

**MINUTE BOOK 25, PAGE 479
CITY OF STATESVILLE COUNCIL MEETING – October 05, 2015
CITY HALL – 227 S. CENTER STREET, STATESVILLE, NC – 7:00 P.M.
STATESVILLE, NORTH CAROLINA**

Mayor Costi Kutteh presiding:

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

Council Absent: 0

Staff Present: Pressley, Gaines, Fugett, Davis, Barone, Currier, Ashley, Ferguson, Harrell, Hutchens, Cornelius, Houpe, Styers

Others: 0

Media Present: Jim McNally-Statesville Record & Landmark

I Call to Order

Mayor Kutteh called the meeting to order.

II Invocation

The City Clerk gave the invocation. Following the invocation Mayor Kutteh asked for a moment of silence for the tragedy at North Iredell High School and how it affected all of the citizens of our community.

III Pledge of Allegiance

Mayor Kutteh led the Pledge of Allegiance.

Mayor Kutteh encouraged all citizens in Wards 1, 4 and 6 to vote in tomorrow's City Council election.

Mayor Kutteh stated that there are a number of folks in the audience who live in the greater old Davis Hospital area and there are some concerns currently regarding the demolition of the building. He stated the City is involved in this everyday but the City's primary role is in the area of law enforcement. As a result of communications from people in that neighborhood over the weekend, folks that were wrongly on the property were encouraged by Statesville City Police to leave the property. Officials learned late this afternoon that they have been released to complete the demolition of the eastern most building but they do not have the permits in place at this time to continue beyond that. The responsibility for inspection and oversight, the presence of friable material and the disturbance of the atmosphere in such that everybody's houses are covered by dust and debris is the responsibility of Iredell County. Iredell County staff and officials are keenly aware of this. We encourage you to continue to speak with us, but also to speak with County officials. All of us, the City, the County and Mitchell Community College continue to remain concerned about the progress of the demolition. We are all hopeful that the demolition will continue in an orderly fashion, but until that time we are trying to monitor it as closely as we can. Mayor Kutteh asked for those in the audience present concerning this issue to stand and be recognized. Ten citizens stood. Mayor Kutteh thanked John Stafford for bringing this concern to the City's attention. Mr. Stafford asked to speak. Mayor Kutteh allowed Mr. Stafford to speak.

John Stafford thanked Council members Jap Johnson and Michael Johnson for getting back to him so quickly on Friday about this. He stated he knows there has been a stop work order on this project. He displayed material contained in plastic bags stating that the material in them is asbestos material and is lying outside around the job site. To continue working on this project makes this material more friable and allows it to become airborne. He stated this is a concern to him as well as the other citizens and children who live around the hospital. Something must be done during the process to eliminate this threat to nearby citizens.

IV Consent Agenda

Mayor Kutteh advised that items F and G on the Consent Agenda have been moved to the Regular Agenda and Items X and XII have been moved to the Consent Agenda.

Mayor Kutteh stated that 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 August 17, 2015 Pre-Agenda meeting, and August 17, 2015 Council meeting.
- B. Consider approving a request from the Statesville Police Department that Bulletproof Vest Partnership Program reimbursement funds of up to \$10,155 be added back to the Police department's Uniform budget upon receipt and approval of Budget Amendment #7.
- C. Consider approval of a non-capital purchase for the Fire Department of 18 sets of replacement turnout gear.
- D. Consider approving 2nd reading of ZC15-10 filed by Donna Pierce for the property located at 110 Airport Road; Tax Map 4724-22-3381; from B-5 (General Business) to R-20 (Suburban Residential)
- E. Consider approving 2nd reading of ZC15-11 filed by Piedmont Landco, LLC for the property located at 134 Beechnut Lane; Tax Map 4724-49-7869; from R-10M (Urban Low Density Manufactured Housing Residential) District to B-4 (Highway Business) District.
- X Consider accepting a grant of \$4,000 from the Electricities Smart Communities grant program to be used to help cover the speaker fee to bring in Destination Business Expert, Jon Schallert, to present a seminar in Statesville.
- XII Consider approval of the low bid from JBL Communications, Inc. for the labor and material for the construction of Phase II E of the Fiber Project in the amount of \$207,062 and appropriate additional contingency funds of \$10,353 and Consider approval of Budget Amendment #6 to appropriate additional funds of \$34,915 from Fund Balance to Electric Capital.

