

**MINUTE BOOK 25, PAGE 398
CITY OF STATESVILLE COUNCIL MEETING – April 13, 2015
CITY HALL COUNCIL CHAMBERS – 7:00P.M.
STATESVILLE, NORTH CAROLINA**

Mayor Costi Kutteh presiding:

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

Council Absent: West

Staff Present: Fugett, Pressley, Gaines, Davis, Ashley, Ventresca, Houpe, Smyth, Salmon, Miller, Cornelison, Hutchens, Harrell, Cornelius

Visitors: 17

Media Present: Jim McNally-Statesville Record & Landmark, David Veiser-Charlotte Observer

I Call to Order

Mayor Kutteh called the meeting to order.

II Invocation

The City Clerk gave the Invocation.

III Pledge of Allegiance

Mayor Kutteh led the Pledge of Allegiance.

IV Public Comment - During the second meeting of each month citizens are invited to speak about matters not on the current agenda.

There were no speakers.

V 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.

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

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

E. Consider using unspent capital funds to purchase a computer and 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".

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

- H. **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.**
- I. **Consider approving a request to transfer \$16,500 from the Drug Seizure Fund for the purchase of two (2) police canines and equipment, and approval of Budget Amendment #32. 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.**
- J. **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 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.

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 contributing \$75,000 toward the purchase of the old Davis Hospital site by Mitchell Community College and approve Budget Amendment #35.**
Larry Pressley stated the property will be used by Mitchell Community College for their Allied Health building. Due diligence is being handled by the college and demolition by the seller will occur prior to closing which is set for 200 days from March 24, 2015.

Council member Watt made a motion to approve contributing \$75,000 toward the purchase of the old Davis Hospital site by Mitchell Community College and approve Budget Amendment #35, seconded by Council member Schlesinger. The motion carried unanimously.
- VII **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.**
Brent Cornelison gave a brief background of the project.

Anne Ryne stated the Statesville Community Appearance Commission has had a ten year dream for public art to be incorporated into the downtown. Two years ago Council granted the Commission permission to install hand painted heritage quilt square blocks on the west side of the shell building. The positive response to this first public art offering has been resounding. It was brought to the Commission's attention last April that the Gordon family might be open to the idea of a passive park occupying the grassy space to the south of their former furniture building on N. Center Street. With the Gordon's positive support the Commission began developing a plan, including visiting neighboring communities that have such parks. After development of the space, the Commission proposes to purchase a major piece of artwork to act as a focal point in the park. There will be spaces planned also to accommodate eight or nine additional works. A sub-committee will develop a plan for securing these additional pieces which will be on loan by the artists and perhaps for sale. Over the years the Commission has earned about \$36,000 through its garden tours, educational projects and workshops and the sale of rain barrels. The Commission understands that these funds are part of the General Revenue and plans to come back to Council when the park is complete and request sculpture funding.

Mayor Kutteh asked the members of the Community Appearance Commission in the audience to stand and be recognized.

Lynn Miller reviewed photos of the site and drawings of the proposed park.

Brent Cornelison reviewed the budget for the proposed improvements. He stated that Gordon Industries Inc. has agreed to a twenty year lease for \$1 per year. If the property is sold within ten 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 eleven through twenty of the lease, up to \$20,000 of the costs will be repaid to the City. 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. Mr. Cornelison pointed out that Statesville Brick has donated all the bricks for the brick columns.

Council member M. Johnson made a motion to approve the pocket park at the corner of Water Street and N. Center Street as presented, seconded by Council member Schlesinger. The motion carried unanimously.

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

Scott Harrell stated that in accordance with NC General Statute 160A Article 23, a 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.

Mayor Kutteh declared the public hearing open and asked if there is anyone present who came to speak in favor or in opposition of this item. There being no speakers, Mayor Kutteh declared the public hearing closed.

Council member M. Johnson made a motion to approve a resolution establishing the Woods Drive Dam Municipal Service District, seconded by Council member Morgan. The motion carried unanimously.

IX 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.

Sherry Ashley 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. The Planning Board's recommendation is favorable as presented. The vote was unanimous. No one from the public spoke at the courtesy hearing.

Mayor Kutteh declared the public hearing open and asked if there is anyone present who came to speak in favor or in opposition of this item. There being no speakers, Mayor Kutteh declared the public hearing closed.

Council member Schlesinger made a motion to approve 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., seconded by Council member Williams. The motion carried unanimously.

X 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.

Mrs. Ashley 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 4 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. The City's R-20 District is the most similar to the County's R-20 District in regards to dimensional requirements and permitted uses.

Currently the site contains a church and a single-family residence and would continue to be used as such.

