Executive Session will be held following the pre-agenda meeting to discuss a legal matter and to protect the attorney-client privilege.

Mayor Kutteh said the Old Davis Hospital acquisition is progressing. He stated that the City has purchased a memorial tree to be planted in memory of Jamie West, son of Council member West.

II Consent Agenda – 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.

A. Consider approving the minutes of the City Council February 26, 2015 Pre-Agenda meeting, the March 02, 2015 Council meeting, the March 12, 2015 Pre-Agenda meeting, the March 16, 2015 Council meeting and the March 23, 2015 Continued Council meeting.

B. Consider approving a resolution directing the City Clerk to investigate a petition of annexation; Receive the City Clerk's Certificate of Sufficiency; consider approving a resolution fixing a date (5-4-15) for a public hearing on the questions of the petitioned annexation.

Mayor Kutteh reminded Council that it had approved the request from Mr. Day to receive City water due to problems with his well, contingent upon his petition for voluntary annexation into the City. The property is located at 3419 Taylorsville Highway and is approximately 0.58 acres in size. The property is not contiguous to the primary corporate limits of the City of Statesville.

C. Consider granting permission to the Civil Air Patrol to hold an Aerospace Education/Rocket day at the Airport.

Mayor Kutteh stated this event has been held for several years at the Civil Air Patrol hangar and in the grassy area where the Balloon Rally is held without any incidents.

D. Consider approval of the annual audit contract for fiscal year ending June 30, 2015.

Mayor Kutteh stated this is the fifth and final year of the contract. The contract amount is \$45,778. This is a decrease of 0.1% (\$46) from last year based on the change in consumer price index.

E. Consider using unspent capital funds to purchase two computers and a plotter for the Engineering Division.

- F. **Consider approving a request to close a portion of North Center Street, between Feimster and Bingham Streets on Saturday, June 13, 2015 from 7:30 a.m. until 11:30 a.m. to accommodate the Statesville High School graduation ceremony at “Greyhound Hollow”.**

Regular Agenda

Add Receive a report on the Request for Qualifications (RFQ) process.

Marin Tomlin recognized members of the Downtown Steering Committee in attendance. She stated four developers responded to the RFQ process. She distributed an overview of each developer along with a quick comparison chart. The Steering Committee recommends that Developers A, B and C be interviewed by City Council following the April 30th Pre-Agenda meeting.

Mayor Kutteh stated Council will hold a meeting on April 23, 2015 at 4:00 p.m. with the Downtown Steering Committee to discuss the Developer’s information, and then Council will interview each Developer following the April 30th Pre-Agenda meeting.

III Consider contributing \$75,000 toward the purchase of the old Davis Hospital site by Mitchell Community College and approve Budget Amendment #35.

Mayor Kutteh clarified that this is contingent upon the due diligence period passing. If there is no closing then there is no contribution.

IV Conduct a public hearing and consider adopting a resolution establishing the Woods Drive Dam Municipal Service District.

Mayor Kutteh stated that in accordance with NC General Statute 160A Article 23, the attached report was prepared to describe the scope and purpose of the Woods Drive Dam Municipal Service District. This report has been distributed to the subject property owners along with notification of the public hearing. The date and time of the public hearing has also been advertised as required by statute. If adopted, the municipal service district will go into effect on July 1, 2015 and will apply to the properties located within the area bounded by Woods Drive, Carolina Avenue South, Fulton Drive, and Georgia Avenue. The residents and property owners surrounding Dillon’s Pond have made deposits into an account at the City Attorney’s office totaling \$6,000.

V Conduct a public hearing and consider approving first reading of TA15-02 filed by the City of Statesville to Amend Article 1 Administration, Section 1.04 Responsibilities for Application of Code, B. Planning Board, C. and H. Board of Adjustment, C.

Mayor Kutteh stated the purpose of this text amendment is to extend the term limit from 1 year to 3 years for alternate members of both the Planning Board and Board of Adjustment

VI Conduct a public hearing and consider approving first reading of ZC15-02 filed by the City of Statesville on behalf of Oakdale Baptist Church for the Properties located at and around 585 Mocksville Highway and 125 River Hill Road; Tax Maps 4765-33-7952, 4765-34-8139, 4765-34-6405 and 4765-34-8378 from IC-GB & IC-R-20 to the City of Statesville’s R-20.