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

- IX **Receive a report on the Vance Hotel from Jim Prosser.**
Jim Prosser reviewed an interim status report on the redevelopment of the Vance Hotel. He reminded Council that Richard Angino with Third Wave Housing was designated as the preferred developer for the Vance Hotel based on redevelopment for residential use. The developer will evaluate residential options including rental and owner occupied condominiums as well as size, design and pricing. Several factors will influence selection of which option, including construction cost, market feasibility, financial feasibility and lender underwriting criteria. The developer is actively collecting data regarding construction costs and market pricing for residential use and is willing to assess financial feasibility for both rental and owner-occupied. It is highly likely that owner occupied will produce a greater financial gap. Financing of owner-occupied condominiums are also more difficult. The Council may want to direct the developer to evaluate both rental and owner-occupied options. This would permit a decision based on financial data but will likely add about 2-4 weeks onto the preliminary development phase.

The developer has indicated a desire to review potential benefit of both federal and state tax credits. The Developer has considerable positive experience with historic tax credit financing. This resource can provide significant resource to assist with the project financial feasibility. Recent State action to approve Historic Tax Credits makes this resource potentially available to this project. The developer indicates his intent to pursue this option with the support of the City.

The first floor is not suitable for residential use. The developer has indicated interest in partnership with City for developing a use for the first floor. The City has previously indicated support for this concept. The exact nature of use and legal/functional relationship of this use has not been defined. It is strongly recommended that this relationship not be defined until the primary use (residential) is agreed upon by the City and the developer. Potential first floor uses should be evaluated. Compatibility with residential use and site function should remain a primary consideration. Several potential uses have been considered for first floor use. Considerations for first floor use will impact parking requirement and parking deck configuration. First floor uses may also impact financing options based upon lender underwriting criteria for mixed-use. Developer and City will continue to market property and evaluate options.

Preliminary building analysis supported the need to construct a parking deck. The preliminary terms developer previously approved by the Council also supported the concept of the City taking lead on design, construction and financing of the deck in collaboration with the developer. The developer cost share for the deck would be determined by independent financial analysis. Design (function/appearance) and capacity options for the parking deck will obviously impact cost. Additionally, some first floor use options may impact design and capacity. In order to factor the impact of first floor use, design, cost and capacity into the final program use and cost, it is recommended that the City proceed with preliminary parking deck design work.

A preliminary development agreement provides clarification of timelines, responsibilities and resources required to evaluate the development options and to prepare a final development agreement. It also provides assurances that the property evaluated for development will not be offered to other developers during the preliminary development period. The preliminary development agreement is being prepared for potential consideration by the City Council in December.

Council members agreed by consensus to allow the developer to explore both paths of rental and owner occupied units.

Mayor Kutteh stated that Council is not considering any other developers and will not consider any other developers until Mr. Angino has had the opportunity to fully vet the project and go as far as he thinks he can go. If he requires something in writing Council can accommodate that.

Council member M. Johnson said it would be helpful for Council to know if Mr. Angino intends to use Historic Tax Credits because what is done in terms of parking accommodation may be limited by his ability to secure Historic Tax Credits in the architectural form of what we do, and there is nothing that precludes us from expanding the space on the first floor out because that just cantilevers over the basement if we wanted to expand the first floor for a different type of user. It would be helpful for Council to know in making that decision if those are possibilities. Mr. Prosser stated that Mr. Pressley and Mr. Angino have both indicated that they are aware of that issue as well, so having the SHPO (State Historic Preservation Office) do a preliminary walk through and talk about those issues is high on our list and we will move rapidly ahead with that.

Mayor Kutteh stated it seems that in discussions about the parking deck, that it is our intention to maximize the amount of parking that would be available from wherever the eastern most part of the building is to the end of the property out to Meeting Street. Council sees it as an opportunity to use any additional parking for demands at the Civic Center and demands throughout downtown, not to just have two spaces per unit for the residential dwellings and a few for the first floor use. He said he is not opposed to spending some money, but he is opposed to spending a bunch of money and time on a preliminary parking deck design other than to say that we will maximize a two level deck from the edge of the building out to Meeting Street. He asked Mr. Prosser to share any ideas about this with Mr. Pressley.

Mr. Prosser stated that for the first floor of the building he encourages Council to consider some type of use complimentary to the Civic Center or some type of ancillary governmental related use. That will save a lot to have at least explored those up front as opposed to various retail spaces. Mr. Prosser explained that retail spaces on the first floor will not generate enough revenue in the beginning to be able to help finance any improvements. It may be possible to convert it later on but trying to do it now will only add risk to making this happen.