The surrounding zoning districts and land uses are as follows:

- NORTH OF THE SITE:** Iredell County R-20 (Single-Family Residential) District, Single Family Homes/Vacant Land
- EAST OF THE SITE:** Iredell County R-20 (Single-Family Residential) District, Single Family homes & Iredell County GB (General Business) District, Shell Station
- SOUTH OF THE SITE:** Iredell County GB (General Business) District, Dollar General and EZ Barn Rentals & City of Statesville's B-4 (Highway Business) District, Shopping Center
- WEST OF THE SITE:** City of Statesville's B-4 (Highway Business) District, Energy United

The 2005 Land Development Plan projects the property to be low density residential. Therefore, the City's R-20 district (minimum 20,000 sq. ft. lots) would be consistent with the plan. The Planning Board's recommendation is favorable as presented with a unanimous vote. No one spoke in opposition of this rezoning at the Planning Board meeting.

Mayor Kutteh asked if any zoning could have been selected. Mrs. Ashley replied that typically staff would check what the Land Use Plan had as well as what the adjoining land uses are and try to be consistent with that. Mayor Kutteh said it appears that everything around it has been zoned General Business. Mrs. Ashley said church representatives were asked if they wanted a different zoning and they did not. She explained that the City will have the option to rezone in the future if the use changes.

Mayor Kutteh declared the public hearing open and asked if there is anyone present who came to speak in favor or in opposition of this item. There being no speakers, Mayor Kutteh declared the public hearing closed.

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

XI 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.

Mrs. Ashley 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. Though the City's Light Industrial District is not consistent with County's Residential Agriculture District in regards to dimensional requirements and permitted uses, the County's 2030 Horizon Plan calls for the property to be Employment Center – Industrial/Flex/Office which is consistent with the City's LI District. Currently the site is undeveloped.

The surrounding zoning districts and land uses are as follows:

- NORTH OF THE SITE:** Iredell County R-A (Residential Agricultural) District, Single Family homes, vacant land
- EAST OF THE SITE:** Iredell County R-A (Residential Agricultural) District, Single Family homes

SOUTH OF THE SITE: HI (Heavy Industrial) District, OFC Fabricators & Iredell Fiber Incorporated and Iredell County M-2 (Heavy Industrial) District, HKS Operations Center

WEST OF THE SITE: Iredell County R-A (Residential Agricultural) District Single Family homes and HI (Heavy Industrial) District, Merchant Metals

Note: Other industrial uses exist in the immediate area.

The 2005 Land Development Plan projects the property to Industrial. Also, the County's 2030 Plan called for the property to be Industrial and other industrial uses are in close proximity of the property. Therefore staff's recommendation is favorable to rezone the property. The Planning Board's recommendation is favorable with a unanimous vote as presented. Adjacent property owner Ms. Mary Berryhill spoke out at the Planning Board meeting with some concerns about obstructing her view of Fanjoy Road.

Council member Schlesinger asked if Ms. Berryhill understood that the City cannot guarantee her view of Fanjoy Road will not be obstructed. Mrs. Ashley replied yes.

Mayor Kutteh declared the public hearing open and asked if there is anyone present who came to speak in favor or in opposition of this item.

Mary Lou Berryhill pointed out on a map the area and explained her concerns with development on the site obstructing her view of Fanjoy Road as well as the impact on her resale value. She asked that Council please consider her concerns and try to mitigate them as much as possible.

Council member Schlesinger asked staff to explain to Mrs. Berryhill what the buffers and setbacks would be for this zoning district. Mrs. Ashley explained and pointed out that the landscape buffer itself could possibly obstruct the view as well. Council member Schlesinger suggested that Mrs. Berryhill could contact the owner about purchasing this small triangle of property. Mrs. Ashley said once setbacks and buffers are applied it is unlikely that there would be a structure built on this small piece.

Council member M. Johnson stated that Council can only consider whether or not the zoning district is appropriate for this piece of property. If Council starts zoning to a site plan then that is contract zoning. He said the question should be is whether or not this property is appropriate for Light Industrial zoning irrespective of site plan. He said Council should not raise expectations in adjoining property owners that it is going to be any different than what the technical requirements are assuming compatibility.

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

Council member J. Johnson made a motion to approve first reading of ZC15-03. Motion dies for lack of a second.

Council member M. Johnson made a motion to approve 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 Light Industrial Conditional Use, seconded by Council member Morgan. The motion carried unanimously.

Council member M. Johnson pointed out that this will allow Council to handle this site plan legislatively rather than quasi-judicially.

XII 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.

Mrs. Ashley stated 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.

The surrounding zoning districts and land uses are as follows:

NORTH OF THE SITE:	B-4 (Highway Business) District, Interstate 40 and commercial uses along Turnersburg Highway
EAST OF THE SITE:	B-4 (Highway Business) District, DMV, Carolina Commons, Holiday Inn Express
WEST OF THE SITE:	O-1 (Office Single Lot) District, North View Professional Building
SOUTH OF THE SITE:	R-10 (Urban Low Density Residential) District, Single-family homes including the North View Estates Subdivision

The applicant held the required public input meeting on March 9th on site and no one showed up in support or opposition to the request. The 2005 Land Development Plan projects the property to be commercial. Therefore, staff's recommendation is favorable to rezone the property to B-4 conditional use district as specified on the conditional use zoning permit as the site will be limited to professional offices. The Planning Board's recommendation is favorable as presented with a unanimous vote. No one spoke in opposition.