Mayor Kutteh stated these properties were annexed due to the need for municipal water on December 16, 2013 with an effective date of December 31, 2013. As with all annexations, the City must apply its zoning to the property once it is annexed into the city’s jurisdiction. Therefore staff is requesting on behalf of the church to rezone the four parcels located at and around 585 Mocksville Highway & 125 River Hill Road from Iredell County General Business and R-20, Single-Family Residential to the City of Statesville’s R-20, Suburban Residential.

Council member Schlesinger asked if there is a way to streamline this process such as filing the rezoning in conjunction with the annexation. Mr. Currier said that has been done before but in some cases staff does not know if Council is going to require the annexation or not.

VII Conduct a public hearing and consider approving first reading of ZC15-03 filed by Joy Acre Farms, Ltd for the Property Located on Fanjoy Road; Tax Map 4763-07-3695 from IC-RA to the City of Statesville’s LI.

Mayor Kutteh stated this property was recently released from Iredell County into the City of Statesville’s Planning and Zoning Jurisdiction on November 18, 2014. As with all

releases of jurisdiction, the City must apply its zoning to the property once it is released into the City's jurisdiction. Therefore Joy Acre Farms, Ltd is requesting to rezone the parcel located on Fanjoy Road from Iredell County R-A, Residential Agricultural to the City of Statesville's Light Industrial for an industrial park.

VIII Conduct a public hearing and consider approving first reading of ZC15-04 filed by Tar Heel Insurance/Randy Bridges for the Property located at 941 Thomas Street; Tax Map 4745-23-7665 from O-1 to B-4 CU.

Mayor Kutteh said Tar Heel Insurance is requesting to rezone the parcel located at 941 Thomas Street from O-1 to B-4 CU to allow for professional offices in order to allow for an internally lit sign. The B-4 District allows for internally illuminated signs the current O-1 District does not. However, because the B-4 district allows more uses than the current O-1 District, the applicant is proposing for the site to be used solely as professional offices. Currently the site contains an office building and a paved area for parking. If the applicant wishes for the property to be used differently in the future, the site would have to be rezoned to allow for those uses.

IX Consider an appointment to the Historic Preservation Commission.

Mayor Kutteh stated that due to Todd Lange's appointment to the Planning Board on March 2, 2015, there is now a vacancy on the Historic Preservation Commission. Mr. Lange's three year appointment to the HPC was renewed on January 1, 2015, so the newly appointed member would serve on the Commission until January 1, 2018.

X Consider approving a resolution supporting modifications by NC DOT to the intersection of East Broad Street and Elm Street.

Scott Harrell stated staff has been contacted by the North Carolina DOT regarding modifications to the intersection of East Broad Street and Elm Street in Statesville. This intersection has been identified by DOT as a "high hazard location," based on the number of accidents recorded over the past 10 years. In an effort to improve safety at this location, DOT is recommending that the Broad St. median be extended across the intersection to eliminate left turns and thru movements from either approach on Elm Street. According to DOT, eliminating these movements would address all but one of the accidents recorded over the previous 10 years. After discussing several possible alternatives with DOT personnel, Staff generally concurs with DOT's recommendations for improving the Elm St. intersection, and with DOT's assertion that satisfactory alternate routes exist for local traffic. At Staff's request, DOT has agreed to these additional modifications to East Broad Street:

1. Construction of a bulb-out and turn lane at the East Broad St./Green St. intersection to improve sight distances and better accommodate any increase in traffic at that location;
2. Lengthening of the left turn lane at East Broad St. and Salisbury Road.

Council member M. Johnson distributed traffic count and crash data for the intersections. He suggested shrinking the size of the Elm Street/Broad Street intersection, mark it with stop bars, mark the traffic lanes and eliminate u-turns rather than shifting this amount of traffic to Green Street. Council member M. Johnson asked that this item be removed from the agenda to re-examine this.

Brent Barnette with NCDOT Traffic Safety explained that his department investigates high accident intersections then presents a solution. NCDOT is not trying to push anything on the City but may not be able to pay for an alternate solution if the benefit does not outweigh the cost. Mayor Kutteh asked Mr. Barnette if he could analyze the proposal presented by Council member M. Johnson. Mr. Barnette replied he could.

Council members agreed by consensus to remove this item from the agenda for further review.

XI Consider approving requests to allow rolled (valley) curb for future construction in two existing developments.