Council member M. Johnson asked if this corner would qualify as a food desert since there is no grocery store within a mile of this project. Mr. Prosser replied it is very possible that it would and it is very possible that it could qualify for Federal funding. Council member M. Johnson asked if this could translate this into a more effective deal for a Whole Foods type operation or somebody like that. Mr. Prosser said he is not saying not to do that. He is saying, do not do that alone, and do not count on just that, look at other governmental uses as well. Council member M. Johnson asked Mr. Prosser to investigate this. Mr. Prosser agreed to research this.

Council member West stated he has been working with another property owner in Statesville who is in a "Food Desert" and Congresswoman Virginia Fox's office has been very helpful in furnishing information for Federal Grants that are available and there are quite a few. Mr. Prosser stated this will be a very unique opportunity because certainly a grocery store in the downtown area would help other residential, including that, so you would not want to walk away from that but it will be challenging. We just do not want to preclude governmental uses we want to look at both.

F. Consider granting approval for the Planning Department to apply for 2015 Transportation Alternatives Program (TAP) funds in the amount of \$1.2 million dollars for the greenway connector under US 21 North (Turnersburg Highway).

Sherry Ashley stated Federal legislation as part of the Moving Ahead for Progress Act (MAP-21), created the Transportation Alternatives Program as a funding source for alternative transportation projects, such as bike and pedestrian facilities. The Charlotte Regional Transportation Planning Organization allocated \$1.2 million for each of the fiscal years 2013, 2014, 2015. The TAP Program is a federal reimbursement program and funds must be programmed within 3 years after the fiscal year awarded. All awarded TAP funds require a 20% local match. Therefore, staff is requesting approval to apply for a total of \$1.2 million dollars from FY 2015 funds to extend the greenway under US 21 to Pump Station Road. The purpose for applying for the 2015 funds is due to the on-going construction of the diverging diamond interchange at US 21 and widening of I-40 near the I-77 Interchange. The North Carolina Department of Transportation has requested that the city delay the greenway connector construction until the improvements are complete in late 2017/early 2018.

Total Cost:	\$1,670,000
TAP Request	<u>-\$1,200,000</u>
	\$ 470,000 (\$240,000/20% match/\$230,000 needed)

The remaining funds needed could be met with General Funds, Carolina Thread Trail Grant, PARTF Grant, or Clean Water Management Funds.

Council member M. Johnson made a motion to grant approval for the Planning Department to apply for 2015 Transportation Alternatives Program (TAP) funds in the amount of \$1.2 million dollars for the greenway connector under US 21 North (Turnersburg Highway), seconded by Council member J. Johnson. The motion carried unanimously.

G. Consider approving a request from the Airport Manager to host historic World War II Aircraft at the Statesville Regional Airport.

John Ferguson stated the Collings Foundation is a 503c organization that owns historic aircraft. They fly across the country throughout the year showcasing and educating people on the historic significance of these aircraft. Staff contacted the organization about coming to Statesville as an opportunity to showcase the airport. If Council approves, they will bring their B-17, B-24 and P-51 aircraft to the Statesville Regional Airport from Wednesday, October 21st to Friday October 23rd. Viewing will be from 8:00 a.m. to sunset. The Collings Foundation will charge admission, with the exception of veterans, to view the aircraft and will sell rides on the aircraft. The aircraft will be parked at the Statesville Flying Service. There will be no food or alcohol sales; however the Flight crew will sell souvenirs. If approved staff plans to contact local schools, the VFW and other veteran groups.

Council member Schlesinger made a motion to approve the request from the Airport Manager to host historic World War II Aircraft at the Statesville Regional Airport, seconded by Williams. The motion carried unanimously.

V Conduct a public hearing and consider approving first reading of ZC15-12 filed by Myron Black for the property located at 851 Salisbury Road; Tax Map 4744-52-177,

From B-4 CU (Highway Business Conditional Use) District to B-4 CU (Highway Business Conditional Use) District.