Mayor Kutteh declared the public hearing open and asked if there is anyone present who came to speak in favor or in opposition of this item. There being no speakers, Mayor Kutteh declared the public hearing closed.

Council member Morgan made a motion to approve 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, seconded by Council member Schlesinger. The motion carried unanimously.

XIII Consider an appointment to the Historic Preservation Commission.

Mrs. Ashley 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.

The following individuals have applied for a position on the Historic Preservation Commission.

1. Brittany Marlow
2. Sandra Campbell
3. Michael Brittain
4. Kelly Standish

Council member J. Johnson nominated Mike Brittain.

Council member Watt nominated Brittany Marlow.

Upon a vote Council appointed Brittany Marlow to the Historic Preservation Commission.

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

Scott Harrell stated that staff has received requests to install valley curb or rolled curb in the remaining portions of two developments: Larkin Golf Club (formerly Fox Den) and Wildewood, located on Moose Club Road. Valley curb was prohibited by Council in 2001. The decision was based on the control of storm water, that mud and dirt wash more easily onto the street with valley curb, and that vehicles can pull onto the shoulder and sidewalk more easily with valley curb. The primary benefit associated with valley curb is cost savings and flexibility with driveway installation. The request to install valley curb in the Larkin Golf Course development also states a desire for "design and

architectural continuity throughout the development,” as a significant portion of their streets were constructed with valley curb. Staff has reviewed NC Department of Transportation guidelines on subdivision and neighborhood street construction. They state a preference for standard curb and gutter, but allow discretion to approve alternatives in certain conditions, such as low-density areas, streets with sidewalk on only one side, and other areas where stormwater alternatives to standard curb and gutter are desirable. Staff spoke with personnel in the local NCDOT office and they verified that they typically require standard curb and gutter, but will consider valley curb if requested. Staff is willing to consider allowing properly engineered valley curb on City streets, subject to the guidelines provided by NCDOT and also to staff review. Specifically, this would apply to streets with sidewalk on only one side (UDO: local residential streets serving fewer than 100 homes), or in low-density areas (less than 6 units/acre, per DOT).

Council member Morgan asked if the proposed streets will be City streets or private. Mr. Harrell stated they will become City streets at some point once staff has verified that they have been built to City standards and Council approves the request. Council member Morgan asked if the current ordinance requires standard curb. Mr. Harrell replied it does. Mr. Harrell gave a brief history of the reason behind the request. Council member Morgan asked if the ordinance should be changed to allow staff to consider valley curb.

Council member Schlesinger stated that Council member J. Johnson brought up some good points regarding the safety of valley curbs. Council member J. Johnson explained his opposition to valley curbs.

Council member J. Johnson made a motion to deny rolled (valley) curb for future construction in these two existing developments, seconded by Council member Schlesinger. The motion carried unanimously.

Council member M. Johnson stated that part of the problem with standing curb on 60' lots is the loss of the structural integrity of the curb due to the cut widths that is alleviated with valley curb. There will be failure in these curbs in the future that the City will have to repair.

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

Mayor Kutteh asked the City Clerk to include when recording the vote that Council members Phifer and Schlesinger did not participate in the vote.

Council member Schlesinger stated he is against the quasi-judicial hearing. The Unified Development Code was put in place specifically for the purpose of an orderly development of the City. It states within its first paragraphs that it is there to insure harmony and compatibility with surrounding areas. By making this a quasi-judicial hearing it takes away Council's ability to do its job as a legislative body and protect the citizens of this community. It pushes the responsibility of the burden of proof onto those citizens, which can be overwhelming. The only way this site plan could have been altered would have been with a huge number of expert witnesses that would have been very costly to those involved. He said it concerns him that we have stacked the deck against the people of our community in being able to protect their property and compatibility with other business ventures.

Council member M. Johnson stated he would like to change Paragraph 11 to say "shall" pay instead of "has agreed to pay". Mr. Gaines said it is not appropriate to do this as this is the finding of fact that was presented at the hearing however, it could be added at the end of the order. Council member M. Johnson agreed to this.

Council member M. Johnson pointed out a typo in Paragraph 22. Mr. Gaines will correct.

Council member M. Johnson made a motion to approve the Final Order for site plan P12-15, Love's Travel Stop located at 261 Mocksville Highway; Tax Map 4755-65-1790 contingent upon the changes discussed above and any other typo errors being corrected, and to authorize Mayor Kutteh to sign it, seconded by Council member J. Johnson.

The vote was as follows:

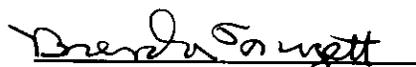
Ayes: M. Johnson, J. Johnson, Morgan, Watt
Nays: Williams

Motion carried 4-1

Council member Schlesinger made a motion to adjourn the meeting, seconded by Council member J. Johnson. The motion carried unanimously.


Constantine H. Kutteh, Mayor

Attest:


Brenda Fugett, City Clerk