Mayor Kutteh stated that staff has received a request from US Developments, LLC to allow rolled (valley) curb in Phase 5 and subsequent phases of the Larkin Golf Club development (formerly Fox Den). A similar request has been received from D.R. Horton, Inc. regarding future street construction in the Wildewood subdivision. Installation of valley curb is

currently prohibited on City streets (Resolution 18-01, adopted May 7, 2001). The request regarding Larkin Golf Club states a desire "for design and architectural continuity throughout the (Larkin) development." Valley curb was approved in the phases of the development constructed prior to 2001. Phase 4 was approved in 2006 and constructed with standard curb. Phase 5 in Larkin Golf Club was approved with standard curb; the streets have not been constructed. This portion of the development was acquired by US Developments, LLC in April 2014. Wildewood was approved with standard curb; approximately half of the streets have been constructed. Both standard curb and valley curb offer advantages. The prohibition of valley curb in 2001 was based on control of storm water, that mud and dirt wash into the street more easily with valley curb, and that vehicles can pull onto the shoulder and sidewalk more easily with valley curb. An advantage to valley curb is cost savings and flexibility with regard to driveway construction.

Council member J. Johnson said he is 100% opposed to valley curb. He said NCDOT does not allow valley curb if there is a sidewalk due to safety issues. He recalled an instance where his car hit the curb and if it had been a valley curb he most likely would have injured children on the sidewalk. He pointed out that with people texting and talking on phones while they are driving safety is an even bigger factor.

XII Receive a report regarding the City's telecommunication expenses and approve Budget Amendment #34.

Mayor Kutteh stated the City spends approximately \$265,000 each year for telecommunications services (local and long distance, internet, data and wireless). A few months ago, staff authorized a third party company (The SpyGlass Group) to perform an audit of the City's telecommunications services to identify opportunities for cost recovery, service elimination, and cost reductions, as well as to provide a telecommunications inventory.

- Cost recovery refers to any refunds or credits available from a historical billing error.
- Service elimination savings relates to the cancellation of any service based on usage analysis to expose any dormant phone lines or services.
- Cost reduction savings refers to a general analysis to check for better rates, markets or fraudulent charges.

If the City chooses to implement any of the cost savings identified by the company, a one-time fee will be due to company equal to 12 times the monthly savings. The company implements the changes on the City's behalf with the various service providers.

The company has completed its analysis and provided a complete telecommunications inventory, as well as a list of potential service eliminations and cost reduction savings.

Staff has reviewed the potential service eliminations and determined which phone lines and circuits can be cancelled and which must be kept in service but will receive a lower monthly rate yielding a total annual savings to the City of \$68,236 (26% of expenses). If the City elects to implement these cost savings measures, a one-time fee in the amount of \$68,236 will be due to the company after the implementation is complete.

Mayor Kutteh clarified that the majority of the cost savings is not from lower rates.

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

XIII Receive a report from the Community Appearance Commission and staff regarding the potential for a pocket park located at the corner of N. Center and Water Street on the Gordon family property.

Mayor Kutteh stated that Gordon Industries Inc. has agreed to a 20 year lease for \$1 per year. The estimated cost to develop the park is \$63,300. There are sufficient excess funds in the streetscape construction fund for the development of the pocket park.

Council member M. Johnson reviewed the terms of the lease as follows: If the property is sold within 10 years of the beginning of the lease, up to \$40,000 of the improvement costs will be repaid to the City. If the property is sold from years 11 through 20 of the lease, up to \$20,000 of the costs will be repaid to the City.

Council member Schlesinger asked if security cameras are needed. Chief Anderson replied yes.

- XIV Consider approval of the low bid from Siemens Industry, Inc. for purchase of one (1) recloser from section one of the specifications and two (2) reclosers from section two of the specifications including the spare controller in the amount of \$62,106.**

Kent Houpe stated these reclosers are to be used as part of our ongoing system wide distribution automation project. This also allows for remote control of other less sophisticated reclosers used for switching load between circuits.