David Currier stated this item came before Council a couple of months ago to rezone the property from B-4 CU to straight B-4 zoning. At that time the Mr. Black withdrew his application and they have since resubmitted using some of Council's suggestions. Mr. Black is requesting to rezone the 0.85 acre portion of parcel 4744-52-1771 at 851 Salisbury Road from B-4 CU to B-4 CU with the intention of adding on to an existing structure at the automobile dealership. The conditions being proposed include the use being limited to Automobile service shop and parking for new and used automobiles, excluding junked vehicles, wrecked and/or non-operable vehicles; no access allowed from Dorset Place; and the schematic plan presented shall be used as a base for the final plans which are to be submitted for review by the TRC, Planning Board and approval by City Council. The B-4 District does allow for automobile dealerships; however the section of property in question zoned B-4 CU is tied to a site-plan that shows vehicle parking/storage only. An addition to an existing structure on this portion of property is not allowed in the current Conditional Use District. The applicant is requesting to amend the conditions on this portion of the property by rezoning it B-4 CU as shown on the newly submitted site-plan showing the proposed addition. If approved, a site-plan will be required to be reviewed by TRC, Planning Board and Council. The 2005 Land Development Plan projects the property to be commercial. The property is located in an area that has large acreage of straight B-4 and HI zoned properties. Also, the site plan will have to be reviewed by TRC, Planning Board and Council. Therefore, staff's recommendation is favorable to rezone the property.

Mayor Kutteh declared the public hearing open and asked if there is anyone present who wished 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 asked if the bottom of the chain link fence is at 9:30. Mr. Grant, engineer on the project replied that it is.

Council member M. Johnson made a motion to approve first reading of ZC15-12 filed by Myron Black for the property located at 851 Salisbury Road; Tax Map 4744-52-177, From B-4 CU (Highway Business Conditional Use) District to B-4 CU (Highway Business Conditional Use) District, seconded by Council member J. Johnson. The motion carried unanimously.

VI Conduct a public hearing and consider approving first reading of an ordinance to annex the properties owned by Tsumas Family LTDP & Wheeler Investments, LLC located at and around 1068 Elmwood Road.

Mr. Currier stated the properties being considered for annexation are located on the north side of Salisbury Highway and the west side of Elmwood Road. He reviewed a map of the properties. The subject properties are approximately 414.29 acres in size and encompass Iredell County Parcel Identification Numbers 4773-85-2864, 4773-77-2654, 4783-07-3631 4773-35-4479 and 4773-46-6672. The subject properties are not contiguous to the current primary municipal limits of the City of Statesville. Therefore, this request is being processed as a voluntary satellite annexation. Council agreed to hear this case on September 14, 2015.

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

Council member J. Johnson made a motion to approve first reading of an ordinance to annex the properties owned by Tsumas Family LTDP & Wheeler Investments, LLC located at and around 1068 Elmwood Road, seconded by Council member M. Johnson. The motion carried unanimously.

Mayor Kutteh pointed out that this is an annexation of the property only, not a rezoning.

VII Consider approving first reading of an ordinance to amend Chapter 20 of the City Code to allow for sidewalk displays in the downtown area.

Mr. Currier stated the amendment to Chapter 20 will allow for aesthetic furnishings and sidewalk displays in the downtown. If approved, policy would be incorporated into the "Downtown Statesville Design Guidelines". The appointed Downtown Review Committee unanimously approved the policy. The City Council has approved the design guidelines

for the displays and furnishings. Mr. Currier reviewed the amendments to Chapter 20. Mr. Currier added that the business owners must carry a \$500,000 liability insurance policy and the displays must be removed when the business closes each evening.

Mr. Currier explained the difference between the policy that was approved by Council at their previous meeting and the ordinance itself.

Council member Morgan made a motion to approve first reading of an ordinance to amend Chapter 20 of the City Code to allow for sidewalk displays in the downtown area, seconded by Council member Watt. The motion carried unanimously.

VIII Receive a report on Statesville Convention and Visitors Bureau from Phil Hazel.

Mr. Hazel stated the grant cycle for June and July grant requests has been very productive. The SCVB started out with the Balloon Rally with a request for early promotion funds. Robb Collier has reported that they have sold more tickets than this same time last year and have sold all of the privileged parking spaces on the grounds of the Balloon Rally. SCVB also provided billboard vinyls, and their installation, to promote the Balloon Rally on the interstates, which was not part of the grant. SCVB fulfilled a request for the funding for the kiosk at the Statesville Soccer Complex which will eventually be installed in conjunction with the wayfinding signs. SCVB also provided some funding for the Blossom Film Festival and is supporting the Iredell Museum "Tour of the Money" which will start early next year.

Going forward SCVB would like to help with the wayfinding signs project and is particularly interested in promoting historic sites such as the 4th Creek Burial Ground and would like to see somebody submit a grant request to work on the 4th Creek Burial Ground. The Board would also like to do some promotion at Ft. Dobbs. The SCVB would like to include Ebenezer Academy in its historic site picture as well as put together a package for local mills and furniture plants that are no longer in business, but were a big part of Statesville from the early part of the 20th century up until about 1970.

Mr. Hazel stated that the hoteliers on the SCVB had asked if there will be additional illumination along the interstates after the projects are finished. He stated the current illumination levels are inadequate and may deter people from stopping at local hotels in this area because it is so dark.

Mr. Hazel stated that the collection of Occupancy Taxes has increased significantly. The SCVB estimates that there will be an increase of 30% in Occupancy Tax collections over the next five years. There are only so many ways that this money can be spent if it is pure promotion. The Board has had discussion about broadening what the SCVB can do, not only what it can do now, which is promotion, but to include capital projects. The local SCVB, strangely, is one of the only SCVB's in North Carolina that cannot do capital projects and we think that the opportunity for capital projects with a growing collection and the belief that it would put heads in beds for a longer period of time is worth looking at. The budget for the SCVB this year is about \$180,000. That is our 1% of the Occupancy Taxes that are collected. The Board would like City Council to think about giving the SCVB an extra 1%. With an additional 1% we could ask people to submit grant requests for capital projects.

Mr. Hazel explained where the Occupancy Tax comes from and what it is to be used for.

Council member West asked Mr. Hazel to clarify what he means by capital projects. Mr. Hazel explained that the Board is not talking about projects that it will have to continue to fund in coming years. He stated that the project must bring business to the hotels.

Mayor Kutteh thanked Mr. Hazel for his dedication to the SCVB and for his report.

XI Consider purchasing a 22.68 acre tract adjacent to the Statesville Business Park and approval of Budget Amendment #05.

Scott Harrell stated the City entered into an option to purchase the above-referenced property on August 13, 2015. The option agreement has a term of 60 days, expiring on October 12, 2015. Since entering into the option, the following due diligence activities have been completed:

- Boundary Survey: The parcel area was determined to be 22.68 acres.

- Phase I Environmental Site Assessment: No environmental conditions or concerns were identified. The cost of the Phase I ESA was \$2,250.

The purchase price for this parcel is \$7,000 per acre, for a total of \$158,760. Including the option fee already paid by the City (\$1,000), the balance due at closing is \$157,760. Staff recommends purchasing the 22.68 acre parcel adjacent to the Statesville Business Park and approval of Budget Amendment #05.

Council member J. Johnson made a motion to approve the purchase of a 22.68 acre tract adjacent to the Statesville Business Park and approval of Budget Amendment #05, seconded by Council member Phifer. The motion carried unanimously.

XIII Receive a report from the Fire Department on response to medical emergencies for the past year.

Chief Dennis Hutchens stated that after review of data available from 12 months of full emergency medical responses Fire Department staff is pleased to report the following:

- As projected at the October 10, 2014 Council presentation our call volume has increased, although it was more than anticipated.

Statesville Fire Call Volume July 1, 2014 - June 30, 2015													
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
Fires	16	14	13	14	9	10	17	8	17	20	22	20	180
Medical	234	212	220	236	243	244	234	207	205	235	201	244	2715
Other	96	80	81	108	97	95	81	93	91	96	87	127	1132
Total	346	306	314	358	349	349	332	308	313	351	310	391	4027

- Fuel use and mileage increases came in well under projections

	Oct 2014 Projection	July 1, 2014 - June 30, 2015 Actual
Fuel Use	2,445 gallon increase	1,488 gallon increase
Mileage	7,700 mileage increase	2,695 mileage increase

- Apparatus/vehicle maintenance:

2014-2015 Total expenditures - \$43,701 - entire fiscal year of full medical response

2015-2016 Year to date expenditures are \$20,283 (includes \$8,000 for repairs to E-11 resulting from a vehicle accident) Projections for apparatus/vehicle routine maintenance continue to be within department budget.

- Statesville Fire continues to meet all response criteria and training requirements set forth in the Center for Public Safety Excellence accreditation model and ISO standards. Fire personnel completed all other regularly assigned duties and special assignments.

Other comments:

- Fire department staff meets regularly with EMS and ECOM staff to eliminate response to non-emergency calls. ECOM has recently hired a full time training officer which should improve dispatch procedures even more.
- Fire personnel are responding to the same type medical needs and performing the same basic skills as reported in October 2014.

Council member Williams asked what calls classify as "other" calls. Chief Hutchens replied public service calls such as going out to change smoke alarms or batteries in smoke alarms, answering alarms at businesses; anything that is not an emergency call.