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

- XV Consider approving a request to transfer \$16,500 from the Drug Seizure Fund for the purchase of two police canines and equipment, and approval of Budget Amendment #32.**

Mayor Kutteh stated the Statesville Police Department is requesting to utilize Drug Seizure Funds in the amount of \$16,500 for the purchase of two full service police canines and related equipment. The two new canines will be full-service police canines and will be certified in several needed areas of specialization to include: suspect tracking and apprehension, narcotics detection, article searches, handler protection, and building searches. The new canines will replace two older less qualified canines that could only be certified in narcotics detection. If approved, the canines will be purchased from Alert K-9 located in Reidsville N.C. for the purchase price of \$6,500 each. This company comes highly recommended and the canines are warranted for two years with full medical records provided. Training of the two canines will be conducted by our in-house certified canine trainer at a cost savings to the City. Bids received from two other companies also provided canine selections and competitive pricing. Alert K-9 was chosen based on recommendations, and lower cost considerations in canine pricing and transportation costs. It is further requested that the two canines being replaced, be retired and retained by the original handlers for the purchase price of \$1.00 each. The canines will be maintained as "pets" and owned solely by the officers who will assume all continued financial and medical responsibility of the animals. The additional requested funding of \$3,500 will be used for the purchase of upgraded canine crates, bite-protective training gear and related training aids. Law Enforcement training and equipment is a permissible use of Equitably Shared Property by the U.S. Department of Justice.

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

- XVI Consider approving a request to appropriate insurance money in the amount of \$3,252 and increase the vehicle maintenance and repair account of the Police Department and approval of Budget Amendment #33.**

Mayor Kutteh stated this item is to appropriate insurance money in the amount of \$3,252 for repairs to police vehicle #200, to be placed in the Police Department's Vehicle Maintenance and Repair account. The insurance payment of \$3,252 is for a traffic crash that occurred on February 5, 2015. The operator of vehicle #200 was turning around in the PVA of 1382 Shelton Avenue to assist another officer that had urgently called for assistance when vehicle #200 struck a concrete base of a parking lot light pole.

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

- XVII Consider approving the Final Order for site plan P12-15, Love's Travel Stop located at 261 Mocksville Highway; Tax Map 4755-65-1790.**

Eddie Gaines distributed and reviewed the Final Order for the site plan. Mayor Kutteh clarified that Council member Schlesinger and Council member Phifer will not participate in the vote on this item.

Council member Schlesinger stated he has serious concerns about this hearing in that it puts the burden of responsibility on existing landowners and businesses to prove that whatever business is coming in is not going to hurt their business. He felt that it should be City Council's responsibility to protect the existing people and businesses of the community and not a new business coming in. Council member Schlesinger said it states within Section 2.01 of the Unified Development Code that it is the responsibility of that code to provide orderly building and to protect the existing businesses so that they are in harmony with the surrounding structures. Doing so with this quasi-judicial hearing completely negates any legislative ability that Council has and puts the burden of responsibility on these landowners which seems an unreasonable burden to place on the citizens of our community to have to prove that their property is not going to be

damaged. He said he does not feel the quasi-judicial process is fair to the people of this community in its current way.

Council member M. Johnson stated he agrees except in the event of a Special Use Permit but the quasi-judicial process is required by state law and Council cannot be judge and introduce evidence on behalf of the property owner, Council must be impartial.

Mayor Kutteh stated that Council has asked the City Attorney to examine other jurisdictions because all members have agreed that the legislative process for this decision making process is the way that local business should be conducted. To date Mr. Gaines has not found any jurisdictions who are allowed in these types of matters, to use the legislative process. Mr. Gaines clarified that Council could change the ordinance and handle site plans without a quasi-judicial hearing but what it would end up with is the decision being made totally on the site plan satisfying or not satisfying technical requirements. State law says if it is a discretionary standard, which the City's standard is extremely discretionary because it is based on no adverse effect and compatibility, so it is a subjective standard, state law says that if that is the standard then it has to be quasi-judicial. Mr. Gaines said that during his research he found that in most municipalities Council does not review site plans, they are reviewed for compliance and approved by staff. Some do bring site plans before Council for their input but then it goes to staff for approval.

Council member J. Johnson made a motion to move to Executive Session in accordance with N.C.G.S. 143-318.11(a)(3) to discuss a legal matter and to preserve the attorney-client privilege, seconded by Council member Schlesinger. The motion carried unanimously.

Upon return to open session Mayor Kutteh advised that a land acquisition matter was discussed and the attorney-client privilege preserved and no action was taken.

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




Constantine H. Kutteh, Mayor

Attest:


Brenda Fugett, City Clerk