Council member M. Johnson commented that the data certainly establishes the efficacy

of the program, but there needs to be a different set of vehicles for this. There has to be a more efficient way to do this without running pumper trucks or ladder trucks on emergency medical calls and sustaining damage on more expensive pieces of equipment. Chief Hutchens pointed out that the department never knows what they will need until they get to the emergency. Council member M. Johnson asked how it worked before the Fire Department began doing this. He pointed out that fire calls are going to continue to go down and medical will continue to increase. Council member M. Johnson recommended establishing a committee to research this subject over a 5-10 year period.

XIV Consider awarding the contract for the purchase and installation of a new Computer Aided Dispatch (CAD) and Records Management System (RMS) at the Police Department.

Captain Kenny Cornelius stated the Police Department received bids for the purchase of a new Computer Aided Dispatch system and Records Management System on September 23, 2015 at 3:00 p.m. The results of the bid opening are below:

1.	New World Systems	\$557,758
2.	SunGard Public Sector	NO BID
3.	Automated Records Management System (ARMS)	NO BID
4.	Spillman Technologies, Inc.	NO BID
5.	Southern Software, Inc.	NO BID
6.	Tritech Software Systems	NO BID

New World Systems is the low bidder in the amount of \$557,758.

Note: Bids were originally due on August 3, 2015, but only one bid was received. In accordance with state guidelines for the formal bidding process, the project was re-advertised for a period of one month, with a new due date of September 23. On the second due date only one bid was received and opened.

The bid amount includes server hardware and system software, application software, installation, training and data conversion of all historic CAD and RMS data from the system currently in use.

Staff recommends the purchase and installation contract for a new Computer Aided Dispatch system (CAD) and Records Management System (RMS) be awarded to New World Systems of Troy, Michigan in the amount of \$557,758, with a project budget of \$558,000.

Council member Morgan asked why five out of six vendors choose not to bid. Captain Cornelius replied he did not know, but he did receive a call from one vendor who said that the system that we were putting out for bid was beyond their capacity. Council member Morgan asked if staff is comfortable with New World Systems and their performance in the past. Captain Cornelius stated he has done quite a bit of research on different vendors including New World and visited another agency that is on the New World System and talked to them extensively about their experience with New World. He has not been advised of any issues that we should be concerned about and he believes they will provide a good product and good service.

Council member Watt added that this is a turn-key bid for a project that will require a lot of hours taking the old data and converting it. He commended Captain Cornelius for his work on this project. He said this system will pay for itself down the road in productivity.

Council member Schlesinger asked if there are any additional maintenance costs and software upgrades associated with this in the future. Captain Cornelius replied there is an annual maintenance fee after the first year. Industry standards are 16% to 18% of the unit price. Staff has been quoted an amount for a five year plan on the maintenance fees which match that percentage. Council member Schlesinger clarified that maintenance cost is separate from this purchase. Captain Cornelius replied that is correct.

Council member Watt asked what the delivery time is. Captain Cornelius said it will most likely be 10-12 months before the new system goes live.

Council member Watt made a motion to awarding the contract for the purchase and installation of a new Computer Aided Dispatch and Records Management

System at the Police Department, seconded by Council member Morgan. The motion carried unanimously.

ADD Shannon Acres Issue

City Attorney Eddie Gaines stated that this involves a home at 303 St. Andrews Road that was purchased in June by F. B. Residential Holdings. F. B. Residential Holdings has made an arrangement with RHA Health Services to operate a group home in this residence. The North Carolina law that applies to a group home in a residential subdivision such as Shannon Acres states that it is the public policy of the State to provide persons with disabilities the opportunity to live in normal residential environments in subdivisions such as this. The group RHA says that they are going to operate a family care home in this home. The definition in the State statute describes a family care home as meaning a home with support and supervisory personnel that provide room and board, personnel care and habilitation services in a family environment for not more than four resident persons with disabilities. The intent of RHA, as he understands it, is that there will be four residents at the most, at any given time, in this home. They will be persons with disabilities. That is important to understand because the statute which requires and mandates that a town or city cannot create a zoning law that would not allow a family care home in a sub-division requires that it be persons with disabilities. Persons with disabilities is defined as meaning a person with a temporary or permanent physical, emotional, or mental disability, including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments, but not including mentally ill persons who are dangerous to others. Mentally ill persons who are dangerous to others is defined as being individuals who have inflicted or attempted to inflict or threatened to inflict serious bodily harm on another or have acted in such a way as to create a substantial risk of serious bodily harm to another. RHA states that the residents will be persons with disabilities that fit the disabilities definition in the statute and that the persons there will not be persons who are mentally ill persons dangerous to others as defined by statute. The statute further states that a family care home shall be deemed a residential use of property for zoning purposes and shall be permissible in all residential districts of all political subdivisions. There can be a prohibition within one half mile of an existing family care home. There are other family care homes operating in subdivisions within the City of Statesville and a home of this nature could go in any neighborhood or subdivision in the City of Statesville or any other city as long as it meets the definitions of this statute and the distance requirement. Section 5.04 of the Statesville City Code has an ordinance with regards to permitting professional residential facilities which states that the requirements and standards of the North Carolina Department of Human Resources and Corrections shall and continue to be met. Certification shall be made available to the Planning Director prior to the issuance of the Certificate of Occupancy and thereafter on an annual basis certifying that the criteria have continued to be met. No such establishment shall be within 2,000 ft. of another professional residential facility. These facilities shall not be used primarily for the treatment of contagious diseases, alcoholics, drug addicts or psychotics. The design and bulk of the structure shall be compatible with the surrounding neighborhood. Mr. Gaines stated that at this point the only thing that has happened in regards to this home is that they have obtained a permit to do some remodeling to the home which is not connected to operating a group home. Based on what they have said, after they finish their remodeling they will be asking the City for a zoning clearance and ultimately a Certificate of Occupancy. To obtain the zoning clearance they will have to meet the criteria of the statute referenced previously. They will have to make a Certification for which there will be investigation by City Planning Department staff regarding their meeting the criteria of the statute and if they do then they will be entitled to a zoning clearance and will be entitled to operate the group home on the property pursuant to the mandate of the state statute. The matter is not at that point yet, but City staff once they get to that point, will have to make a determination based upon their application as to whether or not they are entitled the zoning clearance. Mr. Gaines said he and staff have talked to the Director of the facility, Mr. Heller, who has indicated that the use of the facility is for respite care for persons who have intellectual developmental disabilities. The Director cited an example as a family who may have a crisis in their family and need for someone with this type of disability to stay at the facility for a temporary period of time. The maximum time a person can stay according to Mr. Heller is 30 days.

Council member West stated the neighborhood is very upset about having this facility in their neighborhood, for a number of reasons, property values probably being number one as well as risk to residents of the community from the people who will be living in

this home. Council member West pointed out that the North Carolina statute excludes mentally ill people who are dangerous to themselves or others. He read from a Sheriff's Department report of visits to the facility that this company operates on Chestnut Grove Road; 2015 - damage to property, 2014 - assault, 2012 - communicating threats, 2010 - suspicious person, attempted suicide and assault. He said that if that is not dangerous he did not know what is. Council member West stated that as Mr. Gaines had also mentioned, the City Code excludes this from residential areas if it falls under the category of treating psychotics. He said the Fair Housing Act and NC START are funding, supporting and promoting these facilities all over the state. In three places in NC START's annual report it states: 1) As shown below the primary reason for admission to respite has continued to be externalizing behavior, specifically physical aggression, 2) Threats of physical aggression, 36% of the reasons for putting people in these homes, is not surprising and the reason that individuals seek outside help at respite, 3) more than a 1/3 of the people put in respite homes are there for physical aggression. The Fair Housing Act exempts people from that act if they are deemed to be dangerous to themselves or others.

Council member West stated he is still upset with the Zoning Department for just rubber stamping this and not doing any due diligence or any study of what these people do and sticking this in a neighborhood that is ill prepared to accept it. He said there are unfenced swimming pools on both sides of this house and one behind it. This could be very dangerous to the neighbors because of the attraction of these swimming pools and the physical aggression of these patients. Council member West said he does not know what Council can do at this time since the Zoning Department has not issued a permit but he requests that Council instruct the Zoning Department not to issue the permit until due diligence can be done to see what we are putting in this neighborhood.

Mr. Gaines stated that the statement was made that the Zoning Department staff has rubber stamped this proposed use of this property and that is not correct. All they have done is issued a permit for remodeling; they have not issued a Zoning Clearance or a Certificate of Occupancy.

Council member Schlesinger stated that these people purchased this property with some given assurances that this use would be okay. Mr. Gaines said he did not know about that, but that they did purchase it knowing what the State law is which is a law that allows for homes of this nature in residential sub-divisions throughout the state and he assumes they have experience in purchasing and operating such homes. Mr. Gaines stated that the point he is trying to make is that the staff will look at this matter very closely but they need to look at it based upon the law and the facts and free from political pressures from the Council. He said Council member West's suggestion is not well placed because from a legal standpoint there is a statute that gives these people the right to operate a family care home if they meet these criteria and to instruct the City staff to in effect ignore that law is inviting litigation for the City.

Mayor Kutteh asked Council member West if the 36% he cited from the NC START annual report are people that are in group homes. Council member West replied they are and the State subsidizes the homes. Mayor Kutteh stated that according to the statistics someone must have determined that the people in the category West mentioned were not disqualified or they would not be located in the homes or reimbursed unless no one challenged them along the way. Council member West stated the home on Chestnut Grove is out in the middle of the country so he did not believe there are any neighbors there that would question the Sheriff visits he mentioned earlier.

Council member West stated he was not suggesting that Council influence the Zoning Department, he is just saying that something this serious needs a little more study before we commit to it. Mr. Gaines said Council should assume that staff would scrutinize every request for a zoning clearance with regards to property.

Council member Morgan asked whose responsibility is it to continually monitor the facility for compliance throughout the year. Mr. Gaines said the State permits them, so the State has a permitting process and he assumes the State has processes to determine that they are fulfilling the requirements of their permit which must be renewed on an annual basis. The City permit must also be renewed on an annual basis.

Council member Schlesinger asked what recourse the City would have if something happens, such as a call to the facility for somebody being violent. Mr. Gaines replied this

would need to be looked at on a case by case basis. If there was a pattern that they were violating their permit and certification then certainly it's possible either or both could be pulled, but I'm not sure if one instance of somebody acting up one night would mean they were violating their permit.

Mayor Kutteh stated he is familiar with two permanent homes in the City and they seem to operate just fine. He asked Mr. Gaines if there is any differentiation between the respite facilities and the permanent facilities under the State law. Mr. Gaines replied that he does not see any differentiation between the two under the State law.

Mayor Kutteh stated one other concern that was strongly expressed is the lack of communication between the Planning Department and City Council on the existence of this possibility. He asked Mr. Gaines what are situations where the Planning Department should notify Council, because as you mentioned all we have at this point is somebody who bought a house and got a permit to renovate their house. Mr. Gaines replied that is correct and in his opinion the Planning Department treated this just like any request to remodel a home. Mayor Kutteh asked Mr. Gaines if he would be involved with the Planning staff review the State and Federal laws. Mr. Gaines replied that he is available to City staff anytime they need legal advice and sometime staff contacts the NC School of Government. Mr. Gaines stated he feels that it is important that the Planning Department should look at issues like this and all issues based upon their training, their knowledge of the zoning laws and with legal advice and based upon what they determine the facts of the situation are and not on the politics of things.

Council member West asked if staff issues the permit then if a grievance if filed with the Planning Department would that send this to the Board of Adjustment for a determination and also halt the process. Mr. Gaines stated he believes that is correct. Council member West asked Mr. Gaines if he would agree with the information that he has given at this meeting if this deserves an extra mile of scrutiny before it is approved. Mr. Gaines replied he believes it deserves due diligence and the scrutiny that any matter would receive by the Planning Department.

Council member Watt asked if there is a specific age group that will be staying in the facility. Mr. Gaines replied he does not believe there is but it is his understanding it would primarily be adults.

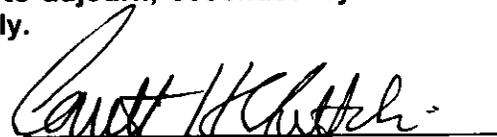
Council member M. Johnson asked if there is any correspondence on behalf of the City saying that these people are approved or did they just purchase the property and assume it would be allowed. Mr. Currier stated there were two questions answered verbally. Mr. Gaines replied he did not believe there is. Mr. Gaines reiterated that there is a State statute that is very clear that a family care home cannot be zoned out of a residential sub-division such as this. Council members briefly discussed the Certificate of Occupancy requirements and process.

Council member Schlesinger asked why Council is not informed about these types of situations when staff finds out.

Council member West asked Mr. Gaines if he would agree that the information that some of these people are going to be physically aggressive and dangerous to other people contained in the report that he presented would exclude the City from State statute. Mr. Gaines replied he does not agree with that. Mr. Gaines said Council could not use those statistics as a reason to deny this group home.

There being no further business, Mayor Kutteh asked for a motion to adjourn

Council member West made a motion to adjourn, seconded by Council member Morgan. The motion carried unanimously.


Constantine H. Kutteh, Mayor

Attest:


Brenda Fugett, City Clerk

